



Mildura Rural City Council

Ordinary Council Meeting

AGENDA

5.00pm Thursday 10 December 2015

Council and Committee Room
76-84 Deakin Avenue, Mildura

Cr Glenn Milne
Cr Sharyon Peart
Cr Greg Brown
Cr Ali Cupper
Cr Mark Eckel
Cr Judi Harris
Cr Jill Joslyn
Cr John Arnold
Cr Max Thorburn

Mayor
Deputy Mayor

Making this the most liveable, people friendly community in Australia.

Prayer

Almighty God,
We who are gathered together in Council,
pledge ourselves to work in harmony for
the welfare and development of our Rural City.

Guide us, we pray, in our deliberations,
help us to be fair in our judgement and
wise in our actions,
so that prosperity and happiness
shall be the lot of our people.

Amen.

Acknowledgement of Country

“I would like to acknowledge the traditional custodians of
the land on which we are meeting, the Latji Latji people,
and pay my respects to Elders both past and present.”

Note to Councillors

Declaration of Interest

Councillors should note that in accordance with Section 77A of the Local Government Act 1989, there is an obligation to declare a conflict of interest in a matter before Council.

A conflict of interest can be a direct or indirect interest in a matter.

A person has a direct interest if:

1. There is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way;
2. There is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms if the matter is decided in a particular way;
3. There is a reasonable likelihood that the residential amenity of the person will be directly affected if the matter is decided in a particular way.

A person has an indirect interest if the person has:

1. A close association whereby a "family member" of the person has a direct or indirect interest or a "relative" has a direct interest, or a member of the person's household has a direct interest in a matter;
2. An indirect financial interest in the matter;
3. A conflicting duty;
4. Received an "applicable" gift;
5. Become an interested party in the matter by initiating civil proceedings or becoming a party to civil proceedings in relation to the matter; or
6. A residential amenity affect.

Disclosure of Interest

A Councillor must make full disclosure of a conflict of interest by advising the class and nature of the interest immediately before the matter is considered at the meeting. While the matter is being considered or any vote taken, the Councillor with the conflict of interest must leave the room and notify the Chairperson that he or she is doing so.

INDEX

1	PRAYER AND TRADITIONAL LAND OWNER ACKNOWLEDGEMENT.....	6
2	OPENING AND WELCOME	6
3	PRESENT.....	6
4	APOLOGIES	6
5	CONFIRMATION OF MINUTES	6
6	CONFIRMATION OF ASSEMBLY OF COUNCILLORS	6
7	NOTIFICATION OF ABSENCE	6
8	MAYORAL REPORT	7
	8.1 MAYOR'S REPORT NOVEMBER 2015.....	7
9	COUNCILLORS REPORTS.....	9
	9.1 COUNCILLORS' REPORT NOVEMBER 2015.....	9
10	RESPONSES TO COUNCILLORS QUESTIONS.....	12
11	QUESTIONS FROM COUNCILLORS	12
12	NOTICES OF MOTION	13
	NOTICE OF MOTION - ELECTRONIC LODGEMENT AND TRACKING OF BUILDING AND PLANNING APPLICATIONS.....	13
13	MANAGEMENT REPORTS	14
	13.1 AMENDMENT C85 - APPLICATION OF ZONING AND HERITAGE OVERLAY TO CSIRO LAND IN MERBEIN SOUTH	14
	13.2 MILDURA CITY HEART SPECIAL RATE	20
	13.3 MAYOR AND COUNCILLOR ALLOWANCES	36
	13.4 MILDURA AIRPORT PTY LTD MANAGEMENT MODEL REVIEW	38
	13.5 LOCAL LAW NO 2 - COMMUNITY LOCAL LAW	58
	13.6 LOCAL LAW NO 5 - PROTECTION OF COUNCIL ASSETS AND CONTROL OF BUILDING SITES	114
	13.7 MILDURA WEST KINDERGARTEN CAR PARKING	133
14	URGENT BUSINESS	135
15	OTHER MATTERS.....	135
16	PUBLIC QUESTIONS	135

CONFIDENTIAL BUSINESS	135
17 CONFIRMATION OF CONFIDENTIAL MINUTES.....	135
18 CONFIDENTIAL REPORTS	135
18.1 TENDER AWARD - LANGTREE RAIL WORKS - 1516/20	135
18.2 AUDIT COMMITTEE MEETING 3/2015-2016 - MINUTES - 12 NOVEMBER 2015	135
18.3 AUDIT COMMITTEE CHARTER REVIEW 2015.....	135
18.4 TENDER AWARD - SUPPLY OF ONE RIGID CAB CHASSIS WITH 19,000 LITRE WATER TANKER - CONTRACT 1516/3.....	135
18.5 TENDER AWARD - SUPPLY OF ONE COMPACT STREET SWEEPER - CONTRACT 1516/8.....	135
18.6 TENDER AWARD - PROVISION OF RECRUITMENT NEUTRAL VENDOR MANAGED SERVICE (MUNICIPAL ASSOCIATION OF VICTORIA PROCUREMENT) - RS8017-2015NV	136
18.7 CONSIDERATION OF NOMINATIONS FOR THE 2016 AUSTRALIA DAY AWARDS	136
19 CLOSURE	136

**1 PRAYER AND TRADITIONAL LAND OWNER
ACKNOWLEDGEMENT**

2 OPENING AND WELCOME

3 PRESENT

4 APOLOGIES

5 CONFIRMATION OF MINUTES

Ordinary Council Meeting held on 26 November 2015

That Council confirm the minutes of the Ordinary Council Meeting of 26 November 2015 as a correct record.

6 CONFIRMATION OF ASSEMBLY OF COUNCILLORS

Nil.

7 NOTIFICATION OF ABSENCE

8 MAYORAL REPORT

8.1 MAYOR'S REPORT NOVEMBER 2015

File Number: 02/01/06

1. Summary

The following is a report on the activities and functions attended by the Mayor during the month of November 2015.

2. Recommendation

That Council note the contents of this report.

3. Comments

- Welcome Luncheon: Korean Overseas Agro-Development Association
- Meeting with NorthEd Representatives
- Meeting with Hon Barnaby Joyce MP
- Mini Food and Beverage Expo
- Annual Council Meeting
- Mildura Rural City Council Employee Recognition Meeting
- Celebratory Luncheon: Dennis Mitchell & Rudolph Kirby, La Trobe University
- Mildura Rural City Council Employee Recognition Evening
- Sister Cities National Conference, Sydney
- Meeting with various Ministers, Canberra
- CEO Performance Review
- Sunraysia Mallee Ethnic Communities Council Function
- Meeting with Victorian Multicultural Commission Chair, Helen Kapalos, plus Tony O'Hea and Rudy Montelone
- Launch of 28th Kmart Wishing Tree
- Community Safety Expo, Mildura
- Official Opening of Regis Ontario Extension and Refurbishment
- Australian Local Government Association Local Roads and Transport Congress, Ballarat
- Meeting with Minister for Local Government, Melbourne
- Bless Our City Gathering
- Meeting with Andrew Snell, Managing Director, Victoria Opera
- State Library Victoria Young Researcher Fellowship Announcement, Ouyen
- Official Opening: Christie Centre Accommodation
- Merbein & District Community (Bendigo) Bank Annual General Meeting and Sponsorship Night
- White Ribbon Healing Fun Day
- Official Opening: Jason's IGA, Ouyen
- Mildura Tourism Annual General Meeting and Networking Function
- Meeting with Concerned Parents and Teens regarding Bullying
- Site Visit of NorthEd with Swinburne University
- Ordinary Council Meeting
- Luncheon with Hon Steve Herbert MP and Regional Training Awards Finalists
- Sunraysia Residential Services / Benetook Farm Christmas Function
- Hattah Store 60th Anniversary Celebrations

- Mildura Sister City Association Thanksgiving Dinner and Annual General Meeting
- Tribute to Flight Lieutenant Dudley Marrows
- Citizenship Ceremony Briefing
- Australian Citizenship Ceremony

9 COUNCILLORS REPORTS

9.1 COUNCILLORS' REPORT NOVEMBER 2015

File Number: 02/01/06

1. Summary

The following is a report on the activities and functions attended by Councillors during the month of November 2015.

2. Recommendation

That Council note the contents of this report.

3. Comments

Cr John Arnold

- Wreath Laying: Remembrance Day, Mildura
- Mildura Tourism Board Meeting
- Mildura Development Corporation Board Meeting
- Newcombe Medal Australia Tennis Awards, Melbourne
- Merbein & District Community (Bendigo) Bank Annual General Meeting
- Loddon Mallee Local Government Waste Forum

Cr Ali Cupper

- Mallee District Aboriginal Service 30th Anniversary
- Safety Expo, Nangiloc
- Safety Expo, Lake Cullulleraine

Cr Greg Brown

- Central Murray Regional Transport Meeting

Cr Mark Eckel

- Mallee Sexual Assault Unit / Mallee Domestic Violence Services Annual Meeting
- Mildura Recreation Reserve Advisory Board Meeting
- Chaffey Trail Reference Group Meeting
- Sunraysia Academy of Sport 2015 Awards Night
- Official Opening: Christie Centre Accommodation
- Official Opening: Jason's IGA, Ouyen
- Meeting regarding City Heart trader issue
- White Ribbon press interview
- Attended Arone Meeks exhibition, Art Vault
- Family Violence / White Ribbon Day, St Paul's Primary School
- Family Violence / White Ribbon Day, St Joseph's College
- Family Violence / White Ribbon Day, Sacred Heart Primary School
- Bless This City Churches event
- Meeting regarding riverfront crossing issue

- Meeting with Council Officers regarding gender equity
- Mildura Sister City Association Thanksgiving Dinner and Annual General Meeting
- Tribute to Flight Lieutenant Dudley Marrows
- Australian Citizenship Ceremony

Cr Judi Harris

- Disability Access Advisory Committee Meeting
- Australian Inland Botanic Gardens Annual General Meeting
- Collective Impact, The Next Step
- Victorian Consular Corps Tour Dinner
- Mildura College Lease Meeting
- Flo Connect Art Exhibition
- Meeting regarding Grant Opportunities
- North West Municipalities Association Meeting, Warracknabeal
- Mallee Family Care Annual General Meeting

Cr Jill Joslyn

- Meeting with Andrew Snell, Managing Director, Victoria Opera
- White Ribbon Morning Tea
- Meeting with Mildura Arts Centre regarding Arts & Culture Strategy
- Luncheon with Hon Steve Herbert MP and Regional Training Awards Finalists
- Sunraysia Residential Services / Benetook Farm Christmas Party

Cr Sharyon Peart

- Presentation of Awards: 10,000 Steps Breakfast
- Crime Stoppers Regional Roadshow
- Northern Mallee Local Learning Network Board Meeting
- Meeting with Mildura Arts Centre regarding Arts & Culture Strategy
- Attended opening of Collective Impact Session
- Radio interview 1467
- Audit Committee Meeting
- Finance Portfolio Meeting
- Met with Anthony Carbines, Parliamentary Secretary, Environment
- Met with Premier Andrews, Minister Pullford and Minister Neville
- Meeting with CEO and Mayor

Cr Max Thorburn

- Refer following table

This table represents attendances by two or more Councillors at the following functions, as advised by Councillor acceptances for such functions:

Function Attended	COUNCILLOR (✓)							
	Cupper	Arnold	Brown	Eckel	Harris	Joslyn	Peart	Thorburn
Council Forum		✓	✓	✓	✓	✓	✓	✓
Ordinary Council Meeting		✓	✓	✓	✓	✓	✓	
Welcome Luncheon: Korean Overseas Agro-Development Association	✓			✓	✓	✓		
Annual Council Meeting	✓	✓	✓	✓	✓	✓	✓	✓
La Trobe Luncheon for Dennis Mitchell and Rudolph Kirby					✓	✓	✓	
Mildura Rural City Council Employee Recognition Evening	✓	✓		✓	✓	✓	✓	
Merbein Development Association Annual General Meeting	✓	✓				✓		
Deakin Avenue Urban Designs Guidelines		✓		✓	✓	✓	✓	
Northern Mallee Leaders Graduation Dinner				✓	✓		✓	
City Heart Hearing Submission					✓	✓		
La Trobe University Social Cohesion & Regional Development Showcase				✓	✓			
CEO's Performance Review		✓				✓	✓	
Welcome Luncheon: Victorian Consular Corps		✓		✓	✓	✓		
FreeZA Youth Art Prize Awards					✓	✓		
White Ribbon Healing Fun Day				✓	✓	✓		
Mildura Tourism Annual General Meeting		✓		✓	✓	✓		
White Ribbon MRCC Photo		✓		✓		✓	✓	

Attachments

There are no attachments for this report.

10 RESPONSES TO COUNCILLORS QUESTIONS

10.1 CR MARK ECKEL - VISION IMPAIRED TACTILE PAVING

File Number: 14/02/08

How often does Council conduct audits of the vision impaired tactile paving and could they please replace the one on the east side of Deakin Avenue corner in front of the Council building?

This matter was addressed by Mandy Whelan, Acting General Manager Development in a memorandum provided to Councillors dated 2 December 2015.

All CBD footpaths including tactile markers are inspected twice a year in June and December. Any defects identified in these inspections are recorded and works orders are issued for repair by councils Concrete Maintenance Team.

Any safety related issues identified by the community outside of these inspection times are recorded in Council's Record Management system and actioned for repair.

The tactile defect referred to has been actioned to the Concrete Maintenance Team and will be repaired prior to Christmas.

11 QUESTIONS FROM COUNCILLORS

12 NOTICES OF MOTION

12.1 NOTICE OF MOTION - ELECTRONIC LODGEMENT AND TRACKING OF BUILDING AND PLANNING APPLICATIONS

Councillor: Max Thorburn
Notice of Motion No: 83
File No: 13/05/01
Date: 4/12/2015

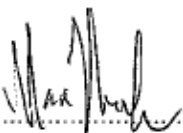

MOTION

The following Notice of Motion has been tabled for the Ordinary Council Meeting of 10 December 2015, brought forward from meeting of 26 November 2015.

1. Recommendation

That Council implement electronic lodgment and tracking of building and planning applications by June 2016.

Yours sincerely


.....
Councillor Max Thorburn
.....
Councillor Glenn Milne

13 MANAGEMENT REPORTS

13.1 AMENDMENT C85 - APPLICATION OF ZONING AND HERITAGE OVERLAY TO CSIRO LAND IN MERBEIN SOUTH

File Number: 13/02/77
Officer: General Manager Community

1. Summary

This report was presented at meeting of 26 November 2015 and requested that it be laid on the table until meeting 10 December 2015.

The subject land, described as 571-585 River Avenue Merbein South, was formerly used for many years as the CSIRO Horticultural Research Station but has recently been sold into private ownership. The former Commonwealth-owned land was not bound by state legislation and therefore does not form part of the Mildura Planning Scheme nor any provision contained therein.

The amendment is to ensure the immediate inclusion of the subject land in the Mildura Planning Scheme, in accordance with the *Planning and Environment Act 1987*. The surrounding and underlying zone is the Farming Zone and it is recommended that the subject land be included in this zone.

Council had moved to address the anomaly and in July 2013 lodged a formal request to the Minister for Planning to amend the Mildura Planning Scheme in accordance with Section 20(4) of the *Planning and Environment Act 1987*, who is now requesting Council re-confirm their intention to proceed.

2. Recommendation

That Council agree to confirm the request to the Minister for Planning to prepare and approve Amendment C85 without notification in accordance with Section 20(4) of the Planning and Environment Act 1987 excluding the inclusion of the Environmental Audit Overlay.

3. Background

Lodged Amendment Request

A formal request to the Minister for Planning, to amend the Mildura Planning Scheme in accordance with Section 20(4) of the *Planning and Environment Act 1987* was lodged in July 2013. This followed a request from the then Department of Transport, Planning, Land and Infrastructure to request an amendment to address the anomaly for the planning scheme created by the departure of the CSIRO, and included the option of requesting Ministerial Intervention.

The land affected by the amendment is located in Merbein described as 571-585 River Avenue Merbein South comprising approximately 35.4ha. The subject land was formerly used for many years as the CSIRO Horticultural Research Station but has recently been sold into private ownership. In accordance with legislation, the former Commonwealth-owned land was not bound by state legislation and therefore does not form part of the Mildura Planning Scheme nor any provision contained therein. Accordingly the amendment was considered quite urgent to ensure the immediate

inclusion of the subject land, in accordance with the *Planning and Environment Act 1987*.

The surrounding and underlying zone is the Farming Zone with the majority of the land area comprises agricultural land formerly used as vineyards/orchards etc with associated agricultural shedding, and is surrounded on all sides by other agricultural land which is contained within the FZ. The subject land also contains some office buildings, former laboratory buildings and a residence. Since the change of ownership of the land, the place has recently been added to the Victorian Heritage Register (H2316) with two of the former laboratory buildings registered and now to be included in the Heritage Overlay Schedule to the Mildura Planning Scheme.

As the amendment proposes to correct a significant omission and introduce zoning in accordance with the surrounding zoning and as the heritage significance is already registered, it is considered that the potential impact on the landowner and nearby landowners is minimal.

In the absence of information to the contrary at the time and in order to safeguard the more sensitive uses now permissible in the Farming Zone in the form of the extended range of residential uses, it was also considered prudent to include a restricted area containing the former machinery sheds and laboratories comprising approximately only 3.5ha of the subject land in the Environmental Audit Overlay (EAO) to ensure accordance with Ministerial Direction No1 and General Practice Note 'Potentially Contaminated Land'.

The amendment accordingly proposed the following:

- Inclusion of the subject land in the Farming Zone
- Inclusion of part of the subject land in the Schedule to the Heritage Overlay item HO181
- Inclusion of part of the land in the Environmental Audit Overlay (EAO)

In July 2013 accordingly, in a letter from the former its Chief Executive Officer, Council requested the Minister for Planning prepare and approve an amendment without notification to the Mildura Planning Scheme under Section 20(4) of the *Planning and Environment Act 1987* to correct a serious anomaly where the subject land has no zone.

In December 2013 Department of Environment, Land, Water and Planning requested further information regarding a site assessment indicating a need for the EAP or whether Council wished to proceed without the EAO.

Subsequent to this, following representation by the landowner to both the Department and the former CEO, progress of the amendment was put on hold pending confirmation regarding an alternative amendment outcome to be proposed by the landowner once they confirmed their clear intentions for the use of the land.

Despite further discussions to this end regarding a request for amendment lodged by the occupier/landowner in May 2014 and subsequent request by Council for more information, no further information has been forthcoming from the landowner. During this time the land has been subdivided and a horticultural training college has been established on the portion of land comprising the former CSIRO buildings. No development has been established on the residual land adjoining the highway.

As a consequence of the introduction of the Farming Zone to the land the current use occurring on the site will become prohibited and would therefore be reliant on existing use rights. Nothing, however, will prevent the occupier/landowner requesting consideration of an amendment for an alternative zone in the future.

4. Discussion

Re-confirmation of request

In July 2015 a letter from the Department of Environment, Land, Water and Planning (DELWP) seeking advice on the direction the Council are to take with the subject amendment and the preferred process for this, given the time elapsed.

Given no proposal had been forthcoming from the landowner it was therefore considered appropriate to proceed with the amendment as originally lodged.

Consultation undertaken with the occupier/landowner of the land confirmed in writing that they have no objection to the proposed amendment to include the land within the Farming Zone and applying the Heritage Overlay to part of the site.

As part of their response they advised however, that to address any potential environmental effects, prior to the sale of the site, a Preliminary Site Investigation was undertaken in July 2009 which identified three potential areas of the site which could include contaminates, these areas were:

- Waste burning site
- Underground storage tank
- Septic Tank

Based on these results, recommendations were made which included further soil and groundwater contamination investigation, minor decommissioning and soil removal. This work was undertaken by the CSIRO prior to disposal of the site. Following the conclusion of these works an environmental assessment was carried out by GHD in order to investigate whether any contamination issues remained. The assessment provided the following recommendations:

- No further work is recommended in the former UST [underground storage tank] or the septic tank area to assess contamination.
- GHD consider it worthwhile to remove the stained soil, burnt material and debris in the waste burning area (only a very shallow surface soil 'scrape' would be necessary to remove the black stained soil). Initial results from the investigation indicated that the soil might be classified as 'Category C' material, however, further analysis for disposal purposes may be required by the receiving landfill.

Since the publication of the GHD report the identified soil, materials and debris have been removed and it is considered that the need to apply the Environmental Audit Overlay (EAO) or carry out any further mitigation measures on the site is not required.

As a result of these findings it was considered that the proposed application of the Environmental Audit Overlay (EAO) should form no further part of the amendment.

In August 2015 the CEO wrote to the Department confirming the intention to proceed with the amendment as requested but revised to delete the inclusion of the EAO.

In September 2015, further information was requested by the Department Office in Bendigo stating that given the time that has elapsed since the request for Ministerial intervention was made by the former CEO of Mildura Rural City Council (notwithstanding the letter from the current CEO in August 2015) the department is still seeking clarification from council that it supports a request for intervention through a resolution of Council.

The purpose of this report is to provide a recommendation to Council in this regard and to respond to Department of Environment Land Water and Planning (DELWP) indicating the amendment should be progressed under Section 20(4) of the Planning and Environment Act 1987 immediately.

As the amendment proposes to correct a significant omission and introduce zoning in accordance with the surrounding zoning which has been agreed to by the occupier/landowner and as the heritage significance is already registered, it is considered that the potential impact on the landowner and nearby landowners is minimal.

5. Time Frame

The amendment will be progressed in accordance with the timelines outlined as follows:

Event	Timeline
Report resubmitted to Council for adoption	December 2015
Letter to Minister for Planning	December 2015

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

2.5 Strategic Land Use

Goals to be achieved:

- a well developed long-term land use vision; and
- safe, sustainable and healthy urban environments.

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

Consultation has been undertaken with the occupier/landowner who indicates agreement with the proposed amendment.

As the amendment proposes to correct a significant omission and introduce zoning in accordance with the surrounding zoning and as the heritage significance is already registered, it is considered that the potential impact on the nearby landowners is minimal. No further consultation is proposed.

9. Implications

Policy Implication

The policy implications are addressed by the amendment.

Legal/Statutory Implications

The amendment is to ensure the immediate inclusion of the subject land into the Mildura Planning Scheme, in accordance with the Planning & Environment Act. The surrounding and underlying zone is the Farming Zone.

In accordance with Section 20(4) of the Planning & Environment Act, the Minister is to prepare and approve the amendment without notification.

Section 20(4) is to be used for:

- Simple inconsequential changes to the planning scheme
- Amendments where the view of affected parties are known

Financial Implications

All costs associated with the amendment are contained within Council’s operational budget 2015-16. Payment for requesting and approving an amendment under Section 20(4) of the *Planning and Environment Act 1987* was forwarded to the Minister for Planning in 2013.

Costs associated with an alternative standard process for the amendment possibly including the need for an independent Panel have not been allowed for.

Environmental Implications

The environmental implications are addressed by the amendment.

Social Implications

The social implications are addressed by the amendment

10. Risk Assessment

By adopting the recommendation Council will be exposed to the following risks:

Risks	Controls	Residual Risk
Continued concern in the short term from nearby landowners	Thorough strategic assessment in line with the current Mildura Planning Scheme and the <i>Planning and Environment Act 1987</i>	Low
The amendment may not be approved by the Minister for Planning	Thorough strategic assessment in line with the current Mildura Planning Scheme and the <i>Planning and Environment Act 1987</i>	Medium

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

12. Conclusion

By approving the recommendation Council ensures the immediate inclusion of the subject land in the Mildura Planning Scheme, in accordance with the Planning & Environment Act. The surrounding and underlying zone is the Farming Zone and it is considered appropriate that the subject land be included in this zone in an expedited manner.

Attachments

There are no attachments for this report.

13.2 MILDURA CITY HEART SPECIAL RATE

File Number: 09/04/15
Officer: Acting General Manager Corporate

1. Summary

This report seeks Council's final commitment to proceed with the implementation of the Mildura City Heart Special Rate Scheme effective from 1 January 2016 having fulfilled all statutory requirements including statutory advertising, community consultation and consideration of all submissions received in accordance with Section 223 of the Local Government Act 1989 (the Act).

2. Recommendation

That Council:

- (i) notes that it has completed all consultation processes in compliance with section 223 of the Local Government Act 1989
- (ii) having considered the submissions and analysis of the issues within them, is satisfied that these submissions do not provide any substantive justification to reconsider the introduction of a Mildura City Heart Special Rate
- (iii) communicates its consideration of submissions to the persons who made a submission to the proposed Mildura City Heart Special Rate Scheme
- (iv) resolves to declare a Mildura City Heart Special Rate Scheme, for the purpose of deriving funds for marketing and business development of the Mildura City Heart area as defined in this report
- (v) that the Mildura City Heart Special Rate Scheme be introduced effective for the period 1 January 2016 to 30 June 2019
- (vi) that the scheme apply to all rateable business properties within the defined area and derived by calculation proportionate to the capital improved value of each respective property affected
- (vii) that such total funds derived from the Mildura City Heart Special Rate Scheme will be as follows:

• 1 January 2016 - 30 June 2016	\$275,000
• 1 July 2016 – 30 June 2017	\$565,000
• 1 July 2017 – 30 June 2018	\$580,000
• 1 July 2018 – 30 June 2019	\$595,000

3. Background

Council's resolved at its August 2015 Ordinary Council Meeting to:

- (viii) *to implement a Mildura City Heart Special Rate Scheme, for the purpose of deriving funds to market and promote business contained within the Mildura City Heart defined area*
- (ix) *that the Mildura City Heart Special Rate Scheme be introduced effective for the period 1 January 2015 to 30 June 2019*

- (x) *that such funds derived from the Mildura City Heart special rate scheme will be as follows:*
- | | |
|--------------------------------|-----------|
| • 1 January 2016 -30 June 2016 | \$275,000 |
| • 1 July 2016 – 30 June 2017 | \$565,000 |
| • 1 July 2017 – 30 June 2018 | \$580,000 |
| • 1 July 2018 – 30 June 2019 | \$595,000 |
- (xi) *to advertise this intention in accordance with the requirements as set out in the Local Government Act (1989) to undertake all consultation requirements as set out in the Local Government Act (1989, including the hearing of any submissions pursuant to Section 86 of the Local Government Act (1989))*

This resolution stemmed from Council being approached by the Mildura City Heart Inc Committee (MCH) to consider the implementation of a Special Rate Scheme to directly fund the marketing and promotion of businesses contained within the Mildura City Heart area.

The proposal reverts to the original footprint of CBD properties (refer attached plan) that historically comprised the Mildura City Heart area and the MCH, having been very active in consultations with affected business, remain very confident that such a scheme would have wide spread support and clear demonstration of benefit thus averting much of the risk of appeal.

MCH is an independent, incorporated body responsible for the development, marketing and promotion of the CBD as a retail, hospitality and commercial destination. The MCH Committee have since March 2015 been very active in consultation with businesses within the City Heart / Langtree Mall business precinct and have met with Council at the August 2015 Council Forum to outline their new proposal.

4. Discussion

The Mildura City Heart Special Rate Scheme will directly fund Mildura City Heart Inc for marketing and business development of the Mildura City Heart area within the Central Business District (CBD). This area is described within the attached plan and is consistent with the Mildura City Heart area that historically saw a differential rate for similar purposes applied against it.

MCH Inc. has detailed the following benefits that will be provided to properties that are included in the proposed scheme:

- Access to the annual Mildura City Investment Prospectus for attracting new tenants to the precinct,
- Inclusion in the Mildura City Gift Cards scheme,
- Access to cooperative advertising campaigns,
- Free inclusion in market stands at selected MCH Inc. events,
- Attendance at the Traders' Networking events (at least two per year),
- Monthly newsletters from MCH Inc.,
- Access to, and advice about, various training programs,
- Inclusion in the Mildura City Business Directory, and
- An option to be included in future editions of the Mildura City Grid Guide

In order to deliver these benefits, MCH Inc. has calculated that it will require funding as follows:

• 1 January 2016 - 30 June 2016	\$275,000
• 1 July 2016 – 30 June 2017	\$565,000
• 1 July 2017 – 30 June 2018	\$580,000
• 1 July 2018 – 30 June 2019	\$595,000

The scheme is to commence on 1 January 2016 and end on 30 June 2019.

What is a 'special rate'?

A special rate is a rate that may be raised by Council under the provisions of section 163 of the LG Act in addition to general rates and charges.

Where a special rate relates to economic development, schemes are usually prepared and facilitated by Council at the request of the respective business/trader association. The funds collected by Council may be wholly allocated for expenditure on an administrative basis to an incorporated business/trader association representing the traders for the purposes of promotion, marketing and business development of a business precinct. The expenditure of special rate proceeds for such purposes will in turn encourage retail, commerce, professional activity and employment in the business district.

Proposals from business/trader associations should define the purpose of the requested special rate. The purpose must describe the reasons as to why a proposed scheme is required.

A special rate must only be applied to a property where the proposed expenditure of special rate monies results in the provision of a special benefit to that property that is not available to other properties. Special benefit, for present purposes, is generally defined as the enhanced value, use, occupancy and enjoyment of land.

Where a majority of special ratepayers formally objects to a proposal, the special rate cannot be implemented. Therefore, to ensure the success of a special rate, broad support from traders and property owners is required.

Properties determined to be non-rateable under section 154(2) of the LG Act are not required to contribute to a special rate. Council may also exempt other property types from the imposition of a special rate where it is clear that no special benefit can be derived, for example, vacant land.

Special ratepayers may appeal to the Victorian Civil and Administrative Tribunal (**VCAT**) against the imposition of a marketing and promotional special rate against them on the basis of 'no special benefit' or 'an unreasonable distribution of the special rate amongst those persons who are liable to pay'. If an appeal is successful on the ground of 'no special benefit', the individual ratepayer will become exempt from the special rate. However, if an appeal is based on 'an unreasonable distribution of the special rate amongst those persons who are liable to pay' and is successful, the individual ratepayer may have the special rate applicable to that ratepayer varied by VCAT or it is also possible that the entire scheme "may" be quashed by VCAT.

5. Time Frame

If adopted, the special rate will be introduced effective from 1 January 2016 for a period of 3.5 years, therefore concluding 30 June 2019.

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

4.4 Financial Sustainability

Goal to be achieved:

- meet the community's needs in a financially responsible manner

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

MCH initially undertook extensive consultation with Mildura City Heart businesses and gained widespread support for the implementation of a Special Rate Scheme.

Council then as resolved at its August 2015 Ordinary Meeting, advertised its intention to introduce the Special Rate Scheme, seeking submissions pursuant to S223 of the Act, and in addition wrote to all ratepayers, occupiers and business affected. This correspondence detailed the proposal, the options available and the avenues for making a response. It also included a copy of the advertisement (attached), detail on the proposed rate and a template form to lodge objection. The process under section 223 of the Act ensures that all members of the community may have input into the proposal before Council finally resolves on the matter.

Section 223 Submissions:

At the statutory closure date for objections and S223 submissions, Council had received the following:

- Objections received - 23 people representing 30 rateable properties
- Letters of support - 30 people representing 68 rateable assessments

Council subsequently considered all written submissions received at 4.00pm Thursday 22 October 2015 and subsequently heard one submission who sought to speak before Council at 5.00pm on Thursday 12 November 2015.

Key issues raised within objections can be summarised as follows:

- Concern with having to pay a special rate when buildings remain untenanted
- Council rates were considered too high already
- That there was unclear or no perceived benefit to certain types of non-retail business
- Assertions that there was less clear or no benefit to outlying parts of the Mildura Special Rate area away from Langtree Mall / Avenue

Key issues raised within letters of support can be summarised as follows:

- Such proposed funding through a special rate is vital to the success of all CBD business
- MCH is doing great job marketing and promoting the CBD
- All businesses should contribute to a special rate in order to achieve a greater good for the CBD
- That a collective, coordinated approach to derive funding is important
- Suggestions that the cost incurred with a special rate is minimal compared to potential benefits (ie value for money)
- That there is a whole of community benefit to a special rate that supports a vibrant CBD
- Funding MCH in this way ensures a voice for traders

Council consideration of submissions:

Having considered all submissions including objections to the proposal, Council considers that strong public support for the proposal is reflected both within the submissions of support and in terms of the relatively small number of objections received.

With regard to submission issues raised in objections, Council considers:

- A special rate must still apply when buildings remain untenanted. Whilst this is unfortunate, the administrative effort to monitor and maintain the scheme would make this an unreasonable administrative burden
- Council recognises rates within the municipality are comparatively high however this proposal of a special rate is a separate matter with clear purpose and distinct benefits intended for the properties affected
- Council recognises that the perceived benefit to certain types of business is subjective, however it remains confident that overall benefit to those properties within the CBD is sufficiently tangible
- Similarly, Council recognises that the perceived benefit to outlying parts of the Mildura Special Rate area away from Langtree Mall / Avenue is also subjective, however it remains confident that overall benefit to those properties within the CBD is sufficiently tangible

With regard to issues raised in support of the proposal, Council considers:

- That the proposed funding through a special rate is vital to the success of all CBD business and to ensure its success, all businesses should contribute to a special rate in order to achieve a greater good for the CBD
- That the level of support demonstrates that this collective, coordinated approach is appropriate

Summary:

Council recognises both the issues raised for and against the proposal as listed above and notwithstanding some concerns voiced from ratepayers as to the measure of direct benefit in some cases, the value of a coordinated approach to marketing and promoting City Heart precinct appears broadly recognised and largely accepted that for the 'greater good', the scheme needs to include all eligible properties as currently defined.

9. Implications

Policy Implication

Council currently has a Memorandum of Understanding with Mildura City Heart Inc., which will be modified where and as required so that Council maintains control over those matters of which it is obligated under the LG Act in relation to the Special Rate.

Legal/Statutory Implications

A special rate is a rate raised in addition to general rates and charges under the provisions of Section 163 of the *Local Government Act 1989*.

Ratepayers may appeal to the Victorian Civil and Administrative Tribunal (VCAT) on the basis of ‘no special benefit’. If the appeal is successful, the individual ratepayer will become exempt. However, if the appeal is based on ‘an unreasonable distribution of the special rate amongst those persons who are liable to pay’, the individual ratepayer may have the special rate applicable to that ratepayer varied by VCAT or it is also possible that the entire scheme “may” be quashed by VCAT.

Financial Implications

The MCH proposal is to raise \$275,000 in the first half year with subsequent years each set at \$565,000pa, \$580,000pa and \$595,000pa respectively.

The Special Rate will be collected by Council as a part of Council’s current rating system/ rate notice, however all funds derived by the application of the Special Rate will subsequently be forwarded to MCH Inc. for expenditure in accordance with the terms and conditions set out in an amended Memorandum of Understanding

Should Council proceed with implementing the Special Rate, any shortcoming in funds stemming from a successful VCAT appeal should not be made up by the Council.

Environmental Implications

There are no environmental implications associated with this report.

Social Implications

There are no social implications associated with this report.

10. Risk Assessment

By adopting the recommendation, Council is exposed to the following risk:

Risks	Controls	Residual Risk
Formal objection to the proposal and subsequent possible successful Victorian and Civil Appeals Tribunal (VCAT) appeal	Clear process of implementation in accordance with legislative requirements. Clear and demonstrable benefits evident for affected ratepayers	Low

11. Conflicts of Interest

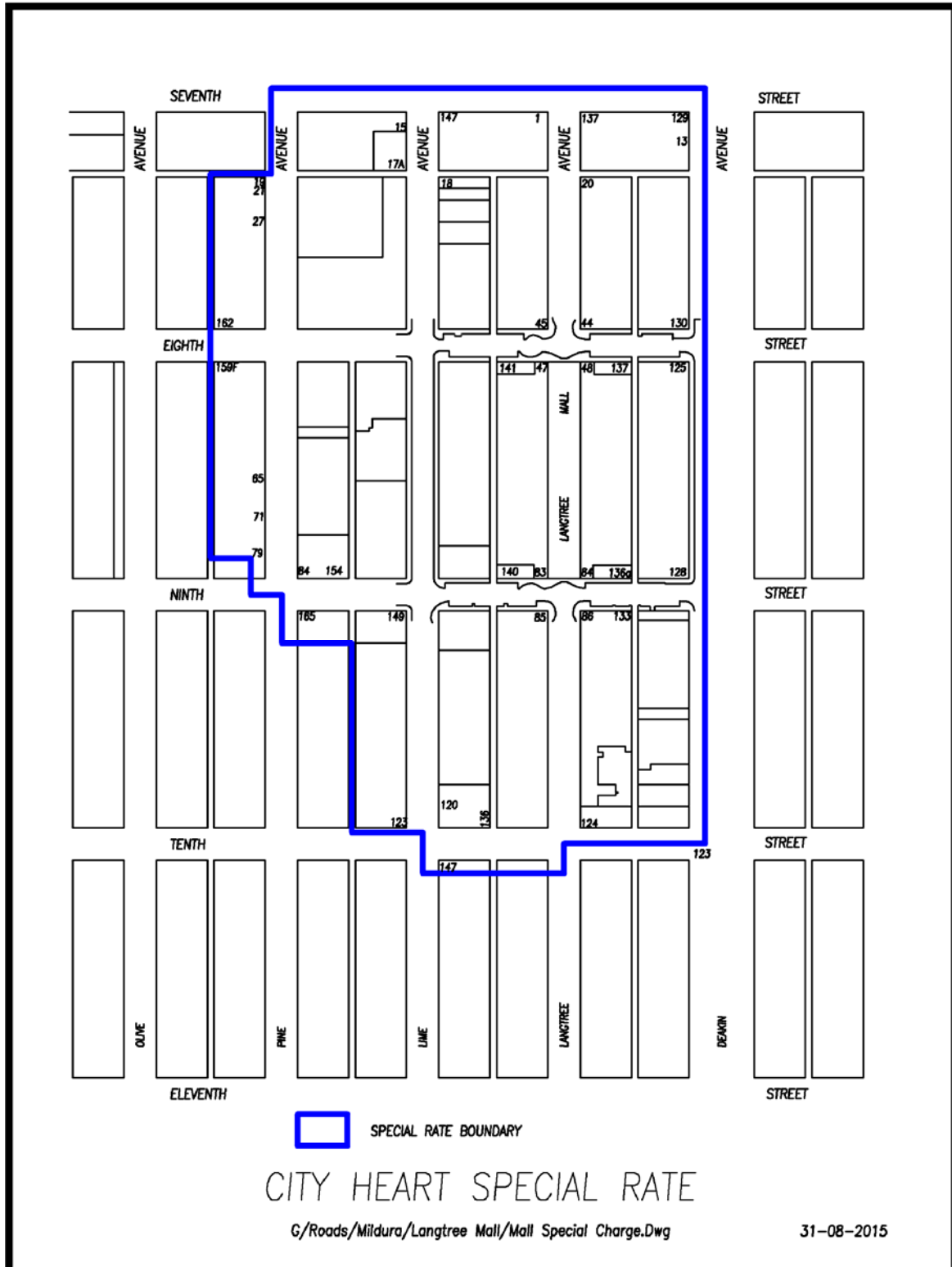
No conflicts of interest were declared during the preparation of this report.

12. Conclusion

Implementation of a Mildura City Heart Special Rate Scheme will provide clear benefit to affected Mildura City Heart Businesses and as such Council should give favourable consideration to supporting the proposal to introduce such a scheme.

Attachments

- 1** Defined Boundary of MCH Special Rate Area
- 2** Copy of Advertised Public Notice of Intention to Declare Special Rate
- 3** Copy of Meeting Minutes for S223 hearing - 22 October 2015



NOTICE OF INTENTION TO DECLARE A SPECIAL RATE**Mildura City Heart**

In accordance with a resolution of the Mildura Rural City Council (**Council**) made at its 27 August 2015 Ordinary Meeting, notice is given that at the 10 December 2015 Ordinary Meeting, it is the intention of Council to declare a Special Rate (**Special Rate**) under section 163(1) of the *Local Government Act 1989 (LG Act)* for the purposes of defraying expenses to be incurred by Council in providing funds to the incorporated body known and operating as the Mildura City Heart Incorporated (**MCH Inc.**), which funds, subject always to the approval, direction and control of Council, are to be used for the purposes of promotional, advertising, marketing, business development and other incidental expenses as approved by Council and agreed to from time to time between Council and MCH Inc., all of which are associated with the encouragement of commerce, retail and professional activity and employment in the Mildura City Heart Business Precinct (**Mildura City Heart** or **Scheme**).

The Special Rate will be based on geographic criteria, having regard to the location and the capital improved value of those rateable properties in Mildura City Heart that are used, or reasonably capable of being used, for commercial, retail or professional purposes, and further, the exemption of all vacant land from the Scheme.

Council considers that each rateable property and each business included in the Scheme area that is required to pay the Special Rate will receive a special benefit because the viability of Mildura City Heart as a commercial, retail and professional area will be enhanced through increased economic activity.

In performing functions and exercising powers in relation to activities associated with the encouragement of commerce and retail activity in and around the area for which it is proposed the Special Rate will be declared, Council intends to levy and spend in the first half year of the Scheme one half of an amount of \$550,000 (which amount it is proposed will be levied pro rata and being \$275,000 for a period of 6 months from 1 January 2016 – 30 June 2016) and thereafter to levy and spend further amounts in the following years based on annual adjustments of amounts raised in later years as follows:

1 July 2016 – 30 June 2017	\$565,000
1 July 2017 – 30 June 2018	\$580,000
1 July 2018 – 30 June 2019	\$595,000

The period for which the Special Rate is to be declared and is to remain in force is a period of three and a half years commencing on 1 January 2016 and ending on 30 June 2019.

For the period of the Scheme, the Special Rate will be declared and assessed in accordance with the amounts set out alongside each property in the schedule to the proposed declaration of Special Rate, such amounts having respectively been assessed by multiplying the capital improved value of each property by an amount of .0026639 (which amounts are to be adjusted annually so as to collect the increased amounts in successive years as referred to above).

Copies of the proposed declaration of Special Rate and a detailed plan of the Scheme area are available for inspection for a period of at least 28 days after the publication of this notice, being until 5pm on Monday 19 October 2015, at the Council's Madden Avenue Service Centre, 108 Madden Avenue, Mildura. Any person requiring further information in relation to the process outlined should contact Craig McErvale, Revenue Coordinator on 5018 8100.

The Special Rate will be levied by Council sending a notice of levy in the prescribed form annually to the person who is liable to pay the Special Rate, which will require that the Special Rate must be paid in the following manner –

- (a) by one annual payment to be paid in full by the due date fixed by Council in the notice, which will be a date not less than 30 days after the date of issue of the notice; or
- (b) in the first half year, by two instalments, to be paid by the dates which are fixed by Council in the notice and in subsequent years, by four instalments, to be paid by the dates which are fixed by Council in the notice.

Council will consider cases of financial and other hardship and may reconsider other payment options for the Special Rate. No incentives will be given for payment of the Special Rate before the due date for payment.

For the purposes of having determined the total amount of the Special Rate to be levied under the Scheme, Council considers and formally determines for the purposes of sections 163(2)(a), (2A) and (2B) of the LG Act that the estimated proportion of the total benefits of the Scheme to which the performance of the function and the exercise of the power relates (including all special benefits and community benefits) that will accrue as special benefits to all of the persons who are liable to pay the Special Rate is in a ratio of 1:1 (or 100%). This is on the basis that, in the opinion of Council, all of the services and activities to be provided from the expenditure of the proposed Special Rate are marketing, promotion and advertising

related and will accordingly only benefit those properties and businesses included in the Scheme that are used, or reasonably capable of being used, for retail, commercial or professional purposes.

Any person may make a written submission to the Council under sections 163A and 223 of the Act. In addition, any person who will be required to pay the Special Rate to be imposed by the proposed declaration, whether an owner or an occupier of a property included in the Scheme, has a right to object to the proposed declaration and may also make a written objection to Council under section 163B of the Act. An occupier is entitled to exercise the right of objection if they submit documentary evidence with the objection which shows that it is a condition of the lease under which the person is an occupier that the occupier is to pay the Special Rate.

Persons wishing to make a submission or lodge an objection must do so in writing and must be received by Council by 5pm on Monday, 19 October 2015. Submissions and/or objections should be addressed to Mr Gerard José, Chief Executive Officer, Mildura Rural City Council. PO Box 105, Mildura, Vic 3502 or delivered to the Madden Avenue Service Centre, 108 Madden Avenue, Mildura.

Any person who has made a written submission under section 223 of the Act and has requested to be heard in support of their written submission is entitled to appear in person or be represented by a person specified in the submission before a Committee appointed by Council to hear submissions under section 223 of the Act. The hearing of submissions will be held at 1pm on Thursday 22 October 2015 in the Council Rooms at the Deakin Avenue Service Centre, 76 Deakin Avenue, Mildura.

Any person making a written submission under section 223 of the Act is advised that the Council is required to make available for public inspection all submissions (including personal information) received in accordance with section 223 of the Act during the previous 12 months. Details of submissions may also be included with the official Council Agendas and Minutes which are public documents and which may also be made available on Council's website.

Council will consider any written submissions and take into account any objections in accordance with sections 163A, 163B and 223 of the Act.

[Insert Schedule 1 - Scheme plan]

**Gerard José
Chief Executive Officer
Mildura Rural City Council**

Hearing of Submissions to proposed Mildura City Heart Special Rate held 4.00pm Thursday 22 October 2015, Council Room, Deakin Avenue.

In attendance:

Councillors

Cr Glenn Milne	Mayor
Cr Greg Brown	
Cr Judi Harris	
Cr Jill Joslyn	

Officers

Gerard José	Chief Executive Officer
Mandy Whelan	General Manager Corporate
Richard Sexton	Manager Corporate Administration

Submissions:

Manager Corporate Administration (MCA) tabled all submissions received at the statutory expiry date in relation to the proposed Mildura City Heart Special Rate. MCA then summarised the submissions, sought questions from Councillors and clarified as required.

Objections received:	23 people representing 30 rateable properties
Letter of Support:	30 people representing 68 rateable assessments

Invalid Objections:	6 (evidence not provided that the objector was a ratepayer)
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Key issues raised within objections can be summarised as follows:

- Concern with having to pay a special rate when buildings remain untenanted
- Council rates were considered too high already
- That there was unclear or no perceived benefit to certain types of non retail business
- Assertions that there was less clear or no benefit to outlying parts away of the catchment area from Langtree Mall / Avenue

Key issues raised within letters of support can be summarised as follows:

- Such proposed funding through a special rate is vital to the success of all CBD business
- MCH is doing great job marketing and promoting the CBD
- All businesses should contribute to a special rate in order to achieve a greater good for the CBD
- That a collective, coordinated approach to derive funding is important
- Suggestions that the cost incurred with a special rate is minimal compared to potential benefits (ie value for money)
- That there is a whole of community benefit to a special rate that supports a vibrant CBD
- Funding MCH in this way ensures a voice for traders

Council consideration of submissions:

Councillors present whilst recognising that a further verbal submission was still to be heard, offered the following comments with regard to submission issues raised in objection:

- A special rate must still apply when buildings remain untenanted. Whilst this is unfortunate, the administrative effort to monitor and maintain the scheme would make this an unreasonable administrative burden
- Council recognises rates within the municipality are comparatively high however this proposal of a special rate is a separate matter with clear purpose and distinct benefits intended for the properties affected
- Council recognises that the perceived benefit to certain types of business is subjective, however it remains confident that overall benefit to those properties within the CBD is sufficiently tangible
- Similarly, Council recognises that the perceived benefit to outlying parts away of the catchment area from Langtree Mall / Avenue is also subjective, however it remains confident that overall benefit to those properties within the CBD is sufficiently tangible

With regard to issues raised in support of the proposal, Council considers:

- That the proposed funding through a special rate is vital to the success of all CBD business and to ensure its success, all businesses should contribute to a special rate in order to achieve a greater good for the CBD

- That the level of support demonstrates that this collective, coordinated approach is appropriate

The meeting concluded at 4.35pm

Hearing of a verbal submission to proposed Mildura City Heart Special Rate held 5.00pm Thursday 12 November 2015, Council Room, Deakin Avenue.

In attendance:

Councillors

Cr Judi Harris
Cr Greg Brown
Cr Mark Eckel
Cr Jill Joslyn

Officers

Gerard José	Chief Executive Officer
Chris Parham	Acting General Manager Corporate
Mandy Whelan	Acting General Manager Development
Richard Sexton	Manager Corporate Administration

Submission:

Manager Corporate Administration (MCA) introduced Mr Roy Costa speaking on behalf of family members Robert (also present) and Judy Hyder. Having originally lodged an objection form for each of their 5 properties, additional information was provided to Councillors.

Mr Costa and Mr Hyder indicated strongly that they support the proposed special rate scheme however disputed there being any benefit whatsoever for their properties and as such sought exemption, ie realignment of the boundaries for the scheme.

Discussion ensued on the legal rateability of some of the properties in question with agreement reached that legal opinion would be sought and if deemed not rateability in accordance with the Local Government Act, this would also preclude the property from the proposed special rate.

Council consideration of submissions:

Having now considered all submissions including objections to the proposal, Council considers that strong public support for the proposal is reflected both within the submissions of support and in terms of the relatively small number of objections received.

Summary:

Council recognises both the issues raised for and against the proposal as listed above and notwithstanding some concerns voiced from ratepayers as to the measure of direct benefit in some cases, the value of a coordinated approach to marketing and promoting City Heart precinct appears broadly recognised and largely accepted that for the 'greater good', the scheme needs to include all eligible properties as currently defined.

The meeting concluded at 5.25pm

13.3 MAYOR AND COUNCILLOR ALLOWANCES

File Number: 02/01/06
Officer: Acting General Manager Corporate

1. Summary

This report provides Councillors and the community with an update on current legislated arrangements for Mayoral and Councillor Allowances.

2. Recommendation

That Council note the contents of this report.

3. Background

Council established its levels of allowance for both the Mayor and Councillors at its Ordinary Council Meeting of 13 December 2012. The level and range of allowance is set in legislation according to the category each Council is defined within and Mildura Rural City Council falls within Category 2.

4. Discussion

Periodically the Minister for Local Government reviews the limits and ranges of the current Mayoral and Councillor allowances. Under Section 73B of the Local Government Act 1989 (the Act), the Minister has determined an increase in these allowances by an adjustment factor of 2.5% effective from 1 December 2015.

The new level of allowances will be:

Mayor:	\$74,655.30pa
Councillor	\$24,127.60pa

5. Time Frame

In recent years, the Minister has reviewed the allowances annually and the new level of allowance set for Mayor and Councillors will now remain in place until the election of a new Council in October 2016.

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

4.4 Financial Sustainability

Goals to be achieved:

- Meet the community's needs in a financially responsible manner.

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

There are no consultation implications associated with this report.

9. Implications

Policy Implication

This report aligns Council's Councillor Support and Expenses Policy CP012.

Legal/Statutory Implications

There are no legal/statutory implications associated with this report.

Financial Implications

Allowances are contained within Council's Operational Budget.

Environmental Implications

There are no environmental implications associated with this report.

Social Implications

There are no social implications associated with this report.

10. Risk Assessment

By adopting the recommendation, Council will not be exposed to any risks.

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

12. Conclusion

This report is intended to provide transparency and accountability with regard the allowances paid to both Mayor and Councillors.

Attachments

There are no attachments for this report.

13.4 MILDURA AIRPORT PTY LTD MANAGEMENT MODEL REVIEW

File Number: 19/01/01
Officer: Acting General Manager Corporate

1. Summary

Council periodically undertakes independent reviews of its various services and functions and as such, a Governance review of Mildura Airport Pty Ltd (MAPL) was conducted by Council's contracted internal audit contractor, BDO in March 2015.

The first recommended action stemming from the review was for Council to review whether the current MAPL management model established in 2009 still remains the best model moving forward.

This report therefore provides Council with the outcomes of the MAPL operational model review and a recommendation for future management of Mildura Airport.

2. Recommendation

That Council:

- (i) **notes the Mildura Airport Pty Ltd Board formal response to the review of the current operation model, and**
- (ii) **accepts the continuation of the current Mildura Airport operating model as most appropriate**

3. Background

For Council to assess both the success of the current management model and determine future management options, it was agreed with MAPL that all performance expectations as contained within the current Deed of Operation be collated into a document and MAPL tasked to provide detailed comment on the respective levels of achievement for each element.

4. Discussion

Chief Executive Officer MAPL Bill Burke has provided a comprehensive response (attached to this report) for Council's consideration.

The response fully details the success of MAPL in all required elements and supports the retention of the current operating model by Mildura Rural City Council.

5. Time Frame

There are no timeframe issues associated with this report.

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

2.6 Transport

Goals to be achieved:

- Road, rail and air transport services and infrastructure that meets community needs

4.4 Financial Sustainability

Goals to be achieved:

- Financial sustainability;
- Meet the community's needs in a financially responsible manner.

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

No further consultation is required in this process.

9. Implications**Policy Implication**

There are no policy implications associated with this report.

Legal/Statutory Implications

Consideration of the matters contained within this report accord with Council's governance obligations, the MAPL Constitution, *Corporations Act 2001* and *the Local Government Act 1989*

Financial Implications

There are no financial implications associated with this report.

Environmental Implications

There are no environmental implications associated with this report.

Social Implications

There are no social implications associated with this report.

10. Risk Assessment

By adopting the recommendation, Council will not be exposed to any significant risks.

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

12. Conclusion

It is appropriate for Mildura Rural City Council as the sole shareholder to review the management model of Mildura Airport.

Attachments

- 1 Review of Current Mildura Airport Pty Ltd Operating Model 2015

DRAFT TEMPLATE FOR DISCUSSION: Review of Mildura Airport Pty Ltd Operating Model 2015**Mildura Airport Operations and Management Deed 2009****1.2 SHARED OBJECTIVES**

The parties have entered in to this deed with the shared objectives of ensuring that:

1.2.1.1 THE AIRPORT IS DEVELOPED, MARKETED, OPERATED AND MANAGED ON A COMMERCIAL BASIS AND IN A SAFE AND EFFICIENT MANNER

Mildura City Council and its corporate entity, Mildura Airport Pty Ltd, are committed to continuing the development of Mildura Regional Airport's role as the key aviation facility in north western Victoria.

The Airport Master Plan outlines the future allocation, composition, use and development of the airside and landside assets.

The Master Plan strategically identifies key capital projects and initiatives to be undertaken over short, medium and long term planning horizons.

These planning horizons are largely influenced by growth in passenger numbers and increases in aircraft activity and reflect proactive planning for implementation rather than reactive response to a situation requiring rectification.

The Plan acknowledges the importance of the runway and taxiway network.

"The runways and taxiway system form the backbone of Mildura Regional Airport's infrastructure and operations. Maintaining their ongoing integrity and planning their future development is the highest planning priority. The Runway Overlay project is the priority capital project for Mildura Regional airport."

Since its inception and commencement of operations, Mildura Airport Pty Ltd (MAPL) has demonstrated a solid commercial approach to all aspects of the Airport management and development.

This approach has resulted in development of systems, processes and policies that ensure the Airport operates at a level that is "State of the art" in all areas

The demonstrated performance of the Airport with significantly improved facilities, constantly increasing passenger numbers and additional services to three destination is clear evidence of the success of the model.

The track record since incorporation speaks for itself. Mildura Airport is an acknowledged leader in Regional Airport ranks.

Mildura Airport is acknowledged by the Aviation Industry and all Regulators as a model to be followed.

At completion of the new Terminal development, Mildura Airport received the "Airport of the year" award from its industry body the Australian Airports Association

Since commencement of operations of Mildura Airport Pty Ltd a number of key improvements have been delivered including.

- Re-Construction of the R.P.T. (Regular Passenger Transport) aircraft apron.
- Construction of a "Make up" belt for departing baggage.
- Installation of passenger security screening facilities.
- Installation of an "Arrival" belt for incoming baggage
- Reconstruction and expansion of the Airport Terminal.

These initiatives have significantly alleviated congestion within the terminal building.

The changes formed part of the strategic plan for growth of the terminal and the new works and re-arrangement of passenger flow have removed the congestion that previously existed.

The new Master Plan for the Airport was completed and the document is a comprehensive and carefully planned projection of the needs and growth of the Airport through to 2030.

The conclusions presented in the Master Plan are the result of careful analysis of the airports activities and application of industry standards to projections of growth and demand.

Management structure of the Airport operations has been radically re-arranged with operational staff now present during all normal operational hours of RPT services, 365 days per year. There have been a number of significant achievements in the area of Governance relating to the Company operations, the most significant being the creation, implementation and settling in legal terms of a document defining the terms and conditions for all operations at the Airport. This document along with several ancillary documents forms a strong suite of manuals to guide all parties operating on and to the Airport.

They define the manner in which operations are performed and the commercial terms of reference.

The Airport web site has been redesigned and now provides a point of ready reference to parties for information pertaining to Airport operations.

Passenger numbers continued to grow with 208,700 RPT passengers movements through the Mildura Airport at the time of writing.

Airline capacity has increased with introduction of the Dash 8-400 aircraft type by QantasLink and the scheduling in of the Boeing B737-H with 176 seats by Virgin Australia.

These larger aircraft types produce a consequential reduction of frequency of services while overall seat numbers increased significantly.

Increasing passenger activity brings with it challenges, and the most significant of these the need to provide appropriate terminal space and facilities.

1.2.1.2 THE OPERATOR STRATEGICALLY PLANS A VIABLE AND SUCCESSFUL FUTURE FOR THE AIRPORT AND FOR THE FUTURE AIR TRAVEL NEEDS OF THE MILDURA REGION

The master plan 2010 is the current plan for the growth and development of the Airport and this has proved to be an exceptionally accurate prediction of the need, the timing and the cost of key infrastructure initiatives to accommodate the growth of passenger and aircraft movements and associated activity at the Airport.

The Master Plan 2010 epitomises the need for accurate planning for the growth of the facility.

Mildura Airport plays a critical role in moving people and goods to the region.

Three airlines provide RPT services to Melbourne, Sydney, Adelaide and Broken Hill utilising turbo prop and pure jet aircraft. It is unique for a regional airport in Australia to service three capital cities and four destinations.

- ▶ Qantas Link: operating de Havilland Dash 8 400 (74 seats)
- ▶ Virgin Australia: operating Embraer E-190 and Boeing B 737-800 (98 and 176 seats respectively)
- ▶ Regional Express (Rex): operating Saab 340 (34 seats)



Charter and general aviation movements further increase air traffic at the Airport. These movements include:

- ▶ Air Ambulance services – provide a crucial link for transfer of patients to and from capital cities for vital medical treatment from the region;
- ▶ The Royal Flying Doctor Service – provide lifesaving services;
- ▶ Angel Flight – provides special flights for children with terminal illnesses to participate in a unique activity of their own choosing;
- ▶ Air freight services – provision of daily freight services;
- ▶ Bank Charter services – provides daily link between head offices and regional areas;
- ▶ Flight training - both local and externally based flight schools use the airspace in Mildura and surrounding areas to develop required skills for private and commercial pilots in training;
- ▶ Charter operations – majority of activity is for government and business travel with some tourism movements;
- ▶ Military aircraft – used as a refuelling and stopover point by the various Defence Departments;
- ▶ Recreational aviation – popular stopping off and refuelling point for aviation enthusiasts travelling within the south-eastern parts of Australia or heading to the Outback;
- ▶ Firefighting;
- ▶ Police and Emergency Services;
- ▶ Aerial agriculture;
- ▶ Parachuting; and
- ▶ V.I.P flights.

1.2.1.3 THE AIR TRANSPORT NEEDS OF THE MILDURA COMMUNITY AND THE BROADER REGION ARE SERVICED

Evidenced by expansion and growth of services provided.

Ensuring that the Terminal has sufficient capacity to handle the passenger throughput projected and experienced.

Facilitating the competition between airlines (Qantas, Rex and Virgin) that has underpinned decreased fares and increasing patronage through facilitating the use of larger aircraft.

Underpinning future growth in patronage expected over the next decade, based on trends of the previous decade.

Patronage numbers have grown at an average 5.2 per cent annually since 1998, and can be expected to continue to increase should the airport continue to accept larger aircraft. Indeed, if patronage trends continue, an almost doubling of the current 209,000 annual airport patrons can be expected over the next decade.

Since Virgin Australia commenced jet aircraft flights to Mildura in 2008, ticket prices have reduced significantly and patronage has increased.

Growth in future visitation to the region may be higher than the previous decade, given the decline in the Australian dollar, which will encourage domestic and international visitors. Further, a number of environmental watering projects at sites around Mildura are expected to encourage further visitation in future years. The airport will play an important role in facilitating this investment.

Sustaining growth in the Mildura economy is particularly important given the significant social disadvantage in the broader Mildura Region with the traditional economic base of irrigated agriculture declining as an economic driver. The urban centre of Mildura has increased in prominence as an employment centre, driven by a diversified economic base including the health, education, tourism, and the retail sectors. The Mildura Airport clearly supports these growing sectors of the economy, and can be expected to increase in importance as Mildura's economy continues to grow and diversify.

Investment in the Mildura Airport is critical to these economic and social factors, and to the reputation of Mildura itself as a business hub and gateway to the region. The investments proposed in the current funding application will support Mildura Airport in this critical function

1.2.1.4 THE AIRPORT IS OPERATED, MANAGED AND MAINTAINED IN ACCORDANCE WITH ALL LAWS, INCLUDING ALL REQUIREMENTS IMPOSED BY CASA

Robust financial and operational auditing regime supports the style and capability of the Management. The operation is vigorously audited by, not only the Civil Aviation Safety Authority but also the Federal Office of Transport Security.

Mildura Airport financial statements are also audited by the Victorian Auditor General

In the period of operation under MAPL control there has been no substantive Requests for Remedial Activity by any of the Regulatory Bodies.

1.2.1.5 THE AIRPORT IS MAINTAINED IN ACCORDANCE WITH THE DEMAND FOR AIR TRAVEL AND AIRPORT ACTIVITY AND IN A PROFESSIONAL AND COMPETENT MANNER AND TO A HIGH STANDARD.

The overall strategic development objective for MAPL as identified in the masterplan was to stimulate and support the growing economy of the Sunraysia Region and Mildura district in particular, and to bestow confidence in the minds of current and prospective businesses that Mildura and Sunraysia Region possess a strong aerial link with the business centre of Australia and potentially the world.

Specifically the development of the terminal was designed to meet these key objectives:

- Rational and strategic development of the Mildura Airport, critical to support and stimulate the economy of Mildura and the Sunraysia District.
- Accommodate the passenger traffic growth identified and comfortably accommodate the "Busy Hour" numbers projected.
- Recognition and development of commercial opportunities within the terminal inherent and implied by growth projections.

These objectives have been successfully achieved through the delivery of the terminal upgrade project. In the period post Corporatisation of the Airport, there has been rapid growth and significant change in the services and facilities provided.

This change commenced with the overlay of the Airport Airside Apron, a \$7 million project that provided the capacity to accommodate large jet aircraft that were to enter the service between Melbourne and Mildura. Provision of an apron capable of accommodating 4 large jets, highlighted the inadequacy of the terminal building and work commenced immediately to plan and design its expansion.

The apron works and terminal expansion plans were key factors in us winning the confidence of an Airline to provide new connections to Sydney, Adelaide and Broken Hill thus providing greater access to key locations for this Regional Community.

It is now quite normal to see 3 or 4 aircraft in front of the terminal whereas in the past there would be normally only one.

This is a position only dreamed about in 2008. The fact that is a real and daily event clearly highlights the success that the new main terminal has been and continues to be for community for both business and leisure.

1.2.1.6 THE AIRPORT IS OPERATED AND MANAGED WITH A VIEW TO CREATING AND OPERATING A SURPLUS WHICH IS TO BE USED TO FINANCE FUTURE AIRPORT UPGRADES AND EXPANSIONS

The Board receives financial reports, based on accrual accounting, on a monthly basis. These reports highlight comparisons of actual to budget both monthly and on a year to date basis and incorporates explanations of variances to budget.

Financial reports provided include Income statement, Balance Sheet, Balance Sheet ratio analysis and projected cash-flows for the following 12 months.

Any surplus funds from the airport's operations are reinvested in maintaining and developing this critical asset for the local community and surrounding regions.

The Airport catchment area is considered to be a two hour drive time and includes parts of Swan Hill Rural City Council areas, the Riverland in South Australia and south western New South Wales stretching to Broken Hill.

In July 2013 an Asset Renewal Fund was created with regular monthly contributions to provide seed funding for future major capital expenditure.

1.2.1.7 IN PREPARING DRAFT BUSINESS PLANS AND DRAFT MASTER PLANS, THE OPERATOR TAKES INTO ACCOUNT AND INCORPORATES CUSTOMER AND STAKEHOLDER INTERESTS.

Mildura Regional Airport is one of the Region's most valuable and specialised assets. As Australian Regional Airport of the Year (2013), Mildura Regional Airport is Victoria's largest and busiest non-metropolitan airport, servicing over 212,000 airline passengers per annum from around 8,000 regular public transport aircraft movements.

Three airlines, Qantas Link, Regional Express (Rex), and Virgin Australia Airlines (Virgin), provide Regular Public Transport (RPT) services to Melbourne, Sydney, Adelaide and Broken Hill, utilising turbo prop and pure jet aircraft. It is unique for a regional airport in Australia to service three capital cities and four destinations.

The overarching objective of the Airside and Landside Plan is to:

Strategically plan the airside and landside environments to ensure the sustainable development of Mildura Airport over the short, medium and long term planning horizon.

This overarching objective aligns with the long term strategic development objective for Mildura Airport contained in the 2010 Master Plan to stimulate and support the ongoing economic development of the Sunraysia Region and its districts.

Overarching Principles

To guide and inform the airside and landside planning processes for Mildura Regional Airport, the following overarching principles were adopted:

- (1) **Safeguard the airport** – to support long term aviation growth by giving primacy to core aeronautical activities. This includes ensuring the long term protection of Mildura Airport's airspace and prioritizing the functional requirements of aeronautical processes over other forward planning considerations.
- (2) **Priorities safety** – a transparent and risk-averse approach to airport safety and security is of paramount importance. The planning and development of facilities are therefore based on established national standards (i.e. ensuring compliance with CASA standards and requirements). Basic principles of Security in Design must be adhered to at all times.
- (3) **Efficiency and equity** - allocate sufficient space to efficiently and equitably meet the long term demands and needs of the various aeronautical and non-aeronautical activities at Mildura Regional Airport.
- (4) **Commercial responsibility** – support a planning framework for economic sustainability and the creation of aviation related jobs and investment.
- (5) **Environmental stewardship** – ensure that the airport planning process supports ongoing environmental enhancement and protection.

The Airside and Landside Planning Report details the Airside Land Use Plan and the Landside Development Plan. These plans will be incorporated within the **2015 – 2035 Master Plan for Mildura Regional Airport**. Designed to reinforce Mildura Regional Airport's role as the key aviation facility in north-western Victoria, it outlines the future allocation, composition, use and development of the airside and landside assets. It strategically identifies key capital projects and initiatives to be undertaken by Mildura Airport Pty Ltd (MAPL) over short, medium and long term planning horizons.

In arriving at the findings for the Master Plan 2010 and drafts for the new masterplan required in 2018, extensive consultation was undertaken with stakeholder interest.

Those comments were considered in arriving at conclusions represented.

1.2.1.8 BOTH AIRLINE AND OTHER TRANSPORT OPERATORS ARE ENCOURAGED TO REGULARLY UTILISE THE AIRPORT

This fact is admirably evidenced by the growth of services to new destinations, passenger growth overall and additional services and larger aircraft types utilised in the period of Management by M.A.P.L. Under MAPL direction, Virgin Blue commenced operation using Embraer E170 aircraft of 78 seats capacity. That service rapidly grew and the E170 was soon replaced with the larger E 190 of 98 seat capacity with frequent use of the again larger Boeing B737-800 H aircraft with 176 seats.

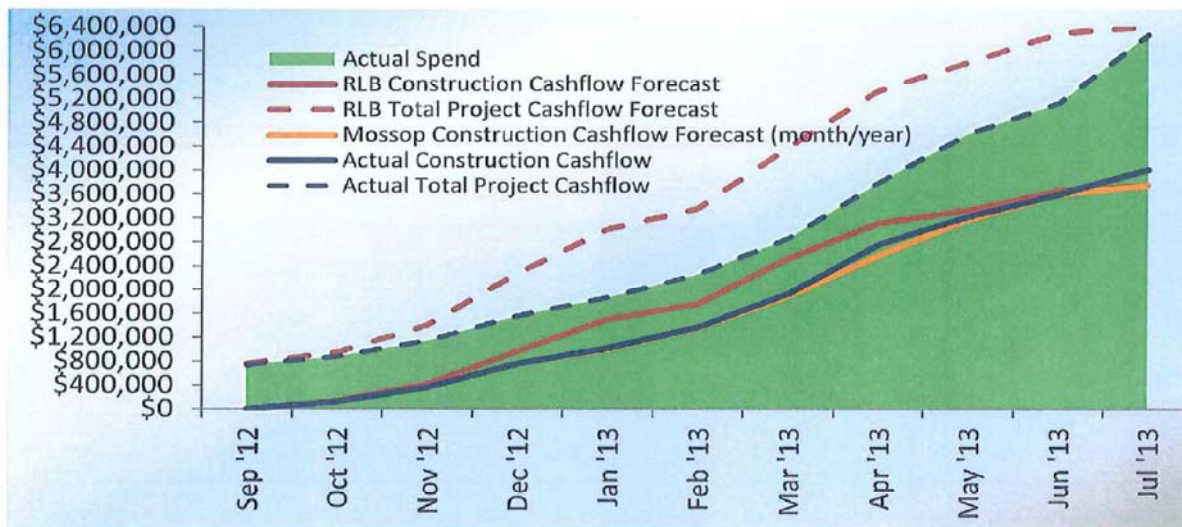
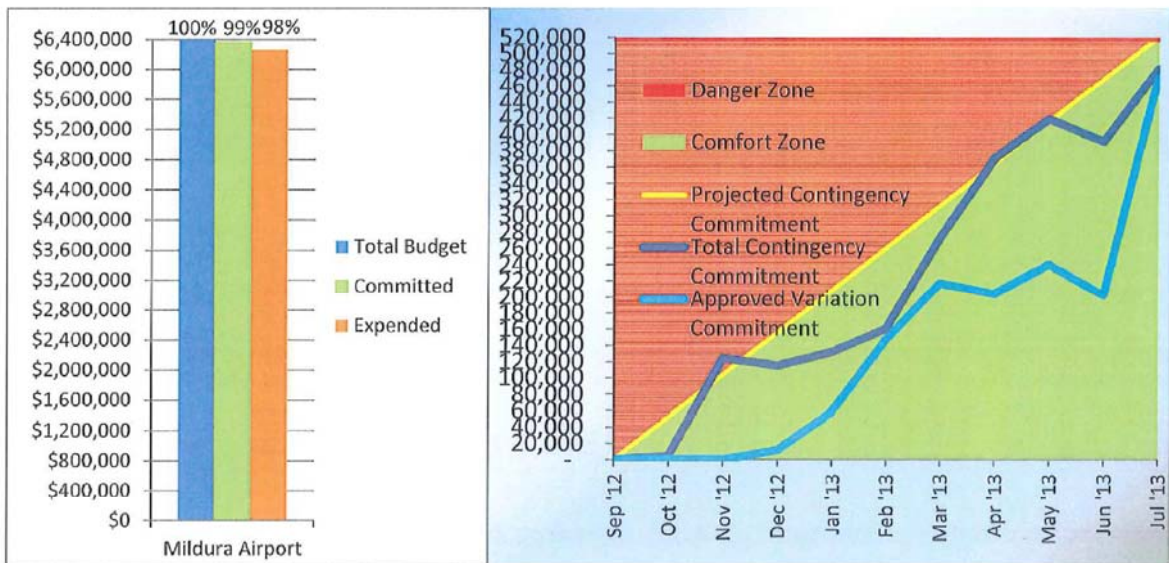
The service has further grown to the point that the Boeing is now scheduled for 2 days each week and passenger numbers continue to grow.

Regional Express recognise the opportunities that existed in Mildura and even before the terminal upgrade works were completed they announced their intention to commence connections with Sydney, Adelaide and Broken Hill.

1.2.1.9 ANY CONTRACTUAL ARRANGEMENTS THAT THE OPERATOR ENTERS INTO TO DISCHARGE ITS OBLIGATIONS ARE ENTERED INTO IN ACCORDANCE WITH THE BEST PRACTICE PURCHASING AND CONTRACTING PRINCIPLES.

The skill and experience, systems and controls of MAPL and well evidenced by delivery of the Terminal Development project which was delivered within the ambit of the programme and budget.

An example of the innovative financial control used by MAPL Management is shown below. Such state of the art Project Management techniques allow for pro-active rather than reactive management of projects.

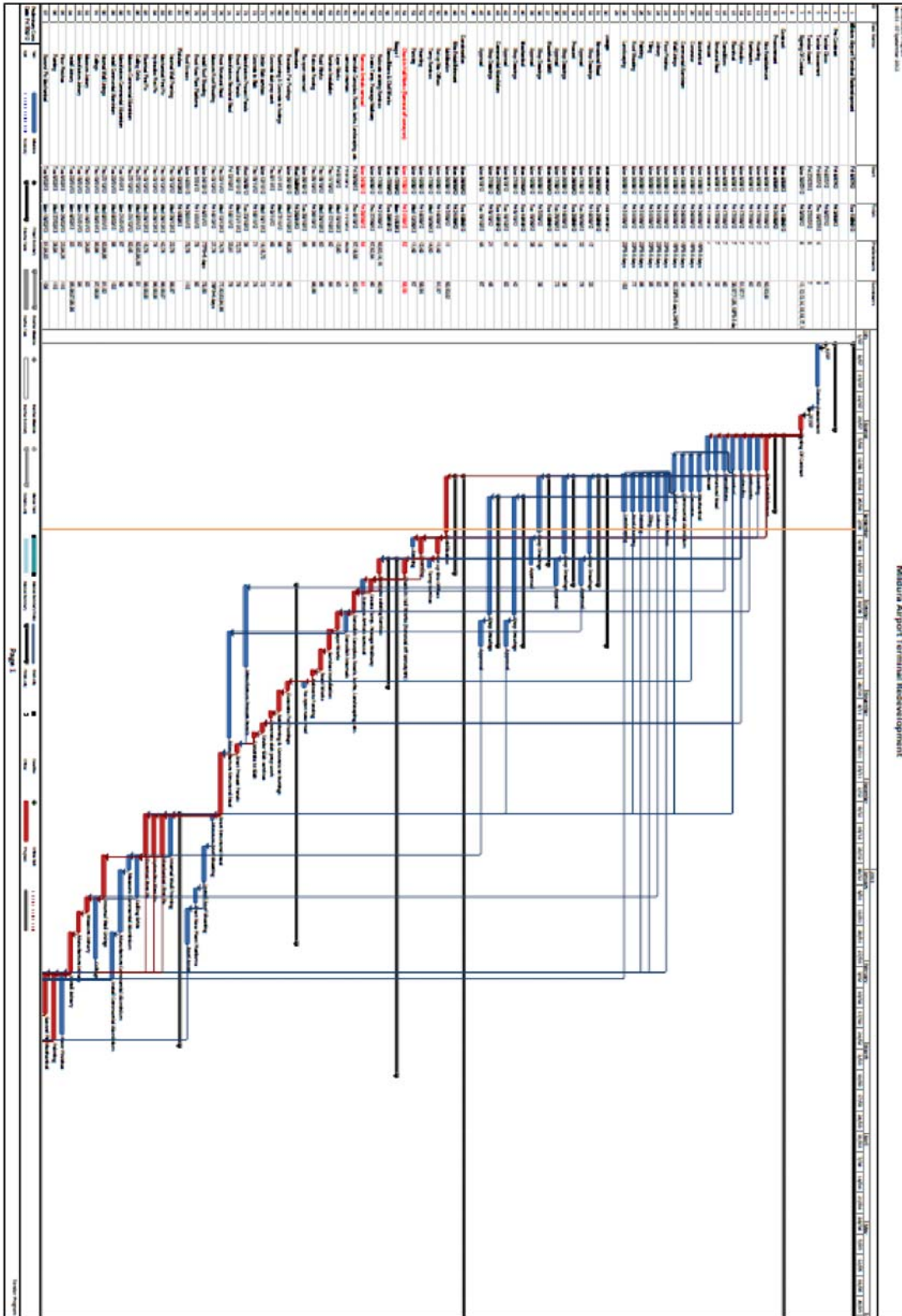


1.2.1.10 ANY INFRASTRUCTURE WORKS ARE UNDERTAKEN AS EXPEDITIOUSLY AND EFFICIENTLY AS POSSIBLE IN ACCORDANCE WITH THE DEED.

Project programming for Airport Infrastructure is carried out using recognised state of the art Project Management processes including using P.E.R.T. (Project Evaluation and Review Technique) C.P.M (Critical Path Management) GANTT Charts and other contemporary management tools.

This process has resulted in excellent results of achieving project delivery on time and within agreed budget parameters. This is admirably evidenced by the delivery of the Terminal Redevelopment project.

The Gantt chart for that project which is primarily an activity dependency programme is shown below.



1.2.1.11 THE AIRPORT CONTINUES TO BE RUN TO A HIGH STANDARD (SEE CLAUSE 4.4)

Airport of the year award. 2013

The prestigious "Airport of the year" award was conferred on Mildura Airport at the Associations 2013 Annual Conference in Darwin.
The award is judged by industry Peers and was hotly contested.



REGIONAL AIRPORT- 50,000 TO 499,999 PASSENGERS

MILDURA AIRPORT
MAIN TERMINAL REDEVELOPMENT

Mildura's main terminal development required a comprehensive redevelopment of the existing terminal areas along with new floor areas. This provided benefits in functionally and cost effectiveness and importantly provided a footprint that is and will remain applicable and useful for future expansion as required.

The award was granted in recognition of the design, delivery and performance of the building.
The volume of aviation related traffic through the Terminal and environs, dictates that the terminal be run to a high level of service and efficiency.
The Airline stakeholders are more than satisfied with the quality of the facilities, the level of maintenance of those facilities and the level of service delivered by the Airport.
A critical measure of success of the airports operations is its contribution to Airline "On Time Performance" and it can be stated categorically that the Airports facilities have not and do not contribute to Airline schedule delays.

4.4 STANDARD AND PERFORMANCE OF THE SERVICES

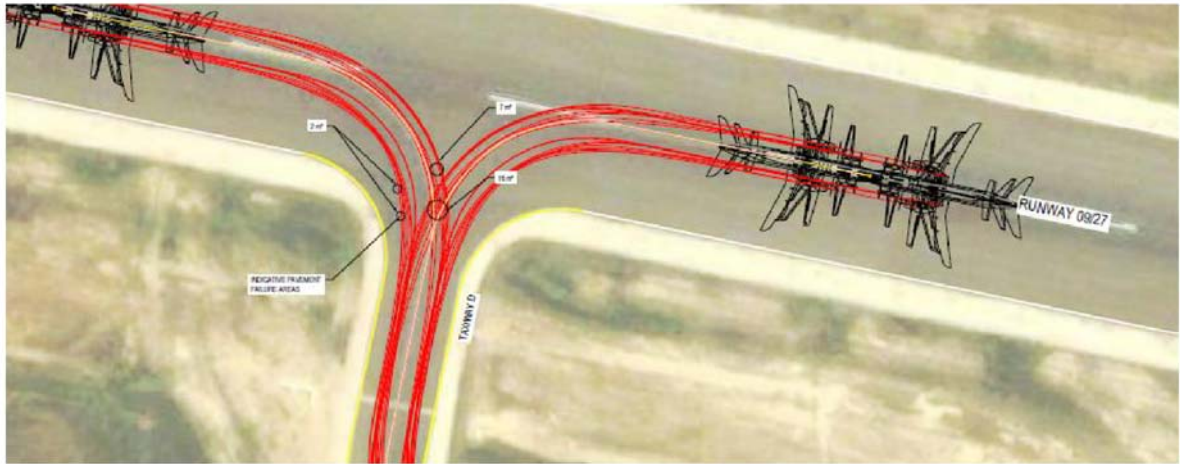
4.4.1 THE OPERATOR MUST:

4.4.1.1 Carry out the services in a timely, safe and professional manner, with the degree of skill and competence which would be expected of a professional and competent airport operator and otherwise in accordance with Good Operational Principles

Mildura Airport Management is highly regarded by its industry peers, Client Airlines and Regulators without exception. In fact, the Airport has been cited as a model for other operators and Airport Management has and is engaged as a Mentor in the industry mentoring programme.

An example of timely activity, is the recent repair of runway and taxiway failures quickly and without interruption to services.

Pavement failures occurred in a critical location and the repairs required had a high potential to impact on operations.
In order to effect the optimum repair, MAPL Management undertook the design and delivery of the repairs "In House" using the extensive experience of MAPL Senior Management.
The repairs were delivered overnight without impact on operations and at a significantly lesser cost than that proposed by external parties.



4.4.1.2 Operate, manage and market the Airport in such a manner as to achieve maximum profitability (provided that it does so in accordance with this deed and in a manner that will allow the shared objectives to be achieved)

The Board receives financial reports, based on accrual accounting, on a monthly basis. These reports highlight comparisons of actual to budget both monthly and on a year to date basis and incorporates explanations of variances to budget.

Financial reports provided include Income statement, Balance Sheet, Balance Sheet ratio analysis and projected cash-flows for the forthcoming 12 months.

Mildura Airport's total comprehensive result for each of the years of operation has been positive. Any surplus from the airport's operations are reinvested to maintain and develop this critical asset for the local community and surrounding regions. In July 2013 an Asset Renewal Fund was created with regular monthly contributions to provide seed funding for future major capital expenditure.

The next major project in focus is the overlay and extension of the main runway. Feasibility work has been undertaken and it is estimated at this stage that the project will cost approximately \$20M, requiring funding from Federal and Local Governments.

4.4.1.3 ENSURE THAT THE AIRPORT IS OPERATED, MANAGED AND MAINTAINED IN ACCORDANCE WITH THE APPROVED BUSINESS PLAN AND THE APPROVED MASTER PLAN;

In 2009 Mildura Airport Pty Ltd ("MAPL") undertook a master planning study for the airport and surrounding precincts. This report detailed strategic objectives to guide future development of the airport. In 2010 MAPL initiated a project for a terminal redevelopment to meet these strategic objectives.

The master plan prepared by MAPL was used to obtain grant funding for a terminal redevelopment project. This project took place between late 2010 (Initiation of Design), with construction commencing in September 2012 and was completed and handed over June 2013. The project was delivered on time and on budget with all key objectives met.

4.4.1.4 COMPLY WITH, (AND ENSURE THAT EACH OF ITS ASSOCIATES COMPLY WITH) AND OTHERWISE CARRY OUT THE SERVICES IN ACCORDANCE WITH, ALL LAWS

The performance of the Airport in the eyes of the Regulators is regarded as exemplary with no non-compliance notices received from any regulator during time of MAPL operations.

4.4.1.5 ENSURE THAT, AT ALL TIMES DURING THE TERM, THE AIRPORT COMPLIES WITH ALL LAWS

Refer to 4.4.1.4 above. This matter is Self-evident as there has been no action in any area for non-compliance of any form.

4.4.1.6 PLAN, INITIATE, SUPERVISE CONTROL AND PROCURE THE CARRYING OUT OF ALL PREVENTATIVE MAINTENANCE, REPAIR, RECTIFICATION, REPLACEMENT AND RESTORATION WORK AS MAY BE NECESSARY FOR THE PROPER MAINTENANCE AND REPAIR OF THE AIRPORT SITE AND TO ENSURE COMPLIANCE WITH THIS DEED

The Airport is operated and maintained to a high standard and a comprehensive and robust works plan directs the timing of maintenance works.

The facilities are regularly inspected by the Regulators

4.4.1.7 KEEP THE AIRPORT AND AIRPORT SITE CLEAN AND FREE FROM WASTE MATERIAL, RUBBISH AND OTHER SURPLUS MATERIAL, AND STORE AND DISPOSE OF WASTE MATERIAL, RUBBISH AND OTHER SURPLUS MATERIAL IN APPROPRIATE RECEPTACLES AND OTHERWISE IN ACCORDANCE WITH ALL LAWS

The Airport is well maintained to contemporary standards which is evidenced from observation. Rodents and other vermin are controlled as described elsewhere in this document and vermin that might constitute a hazard to Aviation are controlled under the auspice of the Airport Safety Management system which refers to flying and non-flying hazards. The Airport has assembled the equipment required to effectively and efficiently maintain the standards required and robust cleaning and maintenance schedules are in place. The Airport is a showplace to sound facility management practise.

4.4.1.8 TAKE ALL STEPS NECESSARY TO KEEP THE AIRPORT FREE OF RODENTS AND OTHER VERMIN, INCLUDING THROUGH THE ENGAGEMENT OF PEST EXTERMINATORS WHERE NECESSARY

Mildura has a vigorous programme of control of vermin of all descriptions. Mildura Airport Pty Ltd employs appropriately qualified and experienced contractors to carry out this work. Comprehensive programmes are in place.

4.4.1.9 INSTALL, MAINTAIN, REPLACE AND REPAIR THE BAGGAGE HANDLING INFRASTRUCTURE AND EQUIPMENT

Mildura Airport is well placed with provision of baggage handling equipment for both arriving and departing passengers. Shortly after MAPL commenced operations, an opportunity emerged to install a baggage make up belt under cover. This opportunity was identified and implemented in the first year of MAPL's operation. Since then and prior to the main terminal upgrade, an opportunity arose to secure a baggage belt for arriving bags. This opportunity was adopted and a significant improvement of passenger amenity was achieved by removal of the need to recover bags in the open from baggage trolleys. Airline needs are well satisfied and the facilities of Mildura Airport are highly regarded. The equipment is modern and is well maintained. Reliability is noted as extremely high with minimal breakdown. Maintenance contracts are in place for key specialised items. Preventative Maintenance programmes in place for all key items.

4.4.1.10 PROVIDE ALL REQUIRED PASSENGER SCREENING AND SECURITY SERVICES (INCLUDING SUCH SCREENING AND SECURITY SERVICES AS IS NECESSARY TO SATISFY ALL REQUIREMENTS OF THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND LOCAL GOVERNMENT (OR ITS REPLACEMENT BODY FROM TIME TO TIME) ;

Mildura Airport Pty Ltd operates within a highly regulated world of Aviation security. Within that regime, MAPL has become recognised as a leader in compliance and innovation. The letter below reflects the high standard of achievement of MAPL to compliance and is a clear statement of satisfaction of the Regulator (Office of Transport Security) to the high standard achieved by MAPL. It must be understood that as a result of changes to Legislation and Regulations attached to that Legislation which was initiated by MAPL, it became possible to broaden the basis for employment of passenger screening officers. Mildura quickly availed itself of that change and brought all Screening officers "In House " and achieved significant economies that flowed to the Airline partners that use Mildura Airport.

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Australian Government
Department of Infrastructure and Regional Development

File Reference: 132059 (NS-352 & TEST-580)
Contact: Gavin Hall

Mr Bill Burke
Chief Executive Officer
Mildura Airport Pty Ltd
PO Box SM 356
MILDURA SOUTH VIC 3501

cc: Mr Bill Chapman, Operations Manager

Dear Mr Burke

Notification of security compliance inspections and test findings

I refer to the inspections and system test conducted by Aviation Security Inspectors of the Office of Transport Security of your Mildura Airport operations on 16-17 September 2014.

The inspections and system test assessed Mildura Airport Limited's compliance with the requirements of:

- the *Aviation Transport Security Act 2004*;
- the *Aviation Transport Security Regulations 2005*; and
- the security measures detailed in your *Transport Security Program (TSP)*.

The inspections and system test covered:

- *Aviation Security Identification Card (ASIC) inspection*;
- *Methods, Techniques and Equipment to be used for Screening (MTES) (Passenger) inspection*; and
- *system test – airside access control*.

I am pleased to advise you that we did not identify any non-compliances during the inspections and test.

GPO Box 594 Canberra ACT 2601 Australia • Telephone: 02 6274 7111 • Facsimile: 02 6274 7994
Website: www.infrastructure.gov.au • ABN 86 267 354 017

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I would like to extend my appreciation for the assistance shown to inspectors by your security staff during the inspections and test.

If you wish to discuss any matters relating to the test, or aviation security in general, please contact Gavin Hall on 03 8608 3376 or <gavin.hall@infrastructure.gov.au>.

Yours sincerely

Colin Sievers
A/g Regional Director
Office of Transport Security, Melbourne Office

22 September 2014

4.4.1.11 UNDERTAKE AIRPORT MASTER PLANNING

The 2010 Mildura Airport Master Plan puts forward the direction that Mildura Airport Pty Ltd intends to take in the future, recognising the strategic location of the Airport within an extended and expanding community”.

The Master Plan aims to guide future development decisions to achieve the Mildura Airport strategic intent. Its purpose is to preserve land for future airport activities based on the forecast growth of the airport business.

The Master Plan is not intended to detail individual facilities or specific time frames for the implementation of the Plan; rather it sets the foundation upon which further analysis and planning is based.

The Master Plan predicted that in the period 2015 – 2020 a total of \$25 million would be required to protect and extend the main runway pavement.

The overarching objective of the Airside and Landside Planning Report is to:

“Strategically plan the airside and landside environments to ensure the sustainable development of Mildura Airport over the short, medium and long term planning horizon”.

This objective aligns with the long-term strategic development objective for Mildura Airport contained in the 2010 Master Plan to stimulate and support the ongoing economic development of the Sunraysia Region and its districts.

It supports a planning framework for economic sustainability and the creation of aviation related jobs and investment.

Designed to reinforce Mildura Regional Airport’s role as the key aviation facility in northwestern Victoria, the Plan outlines the future allocation, composition, use and development of the airside and landside assets.

It strategically identifies key capital projects and initiatives to be undertaken over short, medium and long term planning horizons.

This Plan acknowledges the importance of the runway and taxiway network.

“The runways and taxiway system form the backbone of Mildura Regional Airport’s infrastructure and operations. Maintaining their ongoing integrity and planning their future development is the highest planning priority. The Runway Overlay project is the priority capital project for Mildura Regional airport.”

4.4.1.12 DEVELOP APPROPRIATE RISK MANAGEMENT MECHANISMS (INCLUDING COMPLYING WITH THE OPERATOR’S INSURANCE OBLIGATIONS AND THE OPERATOR’S QUALITY ASSURANCE OBLIGATIONS)

The Airport is a risk adverse entity and manages risk robustly.

The Airport Manual defines the risks attached to the airport operations and defines preventative processes.

4.4.1.13 MAINTAIN ALL LANDSIDE INFRASTRUCTURE (SUCH AS CAR-PARKING AND LANDSCAPING) IN A NEAT AND ATTRACTIVE STATE

Since inception MAPL has embarked on a programme of constant improvement of all facilities and landscaping. This programme is expected to continue.

Considerable attention is focussed on the aesthetic as well as the functional aspects of all infrastructure.

4.4.1.14 MAINTAIN THE TERMINAL

The redeveloped terminal is a show piece of modern design and innovative techniques to achieve an aesthetically pleasing yet functional building within a particularly tight budgetary constraint.

The building is the subject of rigorous Maintenance and cleaning programmes to ensure the facility is all time functional and presentable to the users.

4.4.1.15 MAINTAIN RUNWAY LIGHTS

Aviation lighting maintenance is strictly controlled by CASA and is referenced in the Airport Operations Management plans.
Regular inspections are carried out by the Airports Operations Officers and maintenance is undertaken on an "As Required" basis using in house and contracted personnel.
More intensive inspections are undertaken on a regular programmed basis.

4.4.1.16 MAINTAIN GROUND PARKING EQUIPMENT

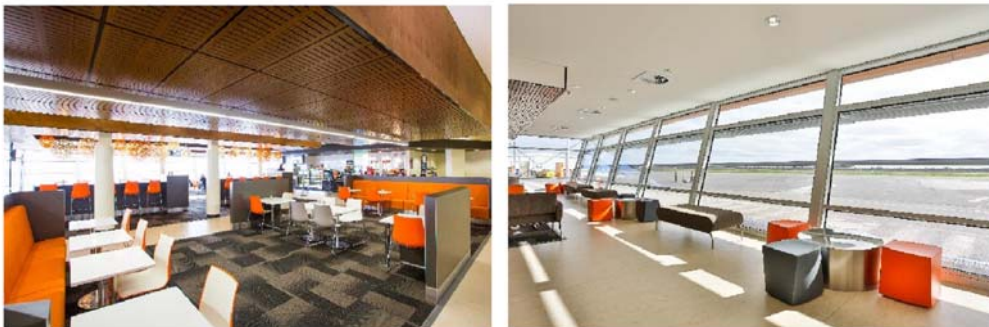
The ground parking equipment is maintained to contemporary standards using in-house and contracted skills.
The equipment is maintained to a high standard on a programmed preventative maintenance schedule.

4.4.1.16 MAINTAIN ALL AIRSIDE INFRASTRUCTURE (INCLUDING THE APRON AND TAXI AREAS)

All Airside infrastructure is required to be maintained to a standard determined by the Regulator (CASA)
This is controlled by a matrix of inspections and actions based on observations and is regularly audited by the regulator.

4.4.1.17 MAINTAIN THE GENERAL AVIATION LOUNGE.

The Airport Departure lounge is a state of the art facility that reflect the high standard of planning that has gone in to the development of the new Airport terminal.
Maintenance of that facility is essential to the amenity of the public utilising it and using passenger survey results, it is clear that the high standards are noticed by the public who have registered a high level of satisfaction with the facility.



4.4.1.18 MANAGE, NEGOTIATE AND ADMINISTER ALL EXISTING CONTRACTS AND OPERATOR'S CONTRACTS

Mildura Airport manages all contracts robustly and professionally in line with contemporary standards of Asset and Facility Management.

Appropriate systems are in place for review and renewal of short and long term contracts.

13.5 LOCAL LAW NO 2 - COMMUNITY LOCAL LAW

File Number: 04/01/03
Officer: Acting General Manager Development

1. Summary

The purpose of this report is to present an updated draft Local Law No 2 (Community Local Law) for consideration and a recommendation to release for public comment under Section 119 of the *Local Government Act 1989*, (the Act).

2. Recommendation

That Council in accordance with Section 119 of the *Local Government Act 1989* release for public comment Local Law No 2 – Community Local Law as presented

3. Background

Local Law No 2 – Community Local Law was adopted by Council in November 2005 and the *Local Government Act* requires that Local Laws sunset after 10 years for review and refinement.

The purpose of Local Law No 2 outlines rules to ensure peace, order and good government of the municipality. It relates to a wide variety of issues including use of public reserves, consumption of alcohol in public spaces, use of streets, roads, footpaths and Council land, keeping of animals and disposal of rubbish

4. Discussion

The current Local Law No 2 has been updated and reviewed by relevant Council Officers and Council solicitors Harwood Andrews. The updated final draft document (for exhibition) received from Harwood Andrews is attached. The main changes made since last adopted are as follows:

- Section 2.5 - That all dogs and cats must be on a leash at all times in certain areas
- Section 5.9(b) - A person must not display a vehicle for sale on a road or on Council Land
- Penalty notices increased by one penalty unit to two penalty units throughout the document. These have not increased in the last 10 years. A penalty unity is currently \$152.

All other changes were minor grammatical changes and minor alterations to sentences so that wording is consistent with the Act. All processes and procedures remain unchanged.

5. Time Frame

In accordance with Sections 119 and 223 of the *Local Government Act 1989*, the period of public consultation would be 28 days from the date of advertisement.

Any submissions would be considered by Council and the final document presented for formal adoption.

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

1.1 Community Safety

Goal/s to be achieved:

- People feel safe

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

Consultation has been undertaken with Council solicitor Harwood Andrews to ensure wording is consistent with the Act.

9. Implications**Policy Implication**

This update is consistent with the principles of good governance and best practice to periodically review Local Laws and policies.

Legal/Statutory Implications

This Local Law complies with requirements in the *Local Government Act 1989*.

Financial Implications

There are no financial implications associated with this report.

Environmental Implications

There are no environmental implications associated with this report.

Social Implications

There are no social implications associated with this report.

10. Risk Assessment

By adopting the recommendation, Council will not be exposed to any risks.

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

12. Conclusion

Following Councils consideration and input into this matter, the attached draft document is presented for approval to release for public comment.

Attachments

- 1 Local Law No 2 - Community Local Law



Mildura Rural City Council

**COMMUNITY LOCAL LAW
LOCAL LAW NO. 2**

December 2015

TABLE OF CONTENTS

[PART 1 PRELIMINARY](#) 4

[1.1 Title](#) 4

[1.2 Objectives](#) 4

[1.3 Operation Date](#) 4

[1.4 Revocation Date](#) 4

[1.5 Revocation of Existing Local Laws](#) 4

[1.6 Application](#) 4

[1.7 Authorising Provisions](#) 4

[1.8 Scope of this Local Law](#) 5

[1.9 Definitions](#) 5

[PART 2 ANIMALS](#) 10

[2.1 Keeping of Animals](#) 10

[2.2 Litter of Animals](#) 11

[2.3 Noise and smell](#) 11

[2.4 Effective Fencing](#) 12

[2.5 Leashed Areas](#) 12

[2.6 Grazing](#) 12

[2.7 Bees/Wasps/Fruit Flies](#) 13

[2.8 Riding Horses on Reservations and Footpaths](#) 13

[2.9 Permission](#) 13

[PART 3 ENVIRONMENT](#) 14

[3.1 Transportation of Waste](#) 16

[3.2 Depositing of Waste at a Municipal Tip/Transfer Station](#) 16

[3.3 Unsightly Land](#) 17

[3.4 The emission of offensive material, odour and noise](#) 18

[3.5 Incinerators/Open Air Burning](#) 19

[3.6 Application](#) 19

[3.7 Plan Incorporated by Reference](#) 19

[3.8 All Waste Septic Systems](#) 19

[PART 4 PROTECTION OF COMMUNITY ASSETS](#) 20

[4.1 Drainage Tappings](#) 20

[4.2 Damage to Watercourses](#) 20

[4.3 Vehicle Crossings](#) 20

[4.4 Temporary Vehicle Crossings](#) 21

[4.5 Redundant Vehicle Crossings](#) 21

[4.6 Street Levels](#) 22

[4.7 Repairs on Roads and Footpaths](#) 22

[4.8 Letter Boxes on Road Reserves](#) 22

[4.9 Discharge of Water Prohibited](#) 23

[4.10 Control of Sprinklers](#) 23

[4.11 Parking or Driving in Langtree Mall](#) 23

[PART 5 COMMUNITY SAFETY AND AMENITY](#) 23

[5.1 Road and Footpath Obstructions](#) 24

[5.2 Storage of Materials on Road](#) 24

[5.3 Street Parties, Street Festivals and Processions](#) 24

[5.4 Street Activities](#) 25

[5.5 Trees and Plants, Signs and Structures Not To Obstruct or Obscure](#) 26

5.6 Behaviour in Public Reserves	27
5.7 Damaging or Defacing Council Land Including a Road	27
5.8 Behaviour on Council Land	28
5.9 Motor Vehicles	28
5.10 Removal of Offenders from a Reserve	28
5.11 Erection of Notices and Signs by the Council in Public Reserves	29
5.12 Public Swimming Pools	29
5.13 Camping	29
5.14 Caravans	30
5.15 Temporary Dwellings	30
5.16 Leaving Shopping Trolleys	30
5.17 Abandoned Shopping Trolleys	31
5.18 Naming a Road	31
5.19 Property Numbers to be displayed	31
5.20 Residential Parking Scheme	31
5.21 Use of Skateboards and Bicycles	32
5.22 Other Obstructions	33
5.23 Clothing Bins	33
PART 6 CONSUMPTION OF LIQUOR IN PUBLIC PLACES	33
6.1 Roads/Car Parks/Public Reserves	33
6.2 Prescribed Area	34
6.3 Prescribed Period	34
6.4 Exemption from this part	34
PART 7 BEHAVIOUR	34
7.1 Misuse of Shopping Trolleys	34
7.2 Urination, Defecation and Vomiting in Public	35
7.3 Behaviour in Certain Public Places	35
7.4 Music Noise (Vehicles, Public Places)	35
7.5 Damage to Council Property	35
7.6 Wetlands and Fountains	36
PART 8 COMMERCIAL ACTIVITY ON COUNCIL LAND	36
8.1 Commercial activity on Council Land	36
8.2 Advertising Signs / Display Of Goods	36
8.3 Signs relating to Sale of Real Estate	37
8.4 Trading From Roadside	37
8.5 Outdoor Eating Facilities	39
8.6 Outdoor Eating Facilities - Hotels And Licensed Restaurants	40
PART 9 GENERAL	41
9.1 Notice to Comply	41
9.2 Failure to Adhere To Notice	41
9.3 Power to Act in Urgent Circumstances	41
9.4 Notice to Comply - Not A Precondition to Enforcement Proceedings	42
9.5 Appeal against Notice To Comply	42
9.6 Application for Permit	42
9.7 Permits May Be Conditional	42
9.8 Additional Information	43
9.9 Duration of Permits	43
9.10 Cancellation of Permits	43
9.11 Power of Authorised Officer to Impound	43
9.12 Offences	44
9.13 General Penalty	44

9.14 Infringement Penalty	44
9.15 Infringement Notices	45
9.16 Council Staff and Contractors	46

PART 1 PRELIMINARY

1.1 Title

This is Community Local Law No. 2 (2015).

1.2 Objectives

The purposes of this Local Law are to: -

- (1) provide for the peace, order and good government of the municipal district;
- (2) provide a safe and healthy environment, in which the residents of the municipal district enjoy a quality of life that meets the general expectations of the community;
- (3) control and regulate emissions to the air in order to improve the amenity, environment and quality of life in the municipal district;
- (4) ensure that the public can properly use and enjoy Public Reserves by regulating activities and behaviour in Public Reserves;
- (5) control the consumption of alcohol in designated areas within the municipal district;
- (6) control the different uses to which Streets, Roads, Footpaths and Council Land can be put so as to ensure that there is a proper balance between private uses and the need to maintain freedom of movement for the public;
- (7) manage, regulate and control the keeping of animals and birds; and
- (8) embrace best practice local law making principles of accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity and transparency.

1.3 Operation Date

This Local Law operates from the day following its making.

1.4 Revocation Date

Unless this Local Law is revoked sooner, its operation will cease on the tenth anniversary of its making.

1.5 Revocation of Existing Local Laws

Mildura Rural City Council Community Local Law No 2 is revoked on the date on which this Local Law comes into operation.

1.6 Application

This Local Law applies throughout the Council's municipal district.

1.7 Authorising Provisions

The Council's authority to make this Local Law is contained in section 111 of the *Local Government Act 1989* and section 42 of the *Domestic Animals Act 1994* and Clause 52.27 and 62.01 of the Planning Scheme.

1.8 Scope of this Local Law

- (1) This Local Law applies to the whole of the Municipal District, except where it is apparent from its wording that a Clause or provision applies to a specific area.
- (2) Where this Local Law applies to a Road, it applies to all parts of the Road.
- (3) The provisions of this Local Law apply to the extent that they are not inconsistent with any Act or Regulation applicable to the Council or its Municipal District.
- (4) Where this Local Law prohibits any act, matter or thing or provides that such act, matter or thing can only be done or exist with a Permit, that prohibition or provision will not apply if the act, matter or thing can be done or can exist by reason of an express permission in the Planning Scheme.
- (5) References to any land in this Local Law include buildings and other structures permanently affixed to the land and any land covered with water and any structures over any water affixed to the land or to the land covered with water.

1.9 Definitions

Unless the contrary intention appears in this Local Law, the following words and phrases are defined to mean:

Act	means the <i>Local Government Act 1989</i> .
Advertising sign	includes any board, notice, structure, banner or other similar device used for the purpose of soliciting sales or services or promoting a brand or person or notifying people of the presence of an adjacent property organisation, business, or event or directing people to a place, whether real, internet-based or electronic, where goods or services may be obtained.
Alcohol	See 'Liquor'.
Alcohol Free Area	Means an area of, or in, any Municipal Place, which has been declared by the Council as an "alcohol free" area and has appropriate signage erected and maintained.
Animal	excludes a Person but includes, although is not limited to, any of the species or groups listed in the first column of the Table of Animal Numbers and Types in Clause 2.1 Keeping Animals, and includes Livestock, reptiles, insects and any other living animal tame or wild kept by a person.
Applicant	means the person who applies for a permit under this Local Law.
Asset Protection Permit	means a Permit referred to in Clauses 9.6 of this Local Law.

Authorised Officer	means any person appointed pursuant to section 224 of the Act and, in relation to a provision regulating the use, possession or consumption of alcohol where a notice has been published in the Government Gazette pursuant to section 224A of the Act, any police officer.
Barbecue	means a device used for the cooking of food outdoors whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them and includes kettles, rotisserie spits and traditional in-ground fire pit cooking.
Bin	means a receptacle for the storage of household refuse and rubbish as approved by the Council.
Built-up area	means an area consisting of Roads along which there is urban development or along which street lighting is provided.
Bulk rubbish container	means a bin, container or other structure designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance but excludes a container used in connection with the Council's regular domestic rubbish collections.
Busk	means to perform to the public, whether by acting, juggling, dancing, singing, mime, statue, drawing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.
Camping	means erecting, occupying or using any tent or temporary, makeshift or similar form of accommodation, or parking, occupying or using any caravan or other movable form of accommodation.
Commercial activity	includes the sale of goods or services, the use of Council Land when that use forms part of a service being sold or provided for gain, the use of fixtures on Council Land where the use of those fixtures forms part of a service being sold or provided for gain and the collection of abandoned goods for gain or reward but excludes the use of public Roads or thoroughfares for the purpose of travelling from place to place.
Contaminated Material	means any material designated by Council as unacceptable for deposit in a Council-provided mobile bin or other Council-provided bin or class of such mobile or other bins and publicised by printed matter or on Council's website.
the Council	means Mildura Rural City Council.
Council Land	means land owned by, vested in, leased by, or otherwise occupied by the Council or under its management or control, which the public may or may not have access to (whether an admittance fee is required or not), and includes any building, structure or fence thereon and every Council sewer or drain.
Council sewer or drain	means any sewer or drain vested in the Council pursuant to section 198 of the Act.
Domestic birds	means a small bird such as a canary, finch, budgerigar or the like that is kept in a cage or aviary.
Dwelling	means a building used as a self-contained residence which normally includes a kitchen sink, food preparation facilities, a bath or shower and a closet pan and wash basin, and includes out-buildings and works normal to a Dwelling.

Emergency service	includes the ambulance service, fire brigade service, police or state emergency service.
Footpath	means any path that is provided for the use of pedestrians. only or that is regularly used by pedestrians and not vehicles, or that is a segregated footway or a shared footway.
Graffiti	means any defacement of property whether written, drawn, sprayed, scratched or otherwise marked on a wall or other surface, which is not readily removable by wiping with a dry cloth, is detrimental to the visual amenity of the neighbourhood and is not part of any approved artistic exhibition.
Green Waste	means all types of organic Waste produced or accumulated on any land that Council designates as acceptable Waste for any Green Waste collection as described by Council in any newspaper generally circulating in the Municipal District.
Incinerator	means a structure, device or contraption (not enclosed in a building) which is: <ul style="list-style-type: none"> (a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance; (b) not licensed or otherwise subject to control under the provisions of any legislation; and (c) not a barbecue while being used for cooking food.
Infringement Notice	means an Infringement Notice issued by the Council or by an Authorised Officer or Delegated Officer under this Local Law.
Land	includes buildings and other structures permanently affixed to land, land covered with water and any estate, interest, easement, servitude, privilege or right in or over land.
Liquor	means a beverage or other prescribed substance intended for human consumption with an alcohol content greater than 0.5% by volume at a temperature of 20 degrees Celsius.
Litter	has the meaning ascribed to it in section 4 of the <i>Environment Protection Act 1970</i> as amended from time to time. any solid or liquid domestic or commercial waste, refuse, debris or rubbish and, without limiting the generality of the above, includes any waste glass, metal, plastic, paper, fabric, wood, food, soil, sand, concrete or rocks, abandoned vehicles, abandoned vehicle parts and garden remnants and clippings, but does not include any gases, dust or smoke or any waste that is produced or emitted during, or as a result of, any of the normal operations of the mining, building or manufacturing industry or of any primary industry.
Livestock	means an Animal of any species used in connection with primary production or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or cat.
Municipal Building	means any building (and its grounds) owned, occupied, controlled or managed by the Council, which has some or all areas designated for public or community access but may also have some or all areas designated for employee or staff only access, including a recreation centre.
Municipal District	means the district under the local government of the Council.
Environmental Health Officer	means any Environmental Health Officer appointed by the Council from time to time.

Fire Prevention Officer		means any Fire Prevention Officer appointed by the Council from time to time.
Notice to Comply		means a notice to comply issued under this Local Law.
Offensive		means in relation to the emission of noise, dust, smoke, ash, odour, waste or other thing, which due to its intensity, duration, frequency, or other factor, results in a level of personal discomfort that a reasonable person would not expect to endure, or results in an unreasonable disruption to normal living activity.
Outdoor Facility	Eating	means any table and /or chairs used for commercial purposes and located on Council Land at which food or drink is served and may be consumed in connection with premises adjoining or situated nearby.
Park		means a Public Reserve or part of a Public Reserve that has been improved by the construction of a playing field, or contains playground equipment, or contains provisions for cooking or other eating facilities or has established and maintained lawns and garden beds.
Penalty unit		has the same meaning as in section 110 of the <i>Sentencing Act 1991</i> .
Permit		means a written permit issued pursuant to this Local Law and signed by an Authorised Officer.
Person		includes an individual, partnership, unincorporated body, association and corporation.
Planning Scheme		means a planning scheme approved under the <i>Planning and Environment Act 1987</i> that operates within the Municipal District.
Poultry		includes any fowl, duck, goose, ostrich, turkey, pheasant, quail, guinea fowl, squab and any other avian species kept for the production of eggs or ordinarily consumed as food by humans.
Procession		means an organised group of people, proceeding along a Road or a gathering for a ceremony or function and includes fun runs and bicycle events.
Public Place		has the same meaning as in section 3 of the <i>Summary Offences Act 1966</i> .
Public Reserve		means any Park, garden, lake, sporting or recreation ground or common owned by the Council or under its management or control and includes any Road, parking area, hall or other building located thereon.
Recreational vehicle		includes all motorised bikes, trail bikes, motor bikes, motor cars, motor scooters, go-carts and any other vehicles which are propelled by a motor and which are normally used for recreation.
Recyclables		means any substances or articles which Council designates as Recyclables and are described by Council in any newspaper generally circulating in the Municipal District.
Refuse Facility		means in relation to Building Works a receptacle capable of retaining builder's refuse within a Building Site and preventing removal of the builder's refuse by unauthorised persons or by wind or rain.
Road		has the meaning ascribed to it in the Act as amended from time to time but excludes a Footpath.

Sell	means to offer, negotiate, accept or undertake an exchange of goods or services for consideration. Under this local law includes to barter or exchange, to agree to sell, to offer or display for sale, to have or keep goods in possession for the immediate purpose of sale rather than storage, to use any machine or mechanical device for the purpose, and to direct, cause or attempt any of these things.
Service authority	means an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunications or like services under the authority of an Act of Victoria or the Commonwealth and may include an emergency service.
Shopping trolley	means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods.
Smoke Free Area	means an area of, or in, any Public Reserve or Council Land, which has been declared by the Council as a "smoke free" or "non-smoking" area and has Smoke Free Area signage erected and maintained.
Spruik	means attracting custom by public aural appeals to passers-by, with or without sound amplification equipment.
State road authority	has the meaning ascribed to it in the <i>Road Management Act 2004</i> .
Street	has the same meaning as Road.
Street festival	means an organised recreational, cultural, commercial or social gathering of people that is held on a Road or Footpath.
Street party	means an organised social gathering of people from one or several adjacent Roads that is held on a Road or Footpath.
Trade Waste	means any Waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.
Traffic	means the movement of people by foot, or in, or on, a Vehicle along, across or within a Road.
Traffic Control Device	means a Traffic Control Device, within the meaning of the <i>Road Safety Road Rules 2009</i> as amended from time to time: a traffic sign, road marking, traffic signals, or other device, to direct or warn traffic on, entering or leaving a road.
Vehicle	has the meaning ascribed to it in the <i>Road Safety Act 1986</i> .
Vehicle Crossing	means the constructed surface between the road pavement to the property boundary for vehicle access, including any Footpath section, crossing culverts, kerb and channel or layback.

- Waste has the meaning ascribed to it in section 4 of the *Environment Protection Act 1970* as amended from time to time:
- (a) any matter whether solid, liquid, gaseous or radioactive which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment;
 - (b) any discarded, rejected, unwanted, surplus or abandoned matter;
 - (c) any otherwise discarded, rejected, abandoned, unwanted or surplus matter intended for -
 - (i) recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; or
 - (ii) sale; and
 - (d) any matter prescribed to be waste.

PART 2 ANIMALS

2.1 Keeping of Animals

A person must not, without a permit: -

- (a) keep or allow to be kept more than four different types of animals on any one property at any time; or
- (b) keep or allow to be kept any more animals or types of animals than set out in the following table:-

TYPE OF ANIMALS	MAXIMUM NUMBERS	
	PROPERTY AREA NOT EXCEEDING 0.5 HECTARE	PROPERTY AREA EXCEEDING 0.5 HECTARE
Dogs	2	2
Cats	2	2
Poultry	10	100
Domestic Birds (includes Pigeons)	30	100
Domestic Mice	10	10
Guinea Pigs	2	10

TYPE OF ANIMALS	MAXIMUM NUMBERS	
	PROPERTY AREA NOT EXCEEDING 0.5 HECTARE	PROPERTY AREA EXCEEDING 0.5 HECTARE
Ferrets	4	10
Domestic Rabbits	2	2
Pigs	Not Permitted	6
Horses/Donkeys/Mules	Not Permitted	No Maximum Limit
Camel	Not Permitted	No Maximum Limit
Cattle	Not Permitted	No Maximum Limit
Sheep	Not Permitted	No Maximum Limit
Goats / Alpacas	Not Permitted	No Maximum Limit
Ostriches	Not Permitted	No Maximum Limit
Emus	Not Permitted	No Maximum Limit
Roosters	Not Permitted	No Maximum Limit
Peacocks	Not Permitted	No Maximum Limit
Any other agricultural animal	Not Permitted	No Maximum Limit

In determining whether to grant a permit for the keeping of animals where the number exceeds that set out in the Table, the Council must take into account-

- (c) the zoning of the property;
- (d) the proximity to adjoining properties;
- (e) the amenity of the area;
- (f) the type and additional numbers of animals to be kept;
- (g) the likely effects on the owners or occupiers of adjoining properties;
- (h) the adequacy of animal shelters;
- (i) the effect on the property's drainage; and
- (j) any other matter relevant to the circumstances associated with the application.

Clause 2.1 does not apply where a planning permit has been obtained for a property used for the purposes of animal boarding or breeding or where the occupier is licensed in accordance with the *Wildlife Act 1975*, or where the occupier is a member of a breeding or racing organisation which is approved by the Council.

Dogs kept for working stock on land exceeding 20 hectares are not covered by clause 2.1.

Penalty: 5 penalty units

2.2 Litter of Animals

For the purpose of calculating the maximum limit of the number of animals kept on a single property, the progeny of any animal lawfully kept will be exempt for a period of 12 weeks after birth.

2.3 Noise and smell

For the purposes of this clause, "owner", includes a person who keeps or harbours the animal or has the animal in his or her care for the time being whether the animal is at large or in confinement.

- (a) Each owner and each occupier of any land where any animal or bird is kept must ensure that the keeping of the animal or bird does not allow any noise, smell or discharge to emanate from the Animal or Animal accommodation which is Offensive or interferes with the reasonable comfort or convenience of persons who occupy adjacent or nearby land.

Penalty: 2 penalty units

- (b) The owner of a dog that defecates in a Park, in or on a Road that contains a constructed Footpath or maintained nature-strip, or any walking path or shared Footpath or any other Public Place that has constructed surfaces or equipment or fixtures provided for the enjoyment of the public, must remove the faeces and deposit it as litter in a lawful manner.

Penalty: 2 penalty units

- (c) A Person in charge of any dog on any Road or other Council Land must carry a Litter Device suitable to clean up any excrement left by his or her Animal and must produce such Litter Device upon request of any Authorised Officer or Delegated Officer.

2.4 Effective Fencing

Each owner and each occupier of land must ensure that livestock kept or grazed on the land under his or her control does not cause a threat to public safety.

- (a) Each owner and each occupier of land must not use the land for the grazing or keeping of livestock unless it is adequately fenced for the purpose of preventing the livestock from straying onto any Road or Council Land.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (b) If an Authorised Officer is of the opinion that land used for the grazing or keeping of livestock is not adequately fenced then in addition to any penalty that may be imposed he or she may issue a Notice to Comply directing the owner or occupier of the land to do any or all of the following:

- (i) install, repair, replace or modify fences and gates;
- (ii) remove any livestock from the land; and
- (iii) not to permit the grazing and keeping of livestock until required works have been completed.

2.5 Leashed Areas

- (a) All dogs and cats must be on a leash at all times when in the following locations:

- All streets and roads within urban areas;
- Apex Park Beach;
- All Public Reserves, unless specifically designated as an off leash area by Council;
- Langtree Mall;
- All shopping precincts; and
- Within 10 metres of all playgrounds

Penalty: 10 penalty units

Infringement notice: 2 penalty units

2.6 Grazing

- (a) A person must not, without a permit, allow any livestock to graze on any Council Land or Road.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (b) An Authorised Officer may impound any livestock found on any Road or Council land in breach of this clause.

2.7 Bees/Wasps/Fruit Flies

- (a) Any person keeping bees must comply with the Beekeeping Code of Practice as prepared and amended from time to time by the Victorian Apiarists Association Inc for and on behalf of the Ministry of Planning.

Penalty: 2 penalty units

- (b) An occupier of any land on which a beehive is kept must not create a nuisance through interfering with the reasonable comfort or convenience of persons who occupy adjacent or nearby land.

In determining whether to grant a permit under sub-clause (2), the Council or Authorised officer must have regard to the Beekeeping Code of Practice.

- (c) Each owner and each occupier of land must destroy English and European wasps nesting on the land and must comply with any direction to do so in writing by an Authorised Officer.

Penalty: 2 penalty units

- (d) For the Prevention of Fruit Fly, each owner and each occupier of land: -
- (i) who leaves, or allows to remain any fruit on the ground of the land; or
 - (ii) does not annually prune and maintain any fruit trees on the land; Is guilty of an offence, and:
 - (iii) must dispose of any fruit that lies on the ground of the land by sealing the fruit in a receptacle or container such as a plastic bag and placing it in a rubbish bin.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

2.8 Riding Horses on Reservations and Footpaths

- (a) A person must not, without a permit, ride a horse or cause or authorise another person to ride a horse upon a Road or Footpath in a built-up area, or in a Park.

2.9 Permission

- (a) The Council may issue a permit for a horse to be ridden upon a Road or Footpath or in a Park where it is reasonably necessary for this to take place and there is no reasonable and safe alternative.

PART 3 ENVIRONMENT

3.1 Recycling and Waste Collection System

To use the Recycling and Waste Collection System provided by Council, the occupier of any residential premises must:

- 3.1.1. use only Council-provided mobile bins or other Council-approved bins, which bins remain the property of Council and which are liable to be removed from the residential premises if, after exhausting all other options, the occupier continues to persistently place contaminated material in the recycle bin;
- 3.1.2. not place any contaminated material in a mobile recycle bin; not cause contamination of mobile recycle bins by depositing items or material in the bins other than garbage in the designated mobile garbage bin, recyclables in the designated mobile recycling bin and green waste in the designated mobile garbage bin.
- 3.1.3. If directed by Council to remove contaminated material from any mobile bin, comply with that direction;
- 3.1.4. if directed by Council to dispose of all contents of a mobile bin containing contaminated material, comply with that direction;
- 3.1.5. place the mobile bins out for collection prior to 5.00am on the day of collection or such other time as designated by Council from time to time;
- 3.1.6. not leave any mobile bin out for collection more than one day before or one day after a designated collection day, unless otherwise requested by an Authorised Officer;
- 3.1.7. place all mobile bins:
 - (a) adjacent to the kerb outside the front of the premises, at least half a metre clear of any fixed object or adjacent bin and, as far as practicable, free of any other obstruction to collection; or
 - (b) at an alternative collection point as approved or designated by an Authorised Officer;
- 3.1.8. ensure that any mobile bin (including contents) placed out for collection does not exceed 50 kilograms;
- 3.1.9. maintain all mobile bins in a clean and sanitary condition;
- 3.1.10. ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition;
- 3.1.11. ensure that the lid of any mobile bin is closed, other than when in functional use;
- 3.1.12. not cause damage to any mobile bins;

- 3.1.13. ensure that each mobile bin is not overfilled thereby preventing the lid from being completely closed down;
- 3.1.14. not place out for collection any material immediately adjacent to the mobile bin; and
- 3.1.15. ensure that no mobile bin is removed from the premises except for collection of material in accordance with this Local Law.
- 3.1.16 Council-provided mobile bins or other Council-approved bins remain the property of Council and may be:
 - (a) removed in whole or part; or
 - (b) replaced or exchanged in whole or part with bins of a different designated Waste type;by Council from any Dwelling or other land to which the Council provides a Waste collection service (including Recyclables and Green Waste collections) if the occupier fails to comply with conditions of use outlined in Sub-clause (1) of this provision.
- 3.2. An occupier or owner of any Dwelling or other land to which the Council provides a Waste collection service (including Recyclables and Green Waste collections) must not after receiving one initial written warning place any Contaminated Material in a Council-provided mobile bin or other Council-approved bin.

Penalty for First Offence: 5 Penalty Units

Penalty for Second Offence: 10 Penalty Units

Penalty for Third and Subsequent Offences: 20 Penalty Units

3.3. Bulk Rubbish Containers

- 3.3.1. An occupier of premises who arranges for the collection of trade waste from or in respect of the premises or for the placement of a bulk rubbish container on the premises must ensure that the requirements of this Clause 9.6 are complied with.
- 3.3.2. Bulk rubbish containers or bins used for the collection and storage of trade waste must be managed to Council's reasonable satisfaction including:
 - (a) constructed of impermeable material;
 - (b) watertight;
 - (c) water, fly and vermin proof;
 - (d) equipped with any removable drainage plug required by an Authorised Officer, for public health or safety or amenity reasons;
 - (e) thoroughly cleaned following each occasion when it is emptied; and

- (f) have a fitted lid which is kept closed at all times except when trade waste is being deposited or removed.
- (g) bulk rubbish containers or bins must be emptied at least weekly or more regularly if the contents become Offensive.

3.3.3. an occupier of premises must ensure that:

- (a) the bin is stored and maintained in a clean, sanitary and inoffensive condition and kept clear of any footway, pavement or ground adjoining the storage area, to the satisfaction of the Council's Environmental Health Officer; and
- (b) the storage site is supplied with a tap connection and hose of a size approved by the Council's Environmental Health Officer;

3.4 Transportation of Waste

A person must not convey or cause to be conveyed in any vehicle on any Road any manure, dead animals or remains, offal, bones, hides, skins, offensive matter, refuse, rubbish or other waste matter unless the vehicle is constructed, fitted, loaded and covered so that:

- (a) no leakage occurs or other material is dropped or deposited on any Street, Road, Council Land or adjacent area from the vehicle; and
- (b) the possibility of escape of offensive odours is reduced.

Penalty: 2 penalty units

3.5 Depositing of Waste at a Municipal Landfill/Transfer Station

- (a) Every person using a municipal landfill or transfer station must deposit waste in accordance with any directions of the attendant on duty and any signs erected at the facility and must pay the appropriate fee as set by Council resolution from time to time.
- (b) The Council may, by resolution, require persons to be registered with the Council before being able to use a municipal landfill or transfer station.
- (c) The Council may, by resolution, prohibit categories of waste from being deposited at a municipal landfill or transfer station.

3.6 Unsightly Land

Each owner and occupier of land must not allow or permit the land or any nature strip or grassed area of a Road abutting the land to be kept in a manner which is unsightly or detrimental to the general amenity of the surrounding area, and, without limiting the generality of this clause, must not allow or permit the land or nature strip or grassed area to-

- (a) harbour rubbish;
- (b) harbour machinery and/or implements;
- (c) contain disused excavation or waste material; or
- (d) be a haven for vermin or excessive vegetation growth or any noxious weed.

Penalty: 5 penalty units

Where the Council, or an Authorised Officer, is of the opinion that the condition of any land is unsightly or detrimental to the general amenity of the surrounding area, a Notice to Comply may be served on the owner or occupier of the land.

3.7 Dangerous Land

An owner or occupier of any land must not cause or allow the land to be kept in a manner which is dangerous or likely to cause danger to a person, life or property, including but not limited to land which is:

- (a) haven for vermin or any noxious weed;
- (b) used without a Permit for the storage of any substance which is dangerous or is likely to cause danger to a person, life or property;
- (c) occupied by any unsecured dangerous item likely to be an attraction to children;
or
- (d) occupied by an unsecured hole or excavation.

An owner or occupier of land must create a fire break around the land if directed to do so by the Municipal Fire Prevention Officer.

Penalty: 5 Penalty units

3.8 The emission of offensive material, odour and noise

- (a) A person must not cause or allow any domestic chimney or incinerator to discharge dust, grit, ashes or smoke to such an extent that it is dangerous to health or is offensive to another person.

Penalty: 5 penalty units

- (b) Any person who, in the opinion of an Authorised Officer, is deemed to be creating and causing a nuisance to any person by burning any material must immediately extinguish the fire upon being directed to do so by such Authorised Officer.

Penalty: 5 penalty units

- 3.8.1. A person must not burn or cause to burn any offensive materials including any substance which contains any:-manufactured chemical;

- (a) rubber or plastic;
- (b) petroleum or oil, other than in a properly constructed and operating heating appliance;
- (c) paint or receptacle which contains or which contained paint;
- (d) food waste, fish or other offensive or noxious matter; or
- (e) other material, which emits dense or offensive smoke.

Penalty: 5 penalty units

- (f) A person must not cause or allow the emission of any dust, grit, ashes, fumes or other material created by any chemical, mechanical or manual process from any land owned or occupied by him or her to such an extent that it is offensive to another person not within the boundaries of such land.

Penalty: 5 Penalty units

- (g) A person must not cause or allow the emission of any noise caused by any chemical, mechanical or manual process from land owned or occupied by him or her to such an extent that it is offensive to another person not within the boundaries of such land.

Penalty: 5 penalty units

3.9 Incinerators/Open Air Burning

- (a) A person must not light or allow to be lit or remain alight any incinerator of any kind in any part of the municipal district which is zoned commercial or residential under the Council's Planning Scheme.
- (b) Sub-clause (a) does not apply in respect of horticultural properties or land used for the grazing of stock, if the incinerator is 100 metres or more from a neighbouring residence.
- (c) A person must not, without a permit, burn or cause to burn any material in the open air on any land, Street or Road.
- (d) Sub-clause (c) does not apply in respect of land outside the area generally known as the irrigation area, or land outside the residential areas of the municipal district.
- (e) Permits shall not be issued in accordance with sub-clauses (a) and (b) during the 'fire danger period', as declared in accordance with the Country Fire Authority Act 1958.
- (f) Despite this clause a person must not light or allow to be lit or remain alight an incinerator in any part of the municipal district on a Fire Ban Day.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

3.10 Application

- (a) The provisions of this Part shall not apply to a barbecue while the barbecue is being used for the purpose of cooking food.
- (b) The provisions of this Part shall not apply to:-
 - (i) any structure or device licensed under the provisions of the Environment Protection Act 1970;.
 - (ii) (any structure or device located on commercial or industrial premises subject to control under the provisions of the Environment Protection Act 1970;.
 - (iii) any person engaged in fuel reduction burning pursuant to section 11(2) of the Summary Offences Act 1966; or
 - (iv) any person performing any act in order to comply with the Country Fire Authority Act 1958 or any regulations made under it.

3.11 Plan Incorporated by Reference

- (a) The Council's Domestic Wastewater Management Plan is incorporated into and forms part of this Local Law.

3.12 All Waste Septic Systems

- (a) Where a reticulated sewerage system is not available for connection, the sewage shall be discharged to a septic tank or otherwise disposed of subject to a permit issued by the Council or an Authorised Officer.

PART 4 PROTECTION OF COMMUNITY ASSETS

4.1 Drainage Tappings

- (a) A person must not, without a permit, enter, destroy, damage, interfere with or tap into any Council sewer or drain.

Penalty: 5 penalty units

4.2 Damage to Watercourses

- (a) A person must not, without a permit, destroy, damage or interfere with a ditch, Swale, Drainage basin, creek or drain or other watercourse on Council Land.

Penalty: 5 penalty units

4.3 Vehicle Crossings

- (a) Owners of land where kerb and channel are constructed, or as determined by the Council in accordance with this Local Law, must ensure that each point of vehicular access from a carriageway on a Road to their land has a properly constructed vehicle crossing.

Penalty: 5 penalty units

Infringement Notice: 2 penalty units

- (b) Where a properly constructed vehicular crossing exists, a person must not use any other passage or route for vehicular access to the land.

Penalty: 5 penalty units

Infringement Notice: 2 penalty units

- (c) Where access to land is not via a properly constructed vehicular crossing, the Council or an Authorised Officer may serve a Notice to Comply on the owner of the land.

- (d) For the purposes of this clause a vehicle crossing is properly constructed if-

- a) it was constructed by or in accordance with the terms of an approval by the Council or a State Road Authority; or
- b) the Council has approved in writing the method of construction of the particular vehicle crossing.
- (e) If a point of vehicular access from a carriageway on a road to adjacent land does not have a properly constructed vehicle crossing, the Council or an Authorised Officer may serve a Notice to Comply on the owner of the land.
- (f) In the case of roll-over type kerbing where a specific vehicular crossing point is not constructed, the Council may nominate the location at which vehicles are to cross the kerb. Where access to land is not in accordance with the location nominated by the Council, the Council or an Authorised Officer may serve a Notice to Comply on the owner of the land.

4.4 Temporary Vehicle Crossings

- (a) Where it is likely that building works on any land will involve vehicles leaving a road and entering the land, the person responsible for the building works must obtain a permit for the construction of a temporary vehicle crossing which protects the existing road, kerb, drains, footpath and street trees.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (b) The Council or an Authorised Officer may serve a Notice to Comply on any person who should make application under clause 4.5(a) for a temporary vehicle crossing.
- (c) The person responsible for the building works must repair any damage to the existing road, kerb, drains and footpath.
- (d) Where, in the opinion of the Council or an Authorised Officer, an existing vehicle crossing, footpath, street tree, kerb or other part of the road may be damaged, the person responsible for the building works must pay a bond to the Council.
- (e) The permit holder must, within 48 hours of completion of the works, arrange with the Council for an inspection of the site.
- (f) The amount of the bond required under clause 9.6 (d) must be proportionate to the likely cost of repairing any damage and may be refunded on completion of the inspection referred to in clause 9.6 (e) or may be retained by the Council to offset the costs of repairing any damage.

4.5 Redundant Vehicle Crossings

- (a) Where works on any land involve the relocation or closure of a point of vehicular access, any redundant part of a vehicle crossing must be removed and the kerb, drain, footpath, nature strip or other part of the road reinstated to the satisfaction of the Council.
- (b) The Council or an Authorised Officer may serve a Notice to Comply on the owner of any land, requiring the removal of part or all of a vehicle crossing which does not provide an effective point of vehicle access to the land.
- (c) If the removal of all or part of a vehicle crossing or the reinstatement of the Road is not carried out in accordance with the Notice to Comply, the Council may carry out the work at the full cost of the owner or occupier of the land.
- (d) The Notice to Comply may require the reinstatement of any part of the road.

4.6 Street Levels

- (a) A person must not carry out any building or other works or fence on any part of any land immediately abutting a Street, Road or Public Reserve which is inconsistent with the level fixed by the Council for the Street, Road or Public Reserve.
- (b) The Council or an Authorised Officer may serve a Notice to Comply on any person who has not complied with clause 4.8 (a).
- (c) If the works required in accordance with the Notice to Comply are not complied with the Council may carry out the works at the full cost of the owner.
- (d) Any person may obtain details of the levels fixed by the Council for any Street, Road or Public Reserve by making application to the Council.

4.7 Repairs on Roads and Footpaths

- (a) A person must not dismantle, paint, carry out maintenance on or repair a vehicle on a Road or Footpath or permit or authorise another person to do so.

Penalty: 5 penalty units

- (b) Nothing in clause 4.8 (a) shall prevent a person making a temporary repair to a vehicle on a Road solely for the purpose of removing that vehicle or in an emergency.

4.8 Letter Boxes on Road Reserves

- (a) A person must not, without a permit, erect or allow to be erected a letter box on a Road or Footpath.

Penalty: 3 penalty units

- (b) Permits for the erection of letter boxes on Roads shall be subject to the following conditions:
- (i) such letterboxes be sited, erected and maintained to the satisfaction of an Authorised Officer;.
 - (ii) the Authorised Officer may order such alterations or repairs to such letter boxes as he or she deems necessary, or order the removal of any letter box which is in his or her opinion unsafe, unsuitable or inappropriately located; and.
 - (iii) permission to erect letterboxes on the Road shall be dependent upon the placement of underground facilities in the Road.
- (c) Where an Authorised Officer is of the opinion that sub clause (a) or the conditions of sub clause (b) are being breached, he or she may serve a Notice to Comply on the owner or occupier of the land.

4.9 Discharge of Water Prohibited

- (a) A person must not, without a permit, cause or permit: -
- (i) the direct or indirect flow of any irrigation water onto any Council Land;
 - (ii) the discharge of any water onto any Council Land;
 - (iii) the discharge of any water onto any land (including land of that person) so as to cause or permit such water to discharge onto Council Land; or
 - (iv) any substance other than storm water to be discharged into the stormwater system.
 - (v) Flow of storm water run off from undeveloped/construction sites that causes soil to be deposited onto council land, roads or stormwater drains.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

4.10 Control of Sprinklers

- (a) The owner of land must ensure that any irrigation sprinkler heads on the land be fitted with either half circle sprinkler heads or standard sprinkler heads fitted with adequate solid metal guards so as to prevent the discharge of irrigation water onto the adjacent Road.

Penalty: 2 penalty units

4.11 Parking or Driving in Langtree Mall

- (a) A person must not, without a permit, drive or park a vehicle in the Langtree Mall.
- (b) Subclause (a) does not apply to persons driving emergency vehicles or to staff of public authorities while carrying out their duties.
- (c) When determining whether to grant a permit, the Council or Authorised Officer will have regard to the time of access requested and the safety of pedestrians.

Penalty: 2 penalty units

4.12 Works on Council Land and Buildings

- (a) A person must not construct, redevelop or undertake improvement works on Council owned, managed or controlled land and facilities without the prior written consent of Council.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

PART 5 COMMUNITY SAFETY AND AMENITY

5.1 Road and Footpath Obstructions

- (a) A person must not, without a permit:-
- (i) occupy or fence off part of a Road or Footpath;
 - (ii) erect a hoarding or overhead protective awning on a Road or Footpath;
 - (iii) use a mobile crane or travel tower for any work on a Road or Footpath;
 - (iv) remove or prune any street tree on a Road or Footpath; or
 - (v) plant any tree or shrub or landscape any part of a Road or Footpath.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (b) The Council may from time to time determine fees for the reinstatement of Roads, Footpaths or street trees damaged or altered by works of a type listed in clause 5.1 (a) (i) to (v) inclusive.
- (c) The Council may require payment of the fees prior to the issue of a permit.
- (d) The Council may, before issuing a permit, require the payment of a bond to secure the cost of repairs to a Road, Footpath or Council asset damaged or affected by works of a type listed in sub-clause 5.1 (a) (i) to (v) inclusive.
- (e) The permit holder must within 48 hours of completion of the work arrange with the Council for an inspection of the site.
- (f) The amount of the bond must be proportionate to the likely cost of repairing any damage or replacing any Road, Footpath or Council asset and may be refunded on completion of the inspection referred to in clause 5.1 (e) or may be retained by the Council to offset the cost of making good any damage.

5.2 Storage of Materials on Road

- (a) A person must not, without a permit, deposit or place any soil, garden refuse, prunings, building materials, refuse containers, building rubbish, electrical cords, air hoses, shipping containers or other similar obstructions on, upon, across or over any Road or Footpath, or Council asset.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

5.3 Street Parties, Street Festivals and Processions

- (a) A person must not, without a permit, hold a street party, street festival or procession on any Road.

Penalty: 5 penalty units

- (b) In determining whether or not to grant a permit for a street festival or procession, the Council or Authorised Officer may take into account:-
 - (i) whether the festival or procession will unreasonably inconvenience road users including all owners and occupiers of properties with vehicular access to the section of Road to be closed;
 - (ii) whether the written permission of the Victoria Police and the relevant State Road Authority has been obtained and their requirements met;
 - (iii) whether the Road can be closed to vehicular traffic, or partly closed to vehicular traffic with safe and effective separation of vehicular traffic from festival or procession patrons and equipment; and
 - (iv) any other matter relevant to the circumstances of the application.
- (c) In determining whether to grant a permit for a street party, the Council or Authorised Officer must take into account:-

- (i) whether the Road can be closed to vehicular traffic without detriment to the traffic management of the area, for the duration of the street party;
 - (ii) whether the owners or occupiers of land with any vehicular access via the section of Road to be closed have been advised by letter and given seven days to comment or object;
 - (iii) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the road at locations and times specified by an Authorised Officer;
 - (iv) whether the Footpath on at least one side of the Road can be kept clear of obstructions; and
 - (v) any other matter relevant to the circumstances of the application.
- (d) Where the application is to conduct a street party the application must be made at least 14 days before the street party is to take place.
- (e) Where the application is to conduct a street festival or procession, the application must be made at least 28 days before the street festival or procession (as the case may be) is to take place.

5.4 Street Activities

- (a) A person must not, without a permit, solicit or collect on any Council Land, on any Road or Footpath or from house to house any gifts of money.

Penalty: 5 penalty units

- (b) The Council may from time to time exempt any person or class of persons or any particular collection activity from the need for a permit.
- (c) A person must not, without a permit, on any Road, Footpath or Council Land:-
- (i) distribute any handbills, (other than electoral material on Commonwealth, State and Local Government polling days) goods, gifts or advertising material or other printed matter;
 - (ii) perform, busk or solicit money;
 - (iii) deliver any public address;
 - (iv) spruik, or call out from any business or retail premises in order to attract customers from a Road or Footpath to the premises, or
 - (v) use any sound amplification equipment.

Penalty: 5 penalty units

5.5 Trees and Plants, Signs and Structures Not To Obstruct or Obscure

The owner or occupier of any land must not allow any vegetation growing on the land or any sign, structure or other thing located on the land:

- (1) to obstruct or interfere with:
 - (a) the passage of Traffic on a Road;
 - (b) the clear view of any driver or pedestrian lawfully using a Road of any other Vehicle, pedestrian or Traffic Control Device upon a Road;
 - (c) the view between motor vehicles and trains at a railway level crossing;
or
 - (d) street lighting or any traffic control signal or sign;
- (2) to otherwise constitute a danger to vehicles or pedestrians or compromise the safe or convenient use of an abutting Road;
- (3) to extend over any part of the Footpath or Road in such a way that it obstructs the safe passage of persons using devices like a pram, wheel-chair, child's pusher or walking frame. For the purposes of this paragraph a tree or plant in or growing on land owned or occupied by a person is to be regarded as an obstruction if it enters the air space directly above a Footpath constructed on Council Land and is within 2.4 metres of ground level to overhang any Footpath or Road at a height lower than 2.4 metres from the surface of the Footpath or Road; or
- (4) to accumulate dropped berries, leaves or other materials on a Footpath so as to cause obstruction or danger to any pedestrian.

Penalty: 2 penalty units

5.6 Behaviour in Public Reserves

A person must not while in a Public Reserve:-

- (a) light any fire other than a portable barbecue unless in a fireplace provided or subject to a permit;
- (b) act contrary to any sign;
- (c) play any games with a hard ball except in an area set aside for that purpose;
- (d) ride a horse in a Public Reserve other than on a Road or in an area designated for the riding of horses;
- (e) camp or erect a tent; or

- (f) take part in or organise any concert, public assembly or public event without first obtaining a permit from the Council.

5.7 Damaging or Defacing Council Land Including a Road

- (1) A Person must not, unless employed, authorised or contracted by the Council for the purpose, do the following in, or on, Council Land:
- (a) destroy, damage or interfere with Council Land;
 - (b) construct an opening or gate in a fence on the boundary of Council land which is more than one (1) metre wide;
 - (c) destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, any Council Land or any Road or thing on any Council Land or any Road;
 - (d) destroy, damage, remove, plant or interfere with any tree, garden-bed or plant in, or on, Council Land, other than for the purposes of maintaining grass or other permitted plantings on a nature strip;
 - (e) do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a road and thereby become a hazard;
 - (f) destroy, damage or interfere with any other property or assets in, or on, Council Land that are owned or managed by the Council;
 - (g) remove, or allow to be removed, any thing from any Council Land or any Road which belongs to the Council or is affixed or attached to the Council Land or any Road (as the case may be), unless authorised by the Council to do so, whether under this Local Law or otherwise;
 - (h) cause any damage to any Council assets in, or on, as a result of a failure as an owner or occupier of any land to adequately maintain, or to rectify any faults within a reasonable time, in drainage systems, utility supply systems or any other matter for which the owner or occupier of the land is responsible for maintaining.

Penalty: 10 Penalty Units

- (2) An Authorised or Delegated officer may remove and impound anything that is in or on in contravention of this Clause. Where anything is impounded, there must be compliance with the provisions of Clause 5.7
- (3) A person who holds an Asset Protection Permit and is acting in accordance with its purpose, scope and conditions is exempt from this provision.

5.8 Behaviour on Council Land

- (a) A Person must not, while in or on Council Land, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Council Land by any other Person.
- (b) An Authorised Officer may direct a person who in his or her opinion offends against the provisions of this Local Law on Council land to forthwith leave the Public Reserve, whereupon such person must comply with the direction.

5.9 Motor Vehicles

- (a) A person must not park any motor vehicle within a Public Reserve except;
 - (i) in an area set apart for the purpose;
 - (ii) when and where directed or authorised by the Council or an Authorised Officer to do so; or
 - (iii) upon such payment of such fees (if any) as may be prescribed and authorised by the Council.
- (b) A person must not display a Vehicle for sale on a road or on Council land.
- (c) An Authorised Officer may remove or cause to be removed or order the removal of any illegally parked, unregistered or abandoned motor vehicle from any Road or area within a Public Reserve or if the vehicle is considered to be preventing fair and reasonable access to other users within a Public Reserve.

Penalty: 2 penalty units

5.10 Removal of Offenders from a Reserve

- (a) An Authorised Officer may direct a person who in his or her opinion offends against the provisions of this Local Law in a Public Reserve to forthwith leave the Public Reserve, where upon such person must comply with the direction.

5.11 Erection of Notices and Signs by the Council in Public Reserves

- (a) The Council may for the purposes of this Part and for the better control, management and preservation of a Public Reserve erect therein such notices or signs as it sees fit designating where and in what manner entry to or access to the Public Reserve or any part thereof or any specified activity is allowed, prohibited or otherwise controlled.
- (i) A person must not remove such notice or sign except with the authority of the Council.
 - (ii) A person must not contravene the provisions of any such notice or sign.

5.12 Public Swimming Pools

- (a) A person must not while attending a Public Swimming Pool:-
- (i) cause a nuisance or use Offensive behaviour towards another person;
 - (ii) act to endanger any person;
 - (iii) act to interfere with the quiet enjoyment of the Public Swimming Pool by any person;
 - (iv) destroy, damage or interfere with any Council property;
 - (v) bring any animal into the Public Swimming Pool site;
 - (vi) enter the Public Swimming Pool site without paying the appropriate fee as determined by the Council;
 - (vii) consume alcohol on the Public Swimming Pool site; or
 - (viii) bring into the Public Swimming Pool site any glass container;

Penalty: 5 penalty units

5.13 Camping

- (a) A person must not, without a permit, camp on Council Land or in a Public Place or any Road in a tent, caravan, vehicle or other temporary or makeshift structure unless they are within a Caravan Park registered under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 1999.
- (b) A person must not, without a permit, allow camping on any land which he or she owns or occupies.
- (c) The Council may exempt any person or class of person or any authority or all persons during any specified time from the need for a permit.
- (d) A permit is not required for camping directly associated with the accommodation of itinerant persons employed on the land for the purposes of the harvesting of produce.
- (e) Unless approved under sub-clause 5.14, a person must not, without a permit, occupy any tent or similar portable structure erected, constructed or placed on private land for a period of more than six (6) weeks in any twelve (12) months period.

Penalty: 2 penalty units

5.14 Caravans

- (a) A person must not, without a permit, use a caravan on any privately owned land other than land within a Caravan Park registered under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 1999.
- (b) Nothing in clause 5.13 (a) prevents the use of a caravan on privately owned land for sleeping purposes for seven (7) consecutive nights or less.

Penalty: 2 penalty units

5.15 Temporary Dwellings

- (a) Subject to clause 5.14 (b) a person must not establish, erect or occupy a temporary dwelling.
- (b) Nothing in clause 5.14 (a) prevents a person who has obtained a permit from the Council from establishing, erecting or occupying a temporary dwelling in association with the construction of a permanent detached dwelling.
- (c) A permit issued pursuant to clause 5.14 (b) operates from the date of issue and expires on the expiry date stipulated in the permit or, if no expiry date is stipulated, after 12 months.

- (d) A person must not, after the issue of an Occupancy Permit for the permanent detached dwelling or the expiration of a permit for the temporary dwelling, occupy the temporary dwelling.

5.16 Leaving Shopping Trolleys

- (a) A person must not leave, or cause or authorise another person to leave, a shopping trolley in any of the following areas:-
 - (i) a Road; or
 - (ii) Council Land except in an area designated by the Council for that purpose; or
 - (iii) any other Public Place.

Penalty: 5 penalty units

5.17 Abandoned Shopping Trolleys

- (a) An Authorised Officer may impound any shopping trolley left in contravention of this Local Law.
- (b) An Authorised Officer who has impounded a shopping trolley must notify the owner of the shopping trolley of the impounding as soon as practicable.
- (c) The Council may, by resolution from time to time, determine a fee which must be paid by the owner of a shopping trolley before the Council is required to release the shopping trolley.
- (d) Shopping trolleys that have been impounded by the Council for three (3) months may be disposed of by the Council by tender or public auction or may be transferred to the municipal landfill or be given away.

5.18 Naming a Road

- (a) A person must not erect a sign applying a name to a Road without first obtaining the consent of the Council.

Penalty: 2 penalty units

5.19 Property Numbers to be displayed

- (a) The Council may allot such numbers as are in its opinion necessary to identify each premises in the municipal district and, from time to time, may make changes to any address number.
- (b) If the Council has allocated a number to a premises the owner of that premises must mark the premises with the number and must renew or replace the number as often as may be necessary.

Penalty: 5 penalty units

- (c) The owner of the premises must ensure that the number is of a sufficient size and is placed in such a position as to be clearly readable from the Street on which the premises have their frontage.

Penalty: 5 penalty units

5.20 Residential Parking Scheme

- (a) The Council may, from time to time by resolution, designate any area of the municipal district as an area in which a residential parking scheme is in operation.
- (b) The Council may at any time by resolution rescind, amend or vary any resolution so made.
- (c) The Council must give appropriate public notice of any resolution made under clauses 5.19 (a) and (b).
- (d) A person who resides in an area in which a residential parking scheme is in operation may make application in the form of Schedule 3 to the Council for a Residential Parking Permit.
- (e) The Council may grant a Residential Parking Permit subject to such conditions as may be determined from time to time.
- (f) A Residential Parking Permit must specify the vehicle to which the permit applies.
- (g) A Residential Parking Permit may specify the Street or Streets or part of the Street to which the permit applies.
- (h) The holder of a Residential Parking Permit may park an eligible vehicle in the Street or Streets as specified in the permit without being required to comply with any parking restrictions as to time indicated by parking signs associated with the Street or Streets.
- (i) The Council may, from time to time by resolution, determine a fee to be paid for a Residential Parking Permit.
- (j) Prior to the introduction of a new residential parking scheme the Council must notify the owner and occupier of every residence in the area advising as to:-
 - (i) eligibility;
 - (ii) how to apply for a permit;
 - (iii) the cost of the permit; and
 - (iv) how the proposed scheme will operate.

5.21 Use of Skateboards and Bicycles

- (a) A person must not use a skate-board, bicycle, toy vehicle, roller skates or in-line skates in an area that has been declared to be an area where such activity has been prohibited by:
- (i) Council resolution and advertised in a newspaper generally circulating within the municipal district; or
 - (ii) signage authorised by Council resolution.

A Council resolution referred to in this clause may specify any or all of the conveyances mentioned.

- (b) A person must not use a skate-board, bicycle, toy vehicle, roller skates or in-line skates in a shopping mall.
- (c) Where any person uses a skate-board, bicycle, toy vehicle, roller skates or in-line skates in contravention of sub-clause 5.21 (a) or (b) an Authorised Officer may remove the item and impound it.
- (d) The Council may, determine a fee, which must be paid by the owner of a skate-board, bicycle, toy vehicle, roller skates, or in-line skates before the Council is required to release the impounded item.
- (e) Any skate-board, bicycle, toy vehicle, roller skates, in-line skates that has or have been impounded by the Council for more than one (1) month may be disposed of by the Council by tender or public auction or other manner determined by the Council.

Penalty: 2 penalty units

5.22 Other Obstructions

- (a) Where, in the opinion of an Authorised Officer, a rubbish container, movable structure, device, material or other object is -causing an unlawful obstruction;
- (b) a danger to road users; or
- (c) getting in the way of or likely to get in the way of traffic- the obstruction may be removed and impounded.

5.23 Clothing Bins

- (a) A person must not, without a permit, place a clothing bin on any Council Land.

PART 6 CONSUMPTION OF LIQUOR IN PUBLIC PLACES

6.1 Roads/Car Parks/Public Reserves

A person must not, on a Road or Public Reserve, or in a motor vehicle parked on a Road or Public Reserve, in a prescribed area during a prescribed period:-

- (a) consume any liquor; or
- (b) have in his or her possession or control any liquor other than liquor in a sealed container with an unbroken seal.

Penalty: 2 penalty units

6.2 Prescribed Area

- (a) The Council may by resolution specify areas of the municipal district to be a prescribed area. (a) If the Council prescribes an area to be a prescribed area, it must:
 - (i) publish a notice in a newspaper generally circulating within the municipal district;
 - (ii) erect signage signifying prescribed areas; and
 - (iii) ensure that a description of the area is available for inspection at the offices of the Council during normal business hours.

6.3 Prescribed Period

- (a) The Council may at the time of specifying an area to be a prescribed area specify in relation to that area:
 - (i) periods of the year; or
 - (ii) periods of the week; or
 - (iii) periods of the day, or of specified days that are to be "no alcohol" periods.
- (b) If no period is specified in relation to an area, the "no alcohol" period for that area is all day every day.
- (c) For the purpose of this Part, a 'no alcohol' period is a prescribed period.

6.4 Exemption from this part

This Part does not apply to:

- (a) “authorised premises” or “licensed premises” within the meaning of the Liquor Control Reform Act 1998;
- (b) circumstances to which the Liquor Control Reform Act 1998 does not apply by virtue of clause 7 of that Act; or
- (c) consumption of liquor at an organised event for which a permit has been granted.

PART 7 BEHAVIOUR

7.1 Misuse of Shopping Trolleys

- (a) Any person who, while in a Public Reserve or other Public Place, uses a shopping trolley for any purpose other than for what the shopping trolley has been specifically designed is guilty of an offence.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.2 Urination, Defecation and Vomiting in Public

- (a) A person must not urinate, defecate or vomit in a Public Place other than in a toilet facility constructed for such a purpose.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.3 Behaviour in Certain Public Places

- (a) An Authorised Officer may direct a person to leave any Public Reserve, pedestrian mall, Footpath or other Public Place if the Authorised Officer believes on reasonable grounds that the person is behaving in a riotous, indecent, offensive, threatening or insulting manner or using threatening, abusive, obscene, indecent or insulting words. A person to whom such a direction is given must comply with that direction.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.4 Music Noise (Vehicles, Public Places)

- (a) An Authorised Officer may direct a person playing amplified music in a Public Place (including in a Street or Public Reserve or in a motor vehicle in a Street or Public Reserve) to cease playing such music if the music is offensive noise. A person to whom such a direction is given must comply with that direction.
- (b) This clause does not apply to a person who has the permission of the Council or the owner of the Public Place to play the amplified music.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.5 Damage to Council Property

- (a) Any person who is involved in an activity that is damaging or defacing Council property or assets, or that could reasonably be foreseen to damage Council property or assets, must immediately cease such activity upon being directed to do so by an Authorised Officer. A person to whom such a direction is given must comply with that direction.

Penalty: 10 penalty units

Infringement notice: 5 penalty units

7.6 Wetlands and Fountains

A person must not –

- (a) enter, swim, paddle, bath, dive or jump in a wetland or fountain located in a Public Reserve or Public Place; or
- (b) throw, place or cause or suffer to be thrown or placed any liquid, powder substance, stones, rocks, sticks, paper, dirt or rubbish or other object, substance or thing of any kind into a wetland or fountain located in a Public Reserve or Public Place.

Penalty: 10 penalty units

Infringement notice: 5 penalty units

PART 8 COMMERCIAL ACTIVITY ON COUNCIL LAND

8.1 Commercial activity on Council Land

- (a) A person must not, without a permit, carry out any commercial activity on Council Land.

Penalty: 5 penalty units

For the purpose of this clause a person is deemed to have complied with clause 8.1 if:

- (i) the commercial activity is an integral part of an activity authorised by a permit issued under the provisions of another clause of this Local Law; or
- (ii) the commercial activity forms the basis of some other binding agreement entered into with the Council.

8.2 Advertising Signs / Display Of Goods

- (a) A person must not, without a permit, place or cause or authorise another person to place:-

- (i) an advertising sign on any Council Land;
- (ii) any goods or vehicles for display or sale on any Road.

- (b) Council may by resolution exempt any person or class of person or any particular type of advertising activity from the requirement to obtain a permit under the provisions of this clause.

Penalty: 5 penalty units

- (c) In deciding whether or not to grant a permit the Council may take into account:-

- (i) whether the advertising sign or goods will create a hazard to pedestrians or will otherwise cause an obstruction;
- (ii) the amenity of the area;
- (iii) any other signs associated with the applicant's premises; and
- (iv) any other matter relevant to the circumstances of the application.

- (d) When any advertising signs or goods are placed or displayed contrary to this Local Law or in contravention of any permit conditions the advertising sign or the goods may be removed by an Authorised Officer and impounded.

- (e) The Council may, by resolution from time to time, determine a fee which must be paid by the owner of any impounded sign or goods before the Council is required to release the sign or goods.
- (f) Signs or goods that have been impounded by the Council for more than one month may be disposed of by the Council by tender or public auction, or may be transferred to the municipal landfill or given away. Where perishable goods have been impounded, the Council may dispose of the goods as soon as reasonably appropriate.

8.3 Signs relating to Sale of Real Estate

- (1) Where premises (not being vacant land or a display home) are:
 - (a) to be sold by public auction; or
 - (b) open for inspection by the public;

a flag not exceeding two (2) square metres may be displayed on the premises or a neighbouring premise provided:

 - (i) it does not obstruct the movement of pedestrian or vehicular traffic along a Road or Footpath;
 - (ii) it does not impair the vision of pedestrians or drivers of vehicular traffic along a Road or Footpath; and
 - (iii) the mounting point of the flag is on or within the boundary of the premises.
- (2) Any flag displayed under sub-clause (1) must be removed immediately upon the completion of the public auction or the public inspection.
- (3) Movable Advertising Signs relating to the sale of real estate must comply with clause 8.2.
- (4) Sub-clause (3) does not relate to vacant land or a display home.

8.4 Trading From Roadside

- (a) A person must not, without a permit:-
 - (i) erect or place on any Council Land or in any Public Place a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling any goods or services; or
 - (ii) sell any goods or services from a property or Road, Footpath, Council Land or Public Place adjacent to a Road or Footpath to any person who is on that Road, Footpath, Council Land or Public Place.

Penalty: 5 penalty units

- (b) In determining whether or not to grant a permit the Council may take into account:-
- (i) whether permits required by the Health Act 1958, Food Act 1984 or any other legislation have been obtained;
 - (ii) whether any other Council requirements by way of policy or guidelines have been met;
 - (iii) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;
 - (iv) whether the activity will be detrimental to the amenity of the area;
 - (v) whether the safety of road users or the passage of vehicles will be affected by the placement;
 - (vi) whether appropriate arrangements can be made for:-
 - waste water disposal;
 - litter and garbage;
 - lighting; and
 - advertising signs;
 - (vi) whether the consent of the relevant state road authority has been obtained where the Road is owned or managed by a state road authority; and
 - (vii) any other matter relevant to the circumstances of the application.
If the Council has entered into an agreement (by way of lease, licence or otherwise) in relation to trading from a particular site, no person other than the person with whom the Council has the agreement may trade from that site whether or not that person has a permit.

Penalty: 5 penalty units

- (c) In addition to any other power which it has, the Council may by resolution determine a fee, charge, fare or rent payable by the seller of any goods or services from a property, Road, Footpath, Council Land or Public Place adjacent to a Road or Footpath to any person who is on that Road, Footpath, Council Land or Public Place.
- (d) Where in the opinion of an Authorised Officer the provisions of clause 7.4 or the conditions of any permit are not being complied with the Authorised Officer may serve a Notice to Comply on the owner or occupier of the relevant land or permit holder.
- (e) Where the use of a site or the contravention of any conditions on a permit continue after a Notice to Comply has been served any goods and associated equipment may be removed by an Authorised Officer and impounded.
- (f) The Council may, by resolution from time to time, determine a fee which must be paid by the owner of any impounded goods and associated equipment before the Council is required to release the goods and associated equipment.

- (g) Goods and associated equipment that have been impounded by the Council for more than one month may be disposed of by the Council by tender or public auction, or may be transferred to the municipal landfill or given away. Where perishable goods have been impounded, the Council may dispose of the goods as soon as reasonably appropriate.

8.5 Outdoor Eating Facilities

- (a) A person must not, without a permit, establish an Outdoor Eating Facility on any Council Land, Footpath or other part of a Road.

Penalty: 5 penalty units

- (b) In deciding whether or not to grant a permit the Council may take into account:-
- (i) whether the facility is conducted in conjunction with and as an extension of food premises located immediately abutting the facility, and the applicant is the person conducting such food premises;
 - (ii) whether the food premises are registered in accordance with the Food Act 1984;
 - (iii) whether the facility would be located where it would obstruct visibility at an intersection;
 - (iv) whether appropriate and safe pedestrian access can be maintained;
 - (v) whether the tables, chairs and other equipment to be used will be a hazard; and
 - (vi) any other matter relevant to the application.
- (c) The permit holder must ensure that the Outdoor Eating Facility is maintained in a clean and tidy condition at all times.
- (d) Where, in the opinion of an Authorised Officer, the provisions of clause 7.5 or the conditions of any permit are not being complied with the Authorised Officer may serve a Notice to Comply on the owner or occupier of the relevant food premises or the permit holder.
- (e) Any tables, chairs, umbrellas, heaters or other equipment in an Outdoor Eating Facility used in contravention of clause 7.5 or 7.6 or of any conditions of a permit may be removed by an Authorised Officer and impounded.
- (f) The Council may, by resolution from time to time, determine a fee, which must be paid by the owner of any Outdoor Eating Facility equipment, before the Council is required to release that equipment.
- (g) Equipment that has been impounded by the Council for more than one month may be disposed of by the Council by tender or public auction or may be transferred to the municipal landfill or given away.

(h) A person must not:-

- (i) occupy a chair or otherwise use the equipment in an Outdoor Eating Facility unless he or she intends to use them for the purpose of eating food or drinking drinks to be provided by the permit holder (excluding parklets);
- (ii) cause a nuisance or use offensive behaviour towards another person at an Outdoor Eating Facility or a person passing by; or
- (iii) remain at an Outdoor Eating Facility after being requested to leave by the permit holder or by an Authorised Officer.

Penalty: 3 penalty units

- (i) The holder of a permit must move or remove the Outdoor Eating Facility when requested by an Authorised Officer or a member of an emergency service.

Penalty: 5 penalty units

- (j) The holder of a permit must remove the Outdoor Eating Facility from the Footpath at the close of business each day or at the daily time specified in the permit.

Penalty: 5 penalty units

8.6 Outdoor Eating Facilities - Hotels And Licensed Restaurants

- (a) The following provision, in addition to clause 8.5, apply to Outdoor Eating Facilities provided by the owners, occupiers and proprietors of premises licensed under the Liquor Control Reform Act 1998.
- (b) The Council may revoke a permit at any time if the behaviour of patrons using an Outdoor Eating Facility becomes rowdy, offensive or otherwise disruptive of the quiet use and enjoyment of the Footpath or Road by other persons or if the owner, occupier or proprietor of the hotel or licensed restaurant breaches any provisions of the Liquor Control Reform Act 1998.

PART 9 GENERAL

9.1 Notice to Comply

- (a) The Council, or an Authorised Officer, may by serving a Notice to Comply in the form of Schedule 2 direct any owner, occupier or other relevant person to remedy any situation, which constitutes a breach of this Local Law.
- (b) A Notice to Comply must state the time and date by which the situation must be remedied. The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:
 - (i) the amount of work involved;
 - (ii) the degree of difficulty;
 - (iii) the availability of necessary materials or other necessary items;
 - (iv) climatic conditions;
 - (v) the degree of risk or potential risk; and
 - (vi) any other relevant factor.

9.2 Failure to Adhere to Notice

- (a) Any person who fails to remedy a situation in accordance with a Notice to Comply served under this Local Law is guilty of an offence.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

9.3 Power to Act in Urgent Circumstances

- (a) An Authorised Officer may, in urgent circumstances arising as a result of another person's failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a Notice to Comply provided:
 - (i) he or she considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a Notice to Comply, may place a person, animal, property or thing at risk or in danger;
 - (ii) the Chief Executive Officer approves of the proposed action;

- (iii) details of the circumstances and remedying action are, as soon as possible, forwarded to the person on whose behalf the action was taken; and
 - (iv) the Council is advised as soon as practicable of the action taken.
- (b) The action taken by an Authorised Officer under clause 9.3 (a) must not extend beyond what is necessary to cause the immediate abatement of the risk or danger involved.

9.4 Notice to Comply - Not A Precondition to Enforcement Proceedings

- (a) An Authorised Officer is able to prosecute a person or issue an Infringement Notice under this Local Law without first serving a Notice to Comply.

9.5 Appeal against Notice to Comply

- (b) Any person who is aggrieved by the requirements of a Notice to Comply may apply to the Council to be heard and may make a written submission for consideration by the Council, but this right will not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under this Local Law.

9.6 Application for Permit

- (a) An application for a permit must be in writing and must be accompanied by the appropriate fee, as determined by Council resolution from time to time.
- (b) The Council may require an applicant to give public notice, which will entitle any other person to make a submission and to be heard.
The Council may require additional information to enable an application for a permit to be properly considered and for the purposes of administering and enforcing the provisions of this Local Law.

9.7 Permits May Be Conditional

- (a) The Council or an Authorised Officer may issue a permit with or without conditions, including conditions relating to: -
- (i) the payment of a fee or charge;
 - (ii) a standard to be applied;
 - (iii) a time limit to be applied;
 - (iv) the happening of an event;

- (v) the rectification, remedying or restoration of a situation or circumstance;
- (vi) where the applicant is not the owner of the subject property, the consent of the owner; or
- (vii) the granting of some other permit or approval which may be required by the Council or another statutory or public authority whether under this Local Law or otherwise.

9.8 Additional Information

- (a) The Council or an Authorised Officer may require an applicant to provide additional information before dealing with an application for a permit.

9.9 Duration of Permits

- (a) Except where expressly stated in this Local Law or in the permit, the permit will operate from the date it is issued and will expire one year after the date of issue.

9.10 Cancellation of Permits

- (a) A permit may be cancelled by the Council or an Authorised Officer at any time, if it is clear that the conditions under which the permit was issued have not been complied with provided:-
 - (i) a Notice to Comply has been served upon the permit holder; and
 - (ii) the time required under the Notice to Comply has expired.
- (b) Where the permit holder is not the owner of the land and the owner's consent was required to be given to the application for the permit, the owner must be notified of the Notice to Comply.
- (c) Where any permit issued under this Local Law contains conditions any person who contravenes or fails to comply with a condition is guilty of an offence.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

9.11 Power of Authorised Officer to Impound

- (a) If an Authorised Officer has impounded an animal or other thing in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.
- (b) As soon as possible after impounding the animal or thing the Authorised Officer will, if practicable, serve a Notice of Impounding in the form of Schedule 1 on the owner or person responsible for the item which has been impounded, setting out the fees and charges payable and the time by which the item must be retrieved.
- (c) If after the time required in the Notice of Impounding an impounded animal or thing is not retrieved, an Authorised Officer may take action to dispose of the impounded animal or thing.
- (d) When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the Authorised Officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with sub-clause (3) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded animal or thing.
- (e) Any proceeds from the disposal of impounded items must be paid to the owner except for the reasonable costs incurred by the Council in the administration of this Part.
- (f) In the event that the owner cannot be identified or located within one year of the date the Notice of Impounding was served any proceeds as described in paragraph (e) may be retained by the Council beneficially.

9.12 Offences

- (a) Where any provision in this Local Law requires that something may not be done at all, any person who does that act is guilty of an offence.
- (b) Where any provision in this Local Law requires that something may not be done between specified hours of the day or night, during specified months of the year, or in or at specified locations or specified parts of those locations, any person who does that act between the hours, during the months, on the days, in or at the location or a specified part is guilty of an offence.
- (c) Where any provision in this Local Law requires that a person obtain a permit before engaging in any particular activity, that person is guilty of an offence if that person engages in that activity without a current permit (unless the Council in its discretion has waived the requirement for a permit).
- (d) Where any provision in this Local Law requires that something must be done, any person who fails to do that act is guilty of an offence.

9.13 General Penalty

- (a) A person who is guilty of an offence against this Local Law for which a specific penalty is not provided is liable to a penalty not exceeding ten (10) penalty units.
- (b) The penalty for a second or subsequent offence against this Local Law is twenty (20) penalty units.

9.14 Infringement Penalty

- (a) An Infringement Notice may be issued as an alternative to prosecution in respect of offences against this Local Law. In the event that an Infringement Notice is issued the Infringement Notice penalty will be one (1) penalty unit unless a specific Infringement Notice penalty is provided.

9.15 Infringement Notices

- (a) An Authorised Officer may serve an Infringement Notice on a person whom the Authorised Officer believes has committed an offence against this Local Law requiring the person to pay the penalty for that offence within 28 days of the issue of the Infringement Notice.
- (b) An Infringement Notice must contain those matters specified in section 117(3) of the Act.
- (c) If the Infringement Notice is not withdrawn and the person pays to the Council the amount referred to in the Infringement Notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, no conviction will be recorded against that person for the alleged infringement.
- (d) The Council or the Chief Executive Officer may consider any written representations and any other relevant information and must consider any such material brought to his or her attention within 28 days of the issue of the Infringement Notice to which it relates.
- (e) The decision of the Chief Executive Officer or delegate on any representations received will be final.
- (f) The Council, the Chief Executive Officer or an Authorised Officer may at any time withdraw an Infringement Notice either as a result of consideration of any representations made or with a view to prosecuting for an offence.
- (g) Where an Infringement Notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment which that person has made on the Infringement Notice.
- (h) If the penalty referred to in an Infringement Notice has been paid within 28 days of its issue and no representation has been received by the Council or its staff, no decision may be made to withdraw the Infringement Notice and prosecute the offence after the expiry of 28 days from the issue of the Infringement Notice.

- (i) Any withdrawal of an Infringement Notice may be served in accordance with section 234 of the Act.
- (j) In the event of the failure of a person served with an Infringement Notice to pay the amount specified within 28 days of the issue of the notice or such further time as the Council or an Authorised Officer may permit, the Council or the Authorised Officer may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of Infringement Notices.
- (k) Any person served with an Infringement Notice is entitled to disregard the notice and defend the prosecution in Court.

9.16 Council Staff and Contractors

- (a) Despite anything to the contrary in this Local Law, where the proper discharge of a contract with the Council or duties of office requires a member of Council staff or person acting on the Council's behalf to do something that requires a permit under the provisions of this Local Law, those provisions do not apply and no permit need be obtained.

SCHEDULE 1

ENVIRONMENT LOCAL LAW

**MILDURA RURAL CITY COUNCIL
SCHEDULE 1**

NOTICE OF IMPOUNDING

TO: _____
(Name)

(Address)

The following item(s) has/have been impounded in accordance with Council's Community Local Law.

Describe: _____
items
impounded _____

You may collect the items by attending at the municipal offices between the hours of _____ and _____ to see _____ and by paying the following:
(Contact Officer)

Details _____

Of _____

Fees and Charges _____

If you fail to collect the item(s) and pay the required fees and charges by (date), the authorised officer will proceed to dispose of the item(s) in accordance with the Council's policy.

Date: _____

Name of Authorised Officer: _____

Telephone: _____

(Signature of Authorised Officer): _____

SCHEDULE 2

COMMUNITY LOCAL LAW
MILDURA RURAL CITY COUNCIL

SCHEDULE 2

NOTICE TO COMPLY

TO: _____
(Name)

(Address)

You have in the opinion of the Council or an Authorised Officer breached clause _____ of the Council's Community Local Law. To remedy the breach you must carry out the following work, within _____ days from the date of this notice.

Work _____
to be _____
listed _____

You should contact _____ (contact officer) at the municipal offices between the hours of _____ and _____ for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of \$ (penalty) for the *first/second or subsequent offence and the authorised officer will proceed to carry out the work, the cost of which, in addition to the above penalty you will be liable for.

Date: _____
(Insert Date)

Name of Authorised Officer: _____

Telephone: _____

* Strike out whichever is not applicable

Signature of Authorised Officer: _____

NOTE: If this Notice relates to a contravention of a permit and the Notice is not complied with, the permit may be cancelled. If you do not wish to have the permit cancelled you should comply with the conditions in this Notice or show cause to the Council in writing why the permit should not be cancelled.

SCHEDULE 3

**MILDURA RURAL CITY COUNCIL
COMMUNITY LOCAL LAW**

SCHEDULE 3

APPLICATION FOR RESIDENTIAL PARKING PERMIT

RESIDENTIAL AREA No: _____

I wish to apply for a permit to allow my vehicle to be parked in accordance with the Council's Residential Parking Scheme.

Name: _____

Surname (Other Names): _____

Address: _____

Vehicle Registration No: _____

Description of vehicle (eg. make, model, colour): _____

I declare that I reside permanently at the above address. (Please tick) _____

I have attached a copy of my vehicle registration certificate to this application. (Please tick)

Dated: _____

Signature: _____

13.6 LOCAL LAW NO 5 - PROTECTION OF COUNCIL ASSETS AND CONTROL OF BUILDING SITES

File Number: 04/01/03
Officer: Acting General Manager Development

1. Summary

The purpose of this report is to present an updated draft Local Law No. 5 - Protection of Councils Assets and Control of Building Sites for consideration and a recommendation to release for public comment under Section 119 of the *Local Government Act 1989*, (the Act).

2. Recommendation

That Council in accordance with Section 119 of the *Local Government Act 1989* release for public comment Local Law No. 5 - Protection of Councils Assets and Control of Building Sites as presented.

3. Background

In May 2004, Council adopted Local Law No 5 - Protection of Council Assets and Control of Building Sites (Local Law No 5). Local Law No 5 regulates how council assets will be protected during the building permit and construction process. The regulation of the Local Law is entirely through a permit and bond system. Photos are taken by an authorised officer of footpaths, crossovers, street furniture, etc. before building works commence to record condition of assets. On completion of the building works, a final inspection is carried out to identify any damage to assets. If there is any damage, the builder can rectify it or council can use the bond provided. The Local Law also requires a method of rubbish containment on site and minimising the amount of pollution into the stormwater system. The Local Government Act 1989 requires that Local Laws sunset after 10 years for review and refinement.

4. Discussion

The current Local Law No 5 has been updated and reviewed by Council's solicitor Harwood Andrews. The updated final draft document (for exhibition) received from Harwood Andrews is attached. The changes to the document can be summarised as minor grammatical changes and minor alterations to sentences so that wording is consistent with the Act. All processes and procedures are unchanged.

5. Time Frame

In accordance with Sections 119 and 223 of the *Local Government Act 1989*, the period of public consultation would be 28 days from the date of advertisement.

Any submissions would be considered by Council and the final document presented for formal adoption.

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

2.4 Infrastructure, Asset and Facilities

Goal/s to be achieved:

- Well-maintained footpaths

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

Consultation was undertaken with Council's solicitor Harwood Andrews to ensure wording is consistent with the Act

9. Implications**Policy Implication**

This update is consistent with the principles of good governance and best practice to periodically review Local Laws and policies.

Legal/Statutory Implications

This Local Law complies with requirements in the *Local Government Act 1989*.

Financial Implications

There are no financial implications associated with this report.

Environmental Implications

There are no environmental implications associated with this report.

Social Implications

There are no social implications associated with this report.

10. Risk Assessment

By adopting the recommendation, Council will not be exposed to any risks.

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

12. Conclusion

Following Council's consideration and input into this matter, the attached draft document is presented for approval to release for public comment.

Attachments

- 1 Local Law No 5 - Protection of Council Assets and Control of Building Sites



Mildura Rural City Council

**PROTECTION OF COUNCIL ASSETS AND CONTROL OF
BUILDING SITES
LOCAL LAW NO. 5**

November 2015

PART 1 INTRODUCTION

1. Title

This Local Law Number 5 of the Mildura Rural City Council and shall be titled ‘Protection of Council Assets and Control of Building Sites’.

2. Purpose of Local Law

The Local Law is made for the purposes of:-

- (a) Providing for the peace, order and good Government of the Municipal District;
- (b) Protecting public assets vested in Council from damage, accelerated deterioration or abuse during the building process;
- (c) Providing a physical environment which aims to minimise hazards to health and safety of persons attending building sites and those adjacent, opposite or passing building sites;
- (d) Prohibiting, regulating and controlling the presence and disposal of refuse, rubbish and soil on and from building sites within the municipal district to reduce hazards to the environment and promote an environment where residents can enjoy a quality of life that meets the general expectations of the community;
- (e) Defining the standards to which persons engaged in building work should adhere; and
- (f) Education and inducing person involved in building work to act responsibility to reduce the extent and cost of infrastructure damage for the benefit of the wider community.

3. Authorising Provision

This Local Law is made under section 111(1) if the *Local Government Act 1989*.

4. Commencement and Revocation

This Local Law comes into operation on and ends on

5. Area of Operation

This Local Law shall apply and have operation throughout the whole of the Municipal District.

6. Definitions

Words not defined in this Local Law will have the meaning provided in section 3 of the Local Government Act 1989. Where inconsistencies exist between any definition in this Local Law and

those contained within the Local Government Act 1989 or other identified legislation, the definition in the identified legislation will prevail.

In this Local Law:

Authorised Officer	means a Council employee authorised by Council pursuant to section 224 of the Local Government Act 1989.
Builder	means the person in charge of carrying out any building work and may include but is not limited to a building practitioner, the owner, an appointed agent or a demolition contractor.
Builders refuse	includes any solid or liquid domestic or commercial waste, debris, or rubbish, and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work.
Building	includes any structure or building, whether temporary or permanent or any part of a building or structure, whether temporary or permanent and includes any swimming pool or spa.
Building site	means land upon which building work is being carried out or proposed to be carried out.
Building work	means work for or in connection with the construction, renovation, alteration, demolition, repair, relocation or removal of a building in addition to any landscaping or concreting.
Construction period	means the period in which building work is carried out.
Council	means the Mildura Rural City Council.
Council assets	includes drains, footpaths, nature strips, vehicle crossings, gutters, kerbs and channels to the road and any other asset for which Council is responsible for maintenance and or repair.
Land	includes any allotment capable of being disposed of separately.
Owner	in relation to a building means the registered proprietor of land on which the building is situated.
Penalty units	has the meaning attributed under the <i>Sentencing Act 1991</i> or any replacement legislation.
Refuse facility	means a suitable rubbish receptacle capable of restricting debris and other waste from leaving the building site by

	unauthorised persons or by wind or rain.
Security bond	means a payment made to Council for the purposes of securing public assets and infrastructure from the cost of damage during building work.
Stormwater system	means a system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems and natural waterways.
Temporary vehicle crossing	is a constructed form of wooden panels or other Council approved structure over a bed of sand, that extends from the boundary of a property over any public assets, such as footpaths, nature strips, kerbs and channels to the road and which is designed to prevent damage to the assets, caused by motor vehicles and materials entering and leaving the property, during the currency of building work.
Vehicle crossing	Is a bridge or crossing constructed over any footpath or channel next to a road to enable a person using the road to have access to land on the other side of the footpath or channel other than a temporary vehicle crossing.

Part 2 Asset Protection

7. Asset Protection

- 1) A person must not damage Council assets or cause those assets to be damaged.
- 2) A builder must ensure that no Council assets are damaged as a result of building work or any work associated or connected with building work including the delivery or removal of any material or the like from the building site.

Asset Protection Permit

- 3) For the protection of public assets vested in Council, a builder must obtain an Asset Protection Permit.
- 4) An Asset Protection Permit may be issued by an authorised officer on completion of any application form and payment of the application fee and may contain such conditions as determined by the authorised officer.
- 5) The Asset Protection Permit may:
 - (a) allow a person to enter land from a road other than by a permanently constructed vehicle crossing;

- (b) allow building materials or equipment to be deposited on land other than the land containing the building site in circumstances where in the opinion of the authorised officer the storage of such materials or equipment on the land containing the building site is not possible or practicable;
 - (c) allow a builders refuse facility to be placed on land other than the land containing the building site in circumstances where in the opinion of the authorised officer the placement of the builder's refuse facility on the land containing the building site is not possible or practical;
- 6) The Asset Protection Permit may be subject to such conditions for the protection of Council's assets and the safety of the persons or property as the issuing authorised officer determines including but not limited to:-
- (a) Requiring that any or all Council infrastructure or assets be cleaned or if damaged be repaired, replaced or re-instated within a specified time; and/or
 - (b) Requiring a temporary vehicle crossing to be installed to the satisfaction of a authorised officer before the commencement of any building work or delivery of materials or equipment to the building site and that any such temporary vehicle crossing be maintained until completion of the building work; and/or
 - (c) Any other condition considered necessary.
- 7) An Asset Protection Permit expires on the date specified on the permit and if not specified, 12 months after the date of issue unless it is renewed.
- 8) The builder must ensure that:-
- (a) No entry to the building site takes place other than across a vehicle crossing or a temporary vehicle crossing.
 - (b) No building material or equipment are deposited on any land other than the land containing the building site without an Asset Protection Permit permitting same having been issued by an authorised officer.

Security Bond

- 9) Regardless of whether a building permit had been issued or is required, a builder:
- (a) Must notify Council in writing, of the proposed building work at least 7 days before building work commences; and
 - (b) May provide to Council written notice of any prior damage to any Council asset or part thereof at least 7 days prior to the commencement of any building work or the delivery of any equipment or building materials to the building site.
 - (c) Must notify Council in writing immediately on becoming aware of any damage to any Council asset as a result of the building work or work associated with the building work including the delivery or removal of materials or equipment.

- (d) Must repair to the satisfaction of Council any damaged Council asset that was damaged as a result of the building work or any work associated with the building work including the delivery or removal of material or equipment.
- 10) Prior to the commencement of any building work and prior to the delivery of any building materials or equipment the builder must provide to Council a security bond; such bond to be proportionate to the likely cost of repairing any potential damage to any Council Asset.
 - 11) Upon completion of the building work, the amount of the security bond:-
 - (a) May be retained by the Council to the proportion necessary to offset the costs of repairing any damage to Council assets provided the person who lodged the bond is first notified of the damage and declines or fails within 14 days to make good the damage at their own expense to the Council's satisfaction; or
 - (b) May be refunded to the person who lodged it, upon receipt of a written request and upon Council's satisfaction that no damage has been caused, or that any damage caused has been repaired to Council's satisfaction.
 - (c) In the event that the Asset Protection Permit has expired and no repairs under (a) above or no refund under (b) above has been requested within 12 months of the completion of the building work or the issuing of the occupancy permit and or certificate of final inspection the security bond becomes the property of Council absolutely and may be used by Council in any manner it sees fit.
 - 12) The person who lodged the security bond must supplement the bond by a further payment equal to the difference between the cost of carrying out any works to the relevant Council standard and the amount of the bond, if the Council is satisfied that the amount of the bond is insufficient to meet such cost and it makes a demand for such payment in writing.
 - 13) For the purpose of determining whether any damage to a Council asset has been caused by a builder, a failure to provide notice under sub clause 9 (b) identifying specific damage will give rise to a presumption that the specific damage was caused by the builder and was as a result of or associated with the carrying out of building work.
 - 14) It is a defence to a prosecution brought under clause 1 or 2 which relies on clause 13 above, for the builder to prove that the specific damage was not caused by or as a result of the building work or any work associated with the building work.
 - 15) If upon an inspection of a building site any authorised officer identifies any damage to a Council asset and forms the belief that the damage was caused as a result of building or work associated with building work the authorised officer may, in addition to the issuing of an Infringement Notice or commencement of a prosecution, issue a Notice to Comply directing the owner, the builder or (if known) the person responsible for causing the damage to repair the asset to the satisfaction of Council within a specified time.

Part 3 Inspections

8. *Inspections*

An authorised officer may at any reasonable time enter and inspect a building site for the purpose of ensuring compliance with any provision of, or a Permit issued under, this Local Law.

Part 4 Stormwater Protection

9. *Stormwater Protection*

- 1) Where any building work is being carried out on any land, the owner and the builder must ensure that the site is developed and managed to prevent stormwater pollution, through the contamination of run-off by chemicals, sediment, animal wastes or gross pollutants by adopting measures to:-
 - (a) Minimise the amount of mud, dirt, sand, soil or stones deposited in the abutting roads or washed into the stormwater system; and
 - (b) Prevent building cleanup, wash down or other wastes being discharged offsite or allowed to enter the stormwater system.

Part 5 Control of Builder's Refuse

10. *Containment of Refuse*

- 1) Where any building work is being carried out on any land, the builder must:-
 - (a) Provide a refuse facility for the purpose of disposal of builder's refuse and provided the facility contains all builder's refuse on the land to the satisfaction of Council, its size, design, and construction will be at the discretion of the builder.
 - (b) Place the refuse facility on the land and keep it in place (except for each such periods as are necessary to empty the facility) for the duration of the building works;
 - (c) Not place the refuse facility on any Council land, or Council asset other than in accordance with an Asset Protection Permit;
 - (d) Empty the refuse facility at the direction of an authorised officer or when the refuse facility is full and if necessary, provide a replacement refuse facility during the emptying process.

11. *Disposal of Builders Refuse*

- 1) During building work:-

- (a) The builder must ensure that all builder's refuse, which requires containment is placed in a refuse facility referred to in clause 10; and
- (b) The builder must ensure that builder's refuse is not deposited in, over or on any land other than in accordance with clause 10.
- (c) The builder must not allow any builder's refuse to be deposited in or over any part of the stormwater system.

12. Removal of Builder's Refuse

- 1) The builder must remove and lawfully dispose of all builder's refuse from the building site including, without limiting the generality of the above, the builder's refuse in the refuse facility referred to in Clause 10, within 7 days of either completion of the building work or issue of an occupancy permit or certificate of practical completion under the Building Act 1993, whichever occurs earliest.
- 2) Any vehicle involved in placing or removing builder's refuse facilities must not access the building site other than by way of a vehicle crossing or temporary vehicle crossing.

Part 7 Administration and Enforcement

13. Fees, Charges and Costs

- 1) Council may from time to time determine the fees and charges payable under this Local Law which may include an administrative fee or processing fee or charge.
- 2) The authorised officer may determine the amount of security bond required under this Local Law on a case by case basis but such security bond will not exceed the reasonable estimate of the repair of possible damage to Council's assets.

14. Offences

- 1) Where any provision in this Local Law prohibits any act or thing, any person who contravenes such provision is guilty of an offence.
- 2) Where any provision in this Local Law requires any act or thing to be done, any person who is required to do the act or thing but does not do it contravenes such provision and is guilty of an offence.
- 3) Where any provision in this Local Law requires that a person obtain a Permit before engaging in a particular activity, that person is guilty of an offence if that person engages in that activity without a Permit authorising that activity (unless the Council in its discretion has granted an exemption to the requirement for a Permit).

- 4) Where any Permit, or exemption from a Permit, issued under this Local Law contains any conditions, any person who contravenes or fails to comply with such a condition is guilty of an offence.

15. Power to Obtain Necessary and Additional Information

- 1) An authorised officer may require any applicant for a permit under this Local Law to provide additional information before dealing with an application for a permit or an exemption and for the purposes of administering and enforcing the provisions of this Local Law.
- 2) A person must not make any false representation or declaration (whether oral or in writing) in, or omit any relevant information from, an application for a permit or exemption under this Local Law.

16. Notice to Comply

- 1) Where an authorised officer is of the opinion that any person has failed to comply with any requirement under this Local Law, he or she may by serving a Notice to Comply in the form of Schedule 1 to this Local Law on the person, the owner, or the builder directing any owner, builder or other relevant person to remedy any situation that constitutes a breach of this Local Law.
- 2) A Notice to Comply, issued in accordance with this Clause, must state the situation to be remedied, the date by which the situation must be remedied and may include the time of day by which the situation must be remedied.
- 3) Any person served with a Notice to Comply must carry out any work required in the Notice to Comply and remedy the situation as required by the Notice to Comply within the time period as stated in the Notice to Comply.
- 4) If a person served with a Notice to Comply fails to carry out any work required in the Notice to Comply within the time specified in the Notice to Comply, Council may, in addition to any other action it may take, arrange the carrying out of the work by another person; or carry out the work itself and recover the cost of performing such work from the owner, builder or person as the case may be, as a debt due to the Council.
- 5) An owner, builder or any person served with a Notice to Comply may make representations to the Council about matters contained in the Notice to Comply.
- 6) The making of representations referred to in clause 5 above does not stay the operation of the Notice to Comply.

17. Power to Act in Urgent Circumstances

- 1) The Chief Executive Officer or his/her delegate may, where an owner, builder or any other person has failed to comply with any requirements of the Local Law, take action considered necessary to prevent any danger to the environment, people or animals or any nuisance arising, provided that:-
 - (a) In the reasonable opinion of the Chief Executive Officer or his/her delegate the circumstances are sufficiently urgent and that the time

necessary, or potential difficulty in serving a Notice to Comply may place a person or animal in danger, or cause damage or risk of damage to property or the environment;

- (b) Details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the owner, builder or other person as the case may be.
- 2) Action taken by Council under this Clause must not extend beyond what is reasonably necessary to cause the immediate abatement or removal of the risk or danger involved.
 - 3) Council may, in addition to taking any other action or proceedings which Council may be entitled to take, recover from the person to whom the Notice to Comply was served the costs of and incidental to the carrying out of the action under clause 1 above as a debt due to the Council.

18. Penalties

- 1) Any person who is found guilty by a court of an offence against this Local Law is liable to the penalty indicated in respect of that offence, or if no such penalty is indicated, a penalty of:
 - (a) 10 Penalty Units for a first offence; and
 - (b) 15 Penalty Units for any second or subsequent offence.

19. Giving of Information

Any person apparently in charge of any building work or any owner, builder or other person on a building site, or other person who has delivered material or equipment to a building site, must give his or her name and address to an authorised officer when requested to do so.

20. Infringement Notices

- 1) An authorised officer may serve an Infringement Notice in the form of Schedule 2 on a person who has committed an offence under this Local Law, requiring the person to pay the penalty for that offence within no less than 28 days of the issue of an Infringement Notice.
- 2) The penalty fixed for an Infringement Notice under this Local Law is 2 penalty units.
- 3) If the Infringement Notice is not withdrawn and the person either pays to the Council the amount referred to in the Infringement Notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, no conviction will be recorded against that person for the alleged offence.
- 4) All Infringement Notices, whether issued under the Local Government Act 1989 or some other empowering legislation are subject to the processes and procedures of the Infringements Act 2006, except that an Infringement Notice issued under any Local Law made pursuant to powers derived under the Local Government Act 1989, may not be lodged with the Infringements Court. This

means the penalties imposed by such Infringement Notices are enforced directly by prosecution in the Magistrates' Court.

- 5) The provisions of this Clause are to be read subject to the Infringements Act 2006 as amended from time to time.

21. *How is payment to be made?*

Any person issued with an Infringement Notice may pay the penalty indicated to the cashier at Rates Office of Mildura Rural City Council, 108 Madden Avenue, Mildura.

22. *When must the penalty be paid?*

To avoid prosecution, the penalty indicated should be paid within 28 days from the date of the issue of the Infringement Notice.

23. *Persons may disregard the Notice*

Any person issued with an Infringement Notice is entitled to disregard the Infringement Notice and defend the prosecution in court.

24. *Right to make representations*

- 1) Any person issued with an Infringement Notice may make a written representation to the authorised officer who issued the Infringement Notice within 28 days of the issue of the Infringement Notice.
- 2) The authorised officer must consider any written representations and any other relevant information brought to its or his or her attention within 28 days of the issue of the Infringement Notice to which it relates.
- 3) The authorised officer after considering any representation or other relevant information provided pursuant to this clause 23 may withdraw or amend the Infringement Notice.

25. *Withdrawing the Notice prior to prosecution*

- 1) After the expiry of 28 days from the issue of the Infringement Notice, Council may, at any time prior to payment in full of the amount referred to in the Infringement Notice, withdraw the Infringement Notice with a view to prosecuting for an offence.
- 2) Where an Infringement Notice has been partially paid and subsequently withdrawn, the person upon whom it was served is entitled to a refund of any payment, which that person has made on the Infringement Notice.
- 3) If the penalty referred to in an Infringement Notice has been paid within 28 days of its issue and no representation has been received by the Council or its officers or staff, no decision may be made to withdraw the Infringement Notice and

prosecute the offence after the expiry of 28 days from the issue of the Infringement Notice.

26. *Failure to comply with Notice*

If a person served with an Infringement Notice fails to pay the amount specified within 28 days of the issue of the Infringement Notice or such further time as Council or the authorised officer may permit, Council or the authorised officer may pursue the matter by prosecuting for the offence in a Magistrates Court.

NOTIFICATION

The Resolution for making the Local Law was agreed by the Mildura Rural City Council on the [] day of [] 20

Notices of the proposal to make this Local Law were published respectively in the:
.....on the.....day of.....Year.....(Government Gazette)

Notices of the proposal to make this Local Law where published respectively in the:.....on the.....day of.....Year (Newspaper).

Notices of the making of this Local Law where published respectively in the:.....on the.....day of.....Year (Government Gazette).

Notices of the making of this Local Law where published respectively in the:.....on the.....day of.....Year (Newspaper

A copy of this Local Law was forwarded to the Minister on the.....day of.....Year.....).

Local Law No 5 of the Mildura Rural City Council

Schedule No.1

Notice to Comply

To: (Name) _____

(Address)_____

The following constitutes a breach under Clause..... of Council's Local Law No 5:

To remedy the breach you must carry out the following work, by_____

_____ Date (and time if desired)

Work to be undertaken

You should contact_____ (contact officer) at the Municipal Officers, between the hours of 8.30am and 5pm for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of \$..... for the first/second or subsequent* offence and Council may proceed to carry out the work and you will be liable for the costs of carrying out that work.

Date_____ (insert date)

(Name of council officer) _____

Telephone No. _____

(Signature of council officer) _____

*strike out whichever is not applicable

Local Law No 5 of the Mildura Rural City Council

Schedule No.2

Infringement Notice

Date of Notice _____ No. of Notice _____

TO:

Surname: _____

Other Names: _____

Address (if known): _____

I, (full name of Council Officer) have reason to believe that you have committed an offence against clause (*insert relevant clause*) of Local Law no. (*insert relevant number*) of the Mildura Rural City Council as indicated below:

Clause	Nature of Infringement	Penalty Units

Date: _____

Time: _____

Location of alleged infringement: _____

The penalty indicated must be paid within 28 days of this Infringement Notice being (*insert date*).
If you fail to pay the penalty indicated by the specified due date Mildura Rural City Council may take further enforcement action being taken and you may incur further costs.

You may be eligible for a payment plan under section 46 of the Infringements Act 2006.

If you pay the penalty indicated within 28 days from the date of this notice at the Rates Office of Mildura Rural City Council, 108 Madden Avenue, Mildura, this matter will not be brought before a court.

You may make a written representation to the authorised officer who issued this Infringement Notice within 28 days of the issue of this Infringement Notice. Further information and information relating to eligibility for payment plans and applying for internal review can be obtained from—

_____ (i) *(a nominated telephone number)*;

_____ (ii) *(a designated address)*;

_____ (iii) *(website address)*;

You may elect to disregard this Notice and defend the prosecution in Court.



Mildura Rural City Council

APPLICATION FORM ASSET PROTECTION PERMIT

Owner's Name: _____

Address: _____

Telephone No: _____ Contact Name: _____

Property Address at which building works are to be undertaken:

Street No: _____ Lot No: _____

Street Name: _____ Suburb: _____

Builder's Name: _____

Address: _____

Telephone No: _____ Fax: _____ Mobile: _____

Type of Construction: _____

e.g New Dwelling, Residential Additions, House Demolition/Removal, Unit/ Commercial Development

Permit required for: temporary vehicle crossing/building materials-equipment outside allotment/refuse facility outside allotment

Signature of Builder: _____ Date: _____

Payee Name: _____

Asset Protection Permit	\$ _____
Security Deposit	\$ _____
TOTAL PAYABLE	\$ _____

NOTES:

Any damage attributed to removal/demolition or construction works which is not reinstated at the end of the building process will be carried out at the owner's expense and withdrawn from the security deposit and the balance refunded.

Council Local Law No.5 requires building works are not to commence prior to the issue of this permit. Failure to comply with the Local Law may result in \$1000.00 fine.

13.7 MILDURA WEST KINDERGARTEN CAR PARKING

File Number: 04/02/09
Officer: Acting General Manager Development

1. Summary

A petition for safer parking on Eight Street near the Mildura West Kindergarten was tabled at the November 26 Council meeting. Council is investigating solutions and will discuss options with the kindergarten.

2. Recommendation

That Council note an investigation into options for safer parking on Eighth Street near the Mildura West Kindergarten will be undertaken.

3. Background

The covering letter submitted with the petition expressed concerns around safety when parents are parking on the opposite side of the street and walking their children across the busy road. The street has trees down the centre of the road and parents are concerned these trees obstruct the view of motorists.

Mildura West Kindergarten is requesting angle parking within the nature strip be constructed in Eighth Street fronting the Kindergarten.

4. Discussion

Parking for parents and carers of Mildura West Kindergarten children is currently located at the rear of the kindergarten off Seventh Street as well as along both sides of Eighth Street.

Council engineering staff are assessing various options for improved parking and will discuss these with kindergarten representatives over coming weeks.

5. Time Frame

The aim is to have completed the option assessment and discussions with kindergarten representatives by the end of February 2016.

6. Strategic Plan Links

This report relates to the Council Plan in the Key Result Area:

1.1 Community Safety

Goals to be achieved:

- People feel safe
- People are safe

7. Asset Management Policy/Plan Alignment

There are no asset management implications associated with this report.

8. Consultation Proposed/Undertaken

Kindergarten Staff have been informed that Council staff are investigating options and will be consulted with options once completed.

9. Implications

Policy Implication

There are no policy implications associated with this report.

Legal/Statutory Implications

There are no legal/statutory implications associated with this report.

Financial Implications

There are no financial implications associated with this report.

Environmental Implications

There are no environmental implications associated with this report.

Social Implications

There are no social implications associated with this report.

10. Risk Assessment

By adopting the recommendation, Council will not be exposed to any significant risk.

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

12. Conclusion

Concern has been raised via a petition to Council as to the safety of parents and children crossing the road to attend the kindergarten. Options to improve parking efficiency for the kindergarten will be investigated, and this will include discussions with kindergarten representatives

Attachments

There are no attachments for this report.

14 URGENT BUSINESS

15 OTHER MATTERS

16 PUBLIC QUESTIONS

CONFIDENTIAL BUSINESS

Pursuant to Section 89(2) of the *Local Government Act 1989*, Council will resolve to move into confidential business to deal with:

17 CONFIRMATION OF CONFIDENTIAL MINUTES

18 CONFIDENTIAL REPORTS

18.1 SECTION 89(2)(D) – CONTRACTUAL MATTERS

- **TENDER AWARD - LANGTREE RAIL WORKS - 1516/20**

18.2 SECTION 89(2)(H) – ANY OTHER MATTER WHICH THE COUNCIL OR SPECIAL COMMITTEE CONSIDERS WOULD PREJUDICE THE COUNCIL OR ANY PERSON

- **AUDIT COMMITTEE MEETING 3/2015-2016 - MINUTES - 12 NOVEMBER 2015**

18.3 SECTION 89(2)(H) – ANY OTHER MATTER WHICH THE COUNCIL OR SPECIAL COMMITTEE CONSIDERS WOULD PREJUDICE THE COUNCIL OR ANY PERSON

- **AUDIT COMMITTEE CHARTER REVIEW 2015**

18.4 SECTION 89(2)(D) – CONTRACTUAL MATTERS

- **TENDER AWARD - SUPPLY OF ONE RIGID CAB CHASSIS WITH 19,000 LITRE WATER TANKER - CONTRACT 1516/3**

18.5 SECTION 89(2)(D) – CONTRACTUAL MATTERS

- **TENDER AWARD - SUPPLY OF ONE COMPACT STREET SWEEPER - CONTRACT 1516/8**

18.6 SECTION 89(2)(D) – CONTRACTUAL MATTERS

- **TENDER AWARD - PROVISION OF RECRUITMENT NEUTRAL
VENDOR MANAGED SERVICE (MUNICIPAL ASSOCIATION OF
VICTORIA PROCUREMENT) - RS8017-2015NV**

**18.7 SECTION 89(2)(H) – ANY OTHER MATTER WHICH THE COUNCIL OR
SPECIAL COMMITTEE CONSIDERS WOULD PREJUDICE THE COUNCIL
OR ANY PERSON**

- **CONSIDERATION OF NOMINATIONS FOR THE 2016 AUSTRALIA
DAY AWARDS**

19 CLOSURE