

MOUNT ALEXANDER SHIRE COUNCIL

**ANNUAL PLAN  
2018/2019**



# Quarterly Annual Plan Report 2018/2019 – Q4

The Annual Plan outlines the actions for 2018/2019 that will implement priorities from the Council Plan 2017-2021. It was adopted by Council on 17 July 2018.

This report provides a quarterly update on the progress of each action.

The actions have been presented under each of the pillars:

## >> OUR PEOPLE

Population | Health | Wellbeing | Support | Resilience | Partnerships |  
Social services | Connections

## >> OUR PLACE

Buildings | Sport and recreation facilities | Roads | Footpaths | Drainage |  
Trails | Playgrounds | Gardens | Natural environment | Waste | Recycling |  
Heritage

## >> OUR ECONOMY

Business | Economy | Jobs | Education | Creativity | Innovation | Tourism |  
Culture | Events



## OUR PEOPLE

Population | Health | Wellbeing | Support | Resilience | Partnerships | Social services | Connections

### Socially connected, safe and inclusive communities

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Reconciliation Action Plan	Create a Reconciliation Action Plan in consultation with the local indigenous community, service providers and Reconciliation Victoria.	Operating	30/06/2019	Ongoing	50%	Review to be undertaken due to potential alignment with a Treaty following discussions with Dja Dja Wurrung Clans Aboriginal Corporation.
AP1819	Off-lead Dog Park	Complete construction of an off-lead dog park in Campbells Creek.	\$60,000	31/03/2019	Commenced	20%	Site option assessment completed and presented to Council. A preferred site has been selected and work will commence to complete permit/approval process and source quotations.

### Local services that support the needs of our community

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Youth Mental Health	Develop resources to support young people (12-25 years) to access mental health services and support.	Operating	31/05/2019	Completed	100%	Youth Mental Health First Aid training for teachers at Castlemaine Secondary College delivered in December 2018.
AP1617	Recreation Strategy	Develop a Recreation Strategy including reviewing governance arrangements.	\$30,000	31/05/2017	Completed	100%	Resourcing Recreation was endorsed at the June Council Meeting and has been distributed to stakeholders

### Improved health and wellbeing

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Aged Care Reforms	Establish a position on Council provided aged and disability services in response to the Federal Government Aged Care reform changes.	Operating	30/04/2019	Completed	100%	Council has supported decision to continue services to 30 June 2020. No decision regarding aged care service provision has been made post 30 June 2020.

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1718	Volunteer Coordination	Facilitate all volunteer coordinators in Council to review policies and procedures to ensure compliance with new Australian Volunteer standards	Operating	30/06/2018	Commenced	5%	This has not progressed over the quarter and is being incorporated into the strategic document framework project.

#### A welcoming place for all

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Social Housing Feasibility	Deliver a State Government funded project to investigate the feasibility of using Council land for developing social housing.	\$140,000	30/06/2019	Commenced	60%	A demand analysis and issues paper has been undertaken. Next step is to decide on a suitable site.
AP1819	Accessible Parking	Upgrade of accessible parking spaces to comply with Australian standards.	\$86,000	31/01/2019	Ongoing	25%	Construction commenced on 24 June 2019. Forecast completion by 26 July 2019.

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Managing volunteers during emergencies	Develop a plan to ensure appropriate coordination of volunteers, particularly spontaneous volunteers, in the preparedness, response and recovery phases of an emergency event.	Operating	31/12/2018	On Hold	35%	Standard Operating Procedure for the Northern Victorian Emergency Management to be developed. Expected completion is December 2019.
AP1718	Retirement Accommodation	Develop a profile of demand and opportunities for retirement accommodation that could be met by private and/or community-owned and operated facilities for Council approval as a precursor to a marketing campaign.	Operating	31/12/2017	Commenced	25%	A consultant is currently engaged in report preparation which is scheduled for completion by August 2019. An update will be provided to Council on completion of the report.
AP1718	Create resilient communities	Develop and implement Municipal Fire Education/Engagement Plan in partnership with Mount Alexander Municipal Fire Management Planning Committee.	Operating	28/02/2018	Commenced	80%	Draft Mount Alexander Municipal Fire Management Risk Analysis Engagement Strategy is currently being finalised. Final strategy due for completion in July 2019.

## OUR PLACE

Buildings | Sport and recreation facilities | Roads | Footpaths | Drainage | Trails | Playgrounds | Gardens | Natural environment | Waste | Recycling | Heritage

### Well managed assets for now and into the future

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Castlemaine CBD Streetscape Design Works	Complete detailed design works for the Castlemaine Streetscape project.	\$216,000	30/06/2020	On Hold	Concept Design 95%  Implementation 5%	No progress is intended this financial year whilst the streetscape concept plan is being finalised. Concept plan is scheduled to be presented to Council by September 2019.
AP1819	Small Towns Streetscape Planning	Work with the community planning groups of Newstead, Campbells Creek, Chewton, Guildford, Taradale and Elphinstone to implement selected actions from the streetscape plans.	\$100,000	30/06/2019	Commenced	10%	Seeking external opportunities to fund works. Currently planning delivery of some elements to begin with Council funding in coming months.
AP1819	Tree Management	Conduct data	\$120,000	31/12/2018	Commenced	25%	A revised

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
		collection on park trees including the identification, recording and assessment of tree health.					timeframe has been developed due to insourcing this project which allows for the scope to be expanded at no additional cost. Data collection is progressing and expected completion is April 2020.
AP1819	Victory Park Play Space	Construct an accessible play space for Victory Park, Castlemaine.	\$326,000	31/03/2019	Commenced	60%	Construction of play space commenced in May and is expected to be completed in October 2019.
AP1819	Gravel Roads Review	Develop a position on the prioritisation and proposed construction methods of gravel roads.	Operating	28/02/2019	Completed	100%	Review completed and presented to Councillors in February 2019.



Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Wesley Hill Recreation Reserve – Stage 2	Complete the construction of a multi-use pavilion at Wesley Hill Recreation Reserve.	\$2.43M	31/03/2019	Completed	100%	Project completed and facility now in use. Handover to committee occurred in January 2019.
AP1819	Wesley Hill Recreation Reserve – Lighting	Install floodlights at Doug Powell Reserve, Wesley Hill Recreation Reserve.	\$400,000	31/03/2019	Commenced	80%	Three of the four light towers now installed and operational. Installation of the fourth tower is dependent on the outcome of a telecommunications tower planning permit approval.
AP1718	Road Asset Management Plan	Review and adopt an updated road asset management plan.	Operating	30/05/2018	Commenced	80%	The Road Asset Management Plan will be presented to Councillors in late 2019

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1617	Depot feasibility study	Undertake a feasibility study and review options for the current works Depot.	\$40,000	31/05/2017	Commenced	95%	A new site has been identified and preliminary due diligence undertaken. Further concept and cost planning is required.

### A clean and green community

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Carbon Neutrality	Develop a Carbon Neutrality Roadmap to achieve Council's adopted carbon neutrality targets.	Operating	30/05/2019	Ongoing	30%	A draft Options Paper has been prepared. Feasibility analysis of identified actions has commenced.
AP1819	Resource Recovery Centre	Finalise the business case of a new Resource Recovery Centre at the Castlemaine Waste Facility, and subject to Council approval, commence implementation.	Capital	30/06/2019	Commenced	5%	The Resource Recovery Centre Development Plan will be presented to Councillors in early 2020.

## Well planned for growth

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Harcourt Development Plan	Preparation of a Developer Contribution Plan for Harcourt.	\$40,000	30/06/2019	Commenced	10%	Council officers have commenced scoping this project and will soon commence a process to appoint a qualified consultant to prepare a Developer Contribution Plan for Harcourt. This project will be undertaken in parallel to Plan Harcourt.
AP1819	Design Guidelines	Preparation of updated Maldon Design Guidelines.	Operating	30/06/2019	Commenced	70%	An updated version of the Maldon Design Guidelines is in development and will be exhibited to the community in late 2019. A subsequent planning scheme amendment will seek to incorporate the Guidelines into the Planning Scheme.

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1718	Municipal Strategic Statement	Review Council's Municipal Strategic Statement.	Operating	30/06/2018	Commenced	95%	A draft report has been completed and will be presented to Councillors in August 2019. When adopted by Council, the review will be submitted to the Minister for Planning.
AP1718	Castlemaine Botanical Gardens	Develop a Conservation Management Plan for the Castlemaine Botanical Gardens.	\$24,750	30/06/2018	Commenced	95%	Currently assessing feedback from the community. Anticipate presenting to Council for adoption in September 2019.

## OUR ECONOMY

Business | Economy | Jobs | Education | Creativity | Innovation | Tourism | Culture | Events

### A creative and innovative economy

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Harcourt Play Space Design	Complete the Stanley Park North plan and play space design.	\$64,800	31/03/2019	Commenced	70%	Community consultation on draft design now complete and final design is underway. Draft design endorsed by community working group and Council.
AP1819	Maldon Streetscape Project	Work with project partners to develop the business case, complete detailed design and identify funding opportunities for the Maldon Rejuvenation Project.	\$195,000	31/03/2019	Commenced	35%	Project currently in consultation phase with Maldon property and business owners. Draft business case scheduled for review by steering committee in August 2019.
AP1819	Phee Broadway Theatre Upgrade	Undertake functionality and safety works at Phee Broadway Theatre.	\$50,000	31/03/2019	Commenced	80%	Works well underway, with improved functionality for State Festival. Final works to be completed in July 2019.

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1718	Regional tourism website	Work with Bendigo Regional Tourism to develop a new website to promote the region.	Operating	30/04/2018	Commenced	90%	Regional tourism website is now live and undergoing testing in this environment, before a full launch in early July 2019.

#### Great opportunities for education and technology

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Education Opportunities	Advocate for improved access to education for all ages.	Operating	30/06/2019	Commenced	100%	Council continues to advocate for improved services to education across the Shire. Opportunities have also been sought through implementation of an Early Years Plan and membership on GLENN Committee of Management.

## An innovative and sustainable organisation

Year	Project Name	Description	Budget	Target Completion Date	Status	Progress	Comments
AP1819	Local Government Act	Implement changes (as required) due to the adoption of an updated Local Government Act.	Operating	30/06/2019	On Hold	0%	The State Government has just recommenced a review of the Act. Action by Council is pending adoption of the new Act and the timeline for this is currently unknown.
AP1718	Innovation program	Deliver a program to promote an innovative culture within Council's workforce.	Operating	30/06/2018	Commenced	100%	Culture Framework launched by CEO at All Staff meeting on 2 May 2019. The Leadership team is in the process of implementing the Framework. A survey to determine development priorities of the coordinators/team leaders has been completed. This is an ongoing program.
AP1718	Customer Service Charter	Review our Customer Service Charter	Operating	30/06/2018	Ongoing	75%	The Customer Service Charter draft has been updated and is being reviewed by Governance. Once completed, it will be incorporated into the Community Engagement Framework, which is also in draft.





Date

2019

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**MOUNT ALEXANDER SHIRE COUNCIL**

**AND**

**WORKSPACE AUSTRALIA LIMITED**

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**SUB-LEASE OF PREMISES**

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**Jennings Law & Conveyancing**  
21 Wills Street  
Bendigo VIC 3550  
PO Box 63  
Bendigo VIC 3550  
Ref: CS:12607

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ANNEXURE A

PLAN

## **Deed of Sub-Lease of premises**

### **BACKGROUND**

The Hon. James Merlino, MP, Minister for Education for and on behalf of the Crown and in the right of the State of Victoria Leased the Premises to the Sublessor pursuant to the Head Lease.

The Sublessor Sub-Leases the Premises to the Sublessee on the terms and conditions herein contained and the Landlord has given its consent to the Sub-Lease.

## Background

### 1. Definitions and Interpretation

#### 1.1 Definitions

In this Sub-Lease, unless the context otherwise requires:

**Act** means the *Retail Leases Act 2003* (Vic).

**Associates** means any officer, employee, agent, contractor, subcontractor, consultant, advisor, invitee, licensee or servant, to the extent that such person or entity is performing an act or a function directly related to the Sub-Lease and, in the case of the Sublessor, any other person, committee or delegate (including any Government Agency or statutory body corporate or committee for the time being responsible for the administration, care and management of the Land) from time to time responsible for carrying out functions, including the functions of the Sublessor, under this Sub-Lease.

**Authorised Representative** means the person, whose details are set out at Item 19 of the Schedule, authorised by a party to give and receive Notices on its behalf.

**Business Day** means any day that is not a Saturday, Sunday or a public holiday in Melbourne, Victoria specified under the *Public Holiday Act 1993* (Vic).

**Claim** includes any claim, demand, remedy, suit, injury, damage, Loss, Cost, Liability, action, proceeding and right of action.

**Clean Up Notice** means any notice issued under the Environment Protection Act requiring the monitoring, abatement, remediation or rectification of any adverse Environmental condition including without limitation noise, vibration, radiation, odour, contamination, pollution or presence of waste.

**Commencement Date** means the commencement date of this Sub-Lease set out in Item 7 of the Schedule.

**Common Area** means the areas of the Land that are licensed for common use, being the areas denoted as such on the Plan, and such access routes as are reasonably required to access the Additional Area and the Excluded Area **[DET to mark common areas (other than access routes) on the Plan]**

**Condition Report** means the report attached to this Sub-Lease at Attachment 2.

**Contaminant or Contamination** means anything (including a solid, a liquid, a gas, an odour, temperature, sound, vibration or radiation) which makes or may make the Premises, the Land or the Environment:

- (a) unsafe or unfit for humans or animals;
- (b) degraded in any way including in its capacity to support plant life;
- (c) materially diminished in value; or

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- (d) assessable as being in a condition that contravenes the *Environment Protection Act 1970*.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Cost** includes any cost, charge, expense, outgoing, payment or other expenditure of any nature.

**Department** means the Department of Education and Training of the State of Victoria, or such other Department of the State responsible to the Minister.

**Dispute Notice** means a notice in writing given by either party to the other setting out details of a dispute that has arisen in relation to this Sub-Lease between the Sublessor and Sublessee.

**Environment** means the physical factors of the surroundings of, human /non-human life forms, including without limitation the land, soil, plants, habitat, waters, atmosphere, climate, sounds, odours, tastes, biodiversity and the social and aesthetic values of landscapes.

**Environment Protection Act** means the *Environment Protection Act 1970*.

**Excluded Area** means that part of the Land denoted as such on the Plan.

**Expert** means the expert appointed by the President of the Law Institute of Victoria from time to time.

**Expiry Date** means the last day of the Term.

**Further Term** means the further term(s) set out in Item 8 of the Schedule.

**Government Agency** means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity or authority and includes a Minister of the Crown or the Commonwealth of Australia and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

**GST** means the Goods and Services Tax as defined in the GST Act.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended).

**Head Lease** means the Lease entered into between The Hon. James Merlino, MP, Minister for Education for and on behalf of the Crown and in the right of the State of Victoria and the Sublessor on [date].

**Improvements** means any buildings, structures, rail infrastructure, paving, earthworks, fences, fixtures and fitting and other works and items that are erected, constructed or located above or below the Premises.

**Insolvency Event** means if the Sublessee:

- (a) unlawfully stops or suspends payment of all or a class of its debts;
- (b) is insolvent within the meaning of section 95A(2) of the Corporations Act;

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- (c) fails to comply with a statutory demand (within the meaning of section 459F(1) of the Corporations Act) unless the debt to which the statutory demand relates is discharged within 15 Business Days of the date of the failure or the statutory demand is set aside;
  - (d) has an administrator appointed over all or any of its assets or undertakings;
  - (e) has a controller within the meaning of section 9 of the Corporations Act or similar officer appointed to all or any of its assets or undertaking;
  - (f) has an application or order made, proceedings commenced, a resolution passed, an application to a court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up or dissolution or for it to enter into an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them; or
  - (g) has any step taken to enforce security over or a distress, execution or other similar process levied or served out against the whole or any of its assets or undertakings,

or any event occurs which, under the laws of any relevant jurisdiction, has an analogous or equivalent effect to any of the events listed above.

**Invitees** means any person authorised to enter the Premises by the Sublessee, by any Sublessee or by any licensee, including the Sublessee's Associates.

**Item** means an item of contained in the Schedule.

**Land** means the land described in Item 5 of the Schedule. and all rights, easements and appurtenances usually enjoyed with that land.

**Landlord** means the Landlord specified in Item 1 of the Schedule and includes, where appropriate, its employees or agents or other authorised persons.

**Law** means:

- (a) principles of law or equity established by decisions of courts within the Commonwealth of Australia;
- (b) statutes, regulations, by-laws, ordinances, orders, awards, proclamations and local laws of the Commonwealth, State of Victoria, any local government or a Government Agency;
- (c) the Constitution of the Commonwealth;
- (d) binding requirements and mandatory approvals (including conditions) of the Commonwealth, the State of Victoria or a Government Agency which have the force of law;



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- (e) the National Construction Code, which incorporates the Building Code of Australia; and
  - (f) guidelines of the Commonwealth, the State of Victoria or a Government Agency which have the force of law.

**Liability** means any debt, obligation, Cost, expense, Loss, damage, compensation, charge or liability of any kind, including those that are prospective or contingent and those which are not yet ascertainable.

**Lease Money** means the Rent, Outgoings, Rates and Taxes and all other money payable by the Sublessee to the Sublessor under this Sub-Lease.

**Loss** means any liability (including legal expenses) of any kind whatsoever and includes, but is not limited to, direct and indirect, consequential or special damage, loss of profits, loss of use, loss of revenue, anticipated revenue, interest or other claim arising from any cause whatsoever whether or not the loss, damage or claim is based on contract, statute, warranty, tort (including negligence), indemnity or otherwise.

**Market Rent** means the amount of the Rent determined for the Premises by the Valuer-General at the Review Date.

**Minister** means the Minister for Education (Schools) in right of the State of Victoria, or such other Minister of the State administering the Act in connection with this subject matter.

**Ministerial Determination** means the determination made by the Minister for Small Business under section 5(1)(c) of the *Retail Leases Act 2003* dated 6 October 2014.

**Notice** means a notice, consent, approval or other communication given under this Sub-Lease.

**Outgoings** means all charges made for the supply and use of gas, electricity, water and excess water, telecommunications and other similar services on the Premises and other utilities exclusively used in or charged against the Premises, and includes the cost of repairing and maintaining any mechanical services, plant or equipment from time to time utilised for accessing the Premises.

**Permitted Use** means the use of the Premises as specified in Item 13 of the Schedule.

**Plan** means the plan attached to this Sub-Lease at **[to be inserted]**.

**Premises** means the premises described in Item 4 of the Schedule.

**Rates and Taxes** means all existing and future rates (including any special rates or levies, including without limitation the fire services property levy and the congestion levy), taxes (including land tax on a single holding basis but excluding any income based tax), duties, charges, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the Land or in connection with the Land.

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**Rent** means the rent specified in Item 10 of the Schedule as varied from time to time under this Sub-Lease.

**Requirement** includes any lawful notice, order or direction received from or given by any Government Agency or pursuant to any Law, in writing or otherwise, and notwithstanding to whom such Requirement is addressed or directed, but if not addressed to the Sublessee, the Sublessee must be given a copy.

**Review Date** means the review date(s) specified in Item 11 of the Schedule..

**Review Notice** means a notice of the Market Rent given by the Sublessor to the Sublessee.

**Review Period** means the period following each Review Date until the next Review Date or until the end of this Sub-Lease.

**Schedule** means any schedule(s) appended to this Sub-Lease.

**School** means the Castlemaine Secondary College, or any other school operating on the Land under the *Education and Training Reform Act 2006* (Vic).

**School Program** means any program delivered by the School or the State in relation to the School, including the provision of education and extra-curricular activities for students of the School.

**Security Deposit** means the security deposit referred to in clause 23 for the amount specified in Item 14 of the Schedule.

**Small Business Commissioner** means the Commissioner appointed pursuant to the Act.

**State** means the Crown in right of the State of Victoria.

**Sub-Lease** means this Sub-Lease and includes all schedules, appendices, attachments, plans and specifications, annexures and exhibits to it.

**Sublessee** means the Sublessee specified in Item 3 of the Schedule, and includes, where appropriate, its employees or agents or contractors or other authorised persons.

**Sublessee's Improvements** means all items, plant machinery, equipment and installations in the Premises owned or Sub-Leased by the Sublessee.

**Sublessor** means the Sublessor specified in Item 2 of the Schedule and includes, where appropriate, its employees or agents or other authorised persons.

**Supplier** means the party who gives a *taxable supply* under this Sub-Lease (where the expression in italics has the meaning given in the GST Act).

**Term** means the period of this Sub-Lease specified in Item 6 of the Schedule, including any extension of it or any further period during which the Sublessee has possession of the Premises.

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**Utilities** means any utility charges for the Premises including:

- (a) garbage removal;
- (b) electricity;
- (c) gas;
- (d) sewerage;
- (e) water; and
- (f) telecommunications services;

**Valuer-General** means the holder of the office of Valuer-General under the *Valuation of Land Act 1960*.

**Valuer** means a valuer appointed by the Small Business Commissioner pursuant to section 37 of the Act.

**Working With Children Check** has the meaning given to that term under the *Working with Children Act 2005*.

**Workspace Australia** means Workspace Australia Ltd ACN 082 819 770.

## 1.2 Interpretation

In this Sub-Lease, unless the context otherwise requires:

- (a) a reference to this Sub-Lease or any other document referred to in this Sub-Lease includes any variation or replacement of any of them;
- (b) the Sublessor includes its executors, administrators, successors, and assigns and for the purpose of giving any notice under this Sub-Lease the managing agent appointed by the Sublessor from time to time;
- (c) the Sublessee includes its executors, administrators, successors and assigns;
- (d) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) the singular includes the plural and vice versa;
- (f) headings are for guidance only and are to be ignored in interpreting this Sub-Lease;
- (g) a reference to a person includes a firm, a body corporate, an unincorporated association or a responsible authority, as constituted from time to time;

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- (h) any provision of this Sub-Lease to be performed by 2 or more persons shall bind those persons jointly and severally;
  - (i) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes, assigns, employees, servants, agents, consultants, contractors, advisers, financiers, subcontractors, licensees and invitees;
  - (j) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
  - (k) words importing any gender include all other genders, as applicable;
  - (l) a reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it, and a reference to a group of persons is a reference to any one or more of them;
  - (m) a reference to a recital, clause, item, schedule or annexure is to a recital, clause, item, schedule or annexure in or to this Sub-Lease, unless a contrary intention is expressed;
  - (n) day means the period of time commencing at midnight and ending 24 hours later;
  - (o) any reference in this Sub-Lease to a month or monthly shall mean respectively calendar month and calendar monthly;
  - (p) the payment of money within a specified time is a reference to the full clearance of any personal cheque into the account of the payee within that time;
  - (q) words, phrases or participles derived from a defined word have a corresponding meaning;
  - (r) 'dollars' or '\$' refers to Australian currency;
  - (s) a reference to any professional body, association or institute includes any succeeding body, association or institute with similar objects;
  - (t) a covenant, promise, undertaking or agreement by the Sublessee to perform or refrain from performing some act or thing, includes a covenant by the Sublessee to procure that its employees, officers, agents, contractors and servants also perform or refrain from performing such act or thing;
  - (u) no rule of construction will apply to disadvantage a party because that party proposed a provision of this Sub-Lease or the Sub-Lease itself;
  - (v) if anything to be done under this Sub-Lease falls on a day which is not a Business Day, it must be done on the next Business Day

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- (w) in respect of any warranty given by the Sublessee under this Sub-Lease, the Sublessee indemnifies the Sublessor and the Sublessor's Associates for any reasonably foreseeable Loss, damage or expense arising out of or associated with a breach of that warranty;
  - (x) responsibility and risk allocations for Contamination and the Environment are effective to the extent that the Law permits; and
  - (y) reference to any authority, institute, association or body whether statutory or otherwise shall in the event of any such authority, institution, association or body ceasing to exist or being reconstituted renamed or replaced or the powers or functions thereof being transferred to any other organisation be deemed to refer respectively to the organization established or constituted in lieu of or replacement for or which serves substantially the same purpose or objects of such authority institute association or body.

## **2. Grant of Sub-Lease**

The Sublessor grants to the Sublessee a Sub-Lease to occupy the Premises for the Term beginning on the Commencement Date, subject to:

- (a) the terms and conditions of this Sub-Lease;
- (b) the encumbrances affecting the Land; and
- (c) any reservations in favour of the Landlord or Government Agencies set out in this Lease.

## **3. Moratorium**

To the extent permitted by Law, the application to this Sub-Lease or to any party of any Law, or any Requirement or moratorium having the effect of extending or reducing the Term, reducing or postponing the payment of the Rent or any part of it or otherwise affecting the operation of the terms of this Sub-Lease or its application to any party is excluded and hereby expressly negated.

## **4. Precedence**

Any special condition set out in Schedule 2 overrides any other provision of this Sub-Lease to the extent of any inconsistency.

## **5. Sublessor Delegation**

- (a) The Sublessor may delegate any power, function or responsibility which the Sublessor has under this Sub-Lease or elect to perform or exercise such power, function or responsibility personally.
- (b) Any such delegation may be:
  - (i) revoked, changed or sub-delegated; and

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- (ii) limited or may be subject to such conditions as the Sublessor determines from time to time.
  - (c) Where the Sublessor delegates any powers, functions or responsibilities under this Sub-Lease to an individual, the Sublessor must give notice of such delegation to the Sublessee including the identity and address of any person to whom such powers, functions or responsibilities are delegated and any changes in the identity and address of such person. The notification by the Sublessor may contain details of the delegation of any powers, functions or responsibilities. Where such notice has been given by the Sublessor, the Sublessee is entitled to rely upon such notice unless and until given notice of revocation of that delegation.
  - (d) The Sublessee is entitled to request details of the delegation of any power, function or responsibility under this Sub-Lease where a person purports to be acting under such a delegation. Once the Sublessee obtains such details, it is entitled to rely on them unless and until given notice of the revocation of that delegation.
  - (e) Any person to whom powers, functions or responsibilities are delegated by the Sublessor has, subject to the extent of that delegation and compliance with the terms of such delegation, the full power and authority to act for and on behalf of and to bind the Sublessor under this Sub-Lease.

## **6. Negotiation and Disclosure requirements**

### Negotiation for Sub-Lease

If the Act applies to this Sub-Lease, the Sublessee acknowledges receiving from the Sublessor:

- (a) A copy of other proposed Sub-Lease; and
- (b) A copy of the Information brochure about retail Leases published by the Small Business Commissioner

as soon as the Sublessee entered into negotiations with the Sublessor.

## **7. Rent**

The Rent applicable on the Commencement Date is set out in Item 10 of the Schedule. Where applicable, the Rent will be reviewed periodically in accordance with the arrangements set out in clause 8 and Item 11 of the Schedule.

The Sublessee must pay the Rent to the Sublessor at the Sublessor's address specified in Item 2 of the Schedule (or to any other address or in any other way the Sublessor Notifies to the Sublessee).

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## **8. Rent and rent reviews**

### **8.1 Rent**

The Sublessee must pay the Rent to the Sublessor without demand in accordance with the manner specified in Item 10 of the Schedule or such other manner specified by the Sublessor from time to time.

### **8.2 Payment requirements**

- (a) The Sublessee must pay all amounts due under this Sub-Lease to the Sublessor without setoff or deduction.
- (b) In the event that the Sublessee does not pay any amounts owing to the Sublessor by the due date, the Sublessee must, upon demand by the Sublessor, pay interest at the Rate.

### **8.3 Security Deposit**

The Sublessee will pay to the Sublessor the Security Deposit in the amount specified in Item 14 of the Schedule and the Sublessor may use any amount of the Security Deposit if the Sublessee does not perform its obligations under this Sub-Lease.

### **8.4 Percentage Rent Increase**

On each Percentage Rent Increase Date, except for Rent Review Date(s), the Rent will be increased by the Percentage Rent Increase Amount and the Sublessee must pay the increased Rent to the Sublessor irrespective of whether the Sublessor has notified the Sublessee of the increased Rent amount.

### **8.5 Rent Review**

- (a) At any time before a Rent Review Date, the Sublessor may give notice to the Sublessee of the Sublessor's assessment of the market rent for the Premises to apply from the Rent Review Date.
- (b) If the Sublessee objects to the Sublessor's assessment of the market rent, the Sublessee must, within fourteen (14) days of receiving the notice referred to in clause 8.5(a), given written notice of its objection to the Sublessor. In the event that the Sublessee does not given written notice to the Sublessor in accordance with this clause 8.5(b), the Sublessee will be deemed to have accepted the Sublessor's assessment of the market rent.
- (c) If the Sublessee objects to the Sublessor's assessment of the market rent, the new Rent must be determined by the Valuer

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who will act as an expert and the Valuer's decision will be binding upon the parties.

- (d) The parties may make written submissions to the Valuer within 14 days of the Valuer's appointment.
- (e) The Valuer will determine the new Rent payable having regard to the matters contained in section 37(2) of the Act, within 45 days of his or her appointment as the Valuer.
- (f) The parties will jointly share the costs of the Valuer.
- (g) Until the new Rent has been agreed or determined by the Valuer, the Sublessee must continue to pay the rent at the rate assessed by the Sublessor, with any necessary adjustments to be made after the new Rent has been agreed or determined by the Valuer.

## **9. Market Review of Rent**

- (a) If a Market Review Date is specified in Item 11 of the Schedule, the Sublessor may give, not earlier than six months before a Review Date, the Sublessee a Review Notice specifying the Market Rent to apply for the Review Period.
- (b) The Valuer-General's decision in relation to the amount of the Market Rent is final and binds the parties.
- (c) In determining the Market Rent the Valuer-General must:
  - (i) have regard to the terms of this Sub-Lease including the Permitted Use;
  - (ii) disregard the value of the Sublessee's fixtures and fittings (except where the Sublessor has contributed to the cost of any such fixtures and fittings in which case the extent of the Sublessor's contribution must be recognised) and the goodwill of the Sublessee's business; and
  - (iii) determine a Market Rent which is not less than the Rent payable immediately before the relevant Review Period.

## **10. Reimbursement of Costs**

The Sublessee must reimburse the Sublessor within seven (7) days of demand for the Costs incurred in relation to the following (including legal expenses) on a full indemnity basis:

- (a) preparation, negotiation and execution of this Sub-Lease;
- (b) considering any request for consent or approval under this Sub-Lease (whether or not the consent or approval is granted);
- (c) lawful attempts to enforce this Sub-Lease against the Sublessee; and



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- (d) the Sublessee's breach of this Sub-Lease.

## 11. Rates and Taxes and Outgoings

- (a) Where the Premises have been separately assessed for Rates and Taxes and Outgoings, the Sublessee must pay the Rates and Taxes and all the Outgoings for the Premises:
  - (i) to the assessing Government Agency or the supplier on time if the Sublessee receives the assessment notice directly; or
  - (ii) otherwise, to the Sublessor by the date which is 10 Business Days before the due date for payment, if the Sublessee receives the assessment notice and has given the Sublessee a copy of the notice at least 10 Business Days before then.
- (b) If the Premises have not been separately assessed, the Sublessee must within 10 Business Days of demand reimburse the Sublessor for its share of the Rates and Taxes and the Outgoings:
  - (i) in the proportion that the total floor space of the buildings within the Premises bears to the total area of buildings on the land that is the subject of the assessment notice; or
  - (ii) as determined by the Sublessor using some other method acting reasonably (which the parties acknowledge, in relation to the Common Areas, is 50% as at the Commencement Date).
- (c) The Sublessee must, within 10 Business Days of demand, reimburse the Sublessor for 50% of the cost of maintenance, cleaning and repairs of the Common Area as at the Commencement Date.
- (d) If necessary, the Rates and Taxes, the Outgoings and the Sublessee's liability under clause 11(c) will be apportioned on a pro rata daily basis at the beginning and end of the Term.
- (e) The Sublessee will, if requested by the Sublessor provide copies of receipts for payment of the Rates and Taxes and Utilities.

## 12. Goods and services tax

- (a) An amount payable under this Sub-Lease by a party to the other party, in respect of a *supply* which is a *taxable supply*, represents the GST exclusive value of the *supply*.
- (b) The Sublessor shall provide the Sublessee with a tax invoice in relation to any taxable supply made to the Sublessee who shall pay to the Sublessor the applicable goods and services tax in addition to the cost of the supply.
- (c) Rent is exclusive of GST and it is payable in addition to the rent, unless rent is expressed to be inclusive of GST in the summary.
- (d) The Sublessor must pass on the benefit of any input tax credits received by the Sublessor in relation to any amount payable by the Sublessee to the Sublessor.

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- (e) In this clause, expressions set out in italics have the meaning given to those expressions in the GST Act.
  - (f) The party who receives a *taxable supply* under this Sub-Lease from the Supplier must, upon receipt of a *tax invoice* from the Supplier, pay GST to the Supplier in addition to the GST exclusive consideration for the *supply*.
  - (g) Any penalty or interest payable as a result of late payment of any GST payable under this Sub-Lease is payable by the party who causes the late payment.
  - (h) If the Supplier is entitled to an *input tax credit* for any GST recoverable from the other party under this Sub-Lease, the amount of GST payable by the other party is to be reduced by the amount of the *input tax credit* which the Supplier has received or is entitled to receive.

### 13. Use of Premises

- (a) The Sublessee must not use or allow the Premises or the Land to be used for:
  - (i) any purpose other than the Permitted Use; or
  - (ii) a purpose that is inconsistent with the Permitted Use.
- (b) The Sublessee acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the Sublessor regarding the suitability of the Premises for the conduct of the Permitted Use otherwise than as expressly contained in this Sublease, or for any other use.
- (c) The Sublessee must maintain all licences and permits as may be required to conduct the Permitted Use.
- (d) The Sublessee must ensure the Premises are kept secure, clean and free from debris and rubbish;
- (e) The Sublessee must not use the Premises for any illegal purpose or carry on any noxious or offensive activity on the Premises.
- (f) The Sublessee shall not use or permit to be used for other than their designed purposes any of the fixtures or fittings in the Premises or the estate.
- (g) The Sublessee must not store any objects in the Premises which are likely to cause damage to the Premises.
- (h) The Sublessee must not do anything at the Premises which may cause a nuisance or interfere with any other person or be dangerous or offensive in the Sublessor's reasonable opinion.
- (i) The Sublessee must not install any fixtures or fittings, except for those necessary for the Permitted Use, and subject to the

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Sublessor's prior written consent (but such consent will not be necessary for internal installations that do not require any structural alterations to the Premises, provided that these installations are carried out in compliance with all Laws and after obtaining all necessary planning and building approvals from the relevant Government Agency).

- (j) The Sublessee shall secure the Premises against unauthorised entry at all times when the Premises are left unoccupied and the Sublessor reserves the right by its servants and agents to enter upon the premises and fasten same if the Premises are left unsecured.
- (k) The Sublessee must not erect, display, affix or exhibit on or at the Premises any signs that:
  - (i) identify a business, commercial project or activity (which will be taken to include the programs and activities of the Mount Alexander Shire Council pursuant to the Permitted Use) and/or require a planning and/or building permit from the relevant Government Agency without obtaining the prior consent of the Sublessor (which may be granted or withheld in the Sublessor's absolute discretion, and if granted, may be made subject to conditions), excluding signs used purely to provide directions within the Premises; or
  - (ii) generally, contravene any applicable Law or have a surface area of more than 3 metres in total, excluding signs used purely to provide directions within the premises.

#### **14. Sublessor may carry out works on the Premises**

- (a) The Sublessor may carry out any works on the Premises, that are contained in the disclosure statement or that were otherwise specifically drawn to the attention of the Sublessee before this Sub-Lease was entered into.
- (b) The works may include:
  - (i) demolishing and/or reconstructing any part of the Premises;
  - (ii) extending or reducing the size of the Premises;
  - (iii) renovation or refurbishment;
  - (iv) altering the size, location, composition and arrangement of any parts of the Premises
  - (v) altering the size, location, composition and arrangement of the common areas; and
  - (vi) altering the means of access to the Premises.
- (c) If the Sublessor employs reputable contractors or tradespeople to carry out the works and if they do so during hours and using methods

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and practices that are not unusual for work of the kind they are doing, the Sublessor will not be in breach of the Sub-Lease, will not be liable to the Sublessee for nuisance, negligence, any other tort or any other breach of the Sub-Lease for carrying out the works or for anything related to doing so and will not be liable to pay compensation to the Sublessee.

## 15. Compliance with Laws

- (a) The Sublessee must at its own expense in all respects observe and comply with all Laws that apply to this Sub-Lease and all directions, notices and Requirements of any Government Agency relating to the development, construction, use and occupation of the Premises, and any other use or development which the Sublessee may undertake on the Premises.
- (b) The Sublessee must keep in force and available for inspection by the Sublessor all licences, permits and registrations required for the carrying on of any business use or other activity conducted by the Sublessee in or upon the Premises.

## 16. Improvements

- (a) The Sublessee acknowledges that:
  - (i) subject to clause 34, at the end of this Sub-Lease, all improvements financed and constructed on the Premises by the Sublessee will be owned by the Sublessor; and
  - (ii) subject to clause 34, until the Sub-Lease comes to an end, all improvements constructed by the Sublessor on the Premises will be owned and maintained and may be depreciated by the Sublessee.
- (b) The Sublessee must not and must not permit any other person to construct on the Premises:
  - (i) without the Sublessor's prior written consent, any improvements that:
    - (A) require planning and/or building approvals from a Government Agency; or
    - (B) cost more than \$5,000 to construct; and
  - (ii) generally, any improvements that are not in compliance with Laws or without obtaining all necessary planning and building approvals from the relevant Government Agency.
  - (iii) The Sublessee must promptly:
    - (A) notify the Sublessor of all improvements constructed on the Premises that did not require the consent of the Sublessor under this clause 16; and

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- (B) provide the Sublessee with copies of any planning and/or building approvals or certificates of compliance (or similar) issued by a Government Agency in relation to the construction or completion of improvements on the Premises by the Sublessee.
- (c) In seeking the Sublessor's consent, the Sublessee must submit any plans and specifications for the proposed improvements to the Sublessor for approval. If the Sublessor initially declines to grant consent, the Sublessee must re-submit revised plans and specifications for the Sublessor's consideration as many times as is reasonably required until the necessary consent has been granted.
- (d) The Sublessor may give consent on condition that:
- (i) in carrying out any improvements, the Sublessee complies with all reasonable directions of the Sublessor in accordance with the consent given by the Sublessor, and such directions may include Requirements in relation to materials and contractors or tradesmen to be used to construct the improvements;
  - (ii) any improvements are completed promptly and continuously in a proper and workmanlike manner, in accordance with all Laws and Requirements and the terms of the consent given by the Sublessor;
  - (iii) the Sublessee pays on demand all Costs incurred by the Sublessor in considering or inspecting the improvements and their supervision, including the reasonable fees of architects, engineers or other building consultants reasonably engaged by or on behalf of the Sublessor for this purpose;
  - (iv) the Sublessee obtains, maintains and complies with the terms of any approvals or permits from Government Agencies which are required in connection with the proposed improvements, and must on request by the Sublessor produce for inspection copies of all such approvals and permits;
  - (v) within 30 days of completion of the improvements, the Sublessee produces to the Sublessor, copies of any unconditional certificates of compliance or satisfactory completion issued by relevant Government Agencies and a certificate by a consultant approved by the Sublessor that the improvements have been carried out in accordance with the plans and specifications approved by the Sublessor; and
  - (vi) the improvements are completed within the time period (if any) reasonably specified by the Sublessor.

## 17. Construction Works

- (a) If the Sublessee undertakes any construction works, within the meaning of that phrase in regulation 321 of the *Occupational Health and Safety Regulations 2017* at the Premises, having a value in excess of \$350,000.00 (**Construction Works**), the Sublessor hereby

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appoints the Sublessee as the Principal Contractor in accordance with regulation 333(1)(a) of the *Occupational Health and Safety Regulations 2017* for the relevant Construction Works.

- (b) The Sublessee hereby acknowledges and accepts its appointment as Principal Contractor, and covenants to discharge the obligations of a Principal Contractor contained in the *Occupational Health and Safety Regulations 2017*, and accepts all liability in respect thereof.
- (c) The Sublessee hereby acknowledges that it has the management and control of the Premises, to the extent necessary to discharge the duties imposed on a Principal Contractor by the *Occupational Health and Safety Regulations 2017*.
- (d) Nothing in this clause 17 will prevent the Sublessee from appointing any other party as the Principal Contractor in respect of the Construction Works.
- (e) In this clause 17, 'Principal Contractor' has the meaning given to that term in regulation 5.1.14 of the *Occupational Health and Safety Regulations 2017*.

## **18. Further Term**

- (a) The Sublessor must renew this Sub-Lease for the Further Term if:
  - (i) at the time of receiving a renewal request,
    - (A) there is no un-remedied breach of this Sub-Lease by the Sublessee of which the Sublessor has given the Sublessee written notice;
    - (B) the Sublessee has not persistently committed breaches of this Sub-Lease of which the Sublessor has given the Sublessee written notice; and
  - (ii) the Sublessee has issued a written request for renewal to the Sublessor, not earlier than twelve (12) months and not later than four (4) months before the Expiry Date.
- (b) Where applicable, the renewed Sub-Lease:
  - (i) commences on the day after this Sub-Lease expires;
  - (ii) has a starting Rent as set out in the Review Notice specifying the Market Rent provided by the Sublessor to the Sublessee; and
  - (iii) must contain the same terms and conditions as this Sub-Lease except that on the exercise of each option for renewal the number of further options set out at Item 9 will be progressively reduced, with no option for renewal after the last option for a Further Term has been exercised.

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## 19. Sublessee's Obligations

The Sublessee must:

- (a) not use the Premises for any illegal purpose;
- (b) have regard to the safety and well-being of the students of the School and not engage in any conduct or allow any Invitee to engage in any conduct that may:
  - (i) endanger the safety and wellbeing of the students of the School;
  - (ii) compromise the delivery of any School Program; or
  - (iii) damage any property on the Land;
- (c) exclude from the Premises any person who:
  - (i) engages in the behaviour described in clause 19(b)(i)-(iii); or
  - (ii) would not pass or would be unlikely to pass the Working With Children Check, if that person were to apply for a Working With Children Check;
- (d) not keep or use chemicals, inflammable liquids, acids or other hazardous things on the Premises except as required for the Permitted Use, or create fire hazards;
- (e) not overload the floor of the Premises;
- (f) comply with all Departmental policies or guidelines which deal with the safety or health of persons on the Premises or otherwise under its control;
- (g) observe fire precautions;
- (h) at all times exercise due care, skill and judgement and act with the utmost good faith; and
- (i) maintain the oval and surrounding area at all times.

## 20. Repairs and Maintenance

- (a) The Sublessee must, at its own cost, maintain the Premises in sound structural repair and windproof and waterproof condition and undertake all repairs that are required to the Premises, including but not limited to:
  - (i) repairs and maintenance of any plant and equipment in the Premises;
  - (ii) repairs that are required as a result of fair wear and tear to the Premises; and

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- (iii) all structural and capital repairs.
- (b) In carrying out repairs required under this Sub-Lease, the Sublessee must use high quality materials and workmanship and such repairs must be in keeping with the standard, quality and appearance of the Premises.
- (c) For the avoidance of any doubt, the Sublessee acknowledges that the Sublessor is not responsible for any repairs or maintenance to the Premises.
- (d) The Sublessee shall keep the interior of the Premises and all fixtures and fittings therein in a state of good repair having regard to its condition at the commencement of the Sub-Lease and the Condition Report, fair wear and tear and damage caused by fire, flood, storm, tempest excepted unless any policy of insurance covering such occurrences shall have been vitiated or the policy money refused as a result of the act or omission of the Sublessee, its servants, agents, licensees or invitees.
- (e) Any plant or machinery located within and exclusively servicing the Premises shall be maintained and serviced and kept in a state of good repair by the Sublessee at its expense and the Sublessee will keep current such maintenance service and repair contracts that are reasonably required by the Sublessor. The Sublessor or a representative of the Sublessor may, upon providing reasonable notice, enter upon the Premises and view the state of repair and may serve upon the Sublessee, a notice in writing of any defect, requiring the Sublessee, within a reasonable time, to repair same in accordance with any covenant expressed or implied in the Sub-Lease, and that in default of the Sublessee's so doing it shall be lawful for the Sublessor, from time to time, to enter and execute the required repairs.
- (f) The Sublessee shall repair, replace and maintain all glass broken in the Premises either at the condition it was at the time of the Commencement Date, or any future condition that the Sublessor may repair the glass to following the Commencement Date.
- (g) The Sublessee shall repair, replace and maintain all non-operative light fittings.
- (h) The Sublessee shall regularly clean the Premises and dispose of all waste products and shall take all necessary steps to control any pest infestation and shall keep the Premises in a clean and tidy condition.
- (i) The Sublessee shall repair, replace and maintain all heating, electrical and plumbing fittings installed in the premises broken or damaged as a result of the use of Premises by the Sublessee.
- (j) The Sublessee shall comply with all statutory requirements affecting the Premises and will comply with any notices or orders which may be given by any authority in respect of the use of the Premises by the Sublessee provided that the Sublessee shall be under no liability in



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respect of any structural alterations unless that liability arises out of the Sublessee's particular use or occupation of the Premises.

- (k) The Sublessee shall keep and maintain the waste pipes, drains and water closets servicing the demised premises in a clean, clear and operative condition and shall employ licensed tradesman to clear any blockages which may occur therein and will regularly clean and service any grease traps provided for the use of the Premises.
- (l) In the event of the Sublessee failing to perform any of its obligations under the foregoing provisions then the Sublessor may do such things as are necessary to comply with such provisions and may recover from the Sublessee the costs of so doing as if the cost was unpaid rental hereunder.

## **21. Guarantors**

- (a) In consideration of the Sublessor at the request of the persons named in Item 17 of the Schedule hereinafter called the guarantors which expression shall include their executors, administrators, successors and assigns entering into this Sub-Lease with the Sublessee the guarantors covenant and agree with the Sublessor that they will be jointly and severally liable to the Sublessor for the due payments of all money under this Sub-Lease and the due performance of all covenants and conditions of this Sub-Lease on the part of the Sublessee to be performed.
- (b) The guarantor shall remain liable to the Sublessor notwithstanding that the Sublessor has not exercised all or any of its rights under the Sub-Lease or that the Sublessor has not made prior demand upon the Sublessee notwithstanding the granting of time or any other indulgence to the Sublessee and notwithstanding the death or insolvency of the Sublessee, and the guarantors shall be primarily liable as if named as the Sublessee herein.
- (c) The guarantors liability shall not in any way be conditional upon the validity or enforceability of the covenants and agreements herein contained against any other person and the guarantors liability hereunder shall continue until all money has been paid and all obligations have been satisfied and in the event of the exercise of any option herein contained by the Sublessee shall continue during the further term of the Sub-Lease and this guarantee shall endure for the benefit of the Sublessor, its executors, administrators and assigns.

## **22. Insurance, Release and Indemnity**

### **22.1 Public Liability, Building and Glass Insurance**

- (a) The Sublessee must maintain the following insurances specified in Item 16 of the Schedule. in the joint names of the Sublessor, Landlord and the Sublessee with an insurer approved by the Sublessor for:
  - (i) public liability for the amount of \$20 million concerning any single event (or such greater sum as reasonably required by the Sublessor);

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- (ii) all buildings, erections, extensions and improvements on the Premises for their full replacement value; and
    - (iii) any windows and any other glass in the Premises for their full replacement value.
  - (b) The Sublessee must ensure that the insurances effected under clause 22.1(a), contain a cross-liability clause extending the benefit of the policy, so that the words 'the insured' are considered as applying to each party comprising the insured, as though a separate policy has been issued to each of the insured parties, in the same manner as if that party were the only party named as the insured.
  - (c) The Sublessee must insure the Sublessee's property, fixtures and fittings for Loss and damage from risks including fire and water damage for its full replacement value.
  - (d) The Sublessee must pay all insurance premiums on or before the due date for payment and produce to the Sublessor copies of the certificates of currency for such insurance, on or before each anniversary of the Commencement Date.
  - (e) The Sublessee must:
    - (i) not do anything which may make any insurance effected by the Sublessor or the Sublessee invalid, capable by being cancelled or rendered ineffective, or which may increase any insurance premium effected by the Sublessor; and
    - (ii) pay any increase in the insurance premium caused by the Sublessee's acts, defaults or particular use of the Premises.
  - (f) The Sublessee must comply with all reasonable requirements of the Sublessor's insurer in connection with the Premises.
  - (g) If the Sublessee fails to obtain or maintain any of the insurances required under clause 22.1 during the operation of this Sub-Lease:
    - (i) the Sublessor may, but will not be obliged to, obtain the insurances itself;
    - (ii) the Cost of doing so will be:
      - (A) a debt due and payable by the Sublessee to the Sublessor; and
      - (B) recoverable as Rent due and payable under this Sub-Lease; and
    - (iii) proceeds received under any such insurance, must, if required by the Sublessor, be applied in:
      - (A) reinstating the Premises; or
      - (B) effecting improvements to the Premises.

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## **22.2 Release**

The Sublessee uses and occupies the Premises at its own risk and releases, to the full extent permitted by Law, the Landlord, Sublessor and its Associates from all Claims and demands of any kind for or resulting from any accident, damage, Loss or injury occurring in or on the Premises, except for those caused or contributed to by the Sublessor's negligent or unlawful act or omission or breach of this Sub-Lease.

## **22.3 Indemnity**

- (a) The Sublessee must indemnify and keep indemnified the Landlord, Sublessor and its Associates against all Claims that the Sublessor or its Associates suffer or incur in respect of or arising from:
  - (i) any negligent or unlawful act or omission of the Sublessee in connection with this Sub-Lease;
  - (ii) any loss, injury, illness or damage to persons (including death) including any member of the public or any third party to the extent that it is caused or contributed to by the act or omission of the Sublessee in connection with this Sub-Lease;
  - (iii) any loss of or damage to property of any kind to the extent that it is caused or contributed to by the act or omission of the Sublessee in connection with this Sub-Lease; or
  - (iv) the Sublessee's breach of this Sub-Lease.
- (b) The obligations of the Sublessee under clauses 22.2 and 22.3(a) will continue after the expiration or termination of this Sub-Lease in respect of any act, deed, matter or thing happening during the Term but before such expiration or termination.
- (c) The Sublessee covenants at all times and in all respects to comply at its own expense with the requirements of any other relevant statute or regulation.
- (d) In the event that the Sublessee does or omits to do anything whereby the premiums of any insurance effected by the Sublessor are increased then the Sublessee shall pay such increase in insurance to the Sublessor.

## **23. Assignment and Subletting**

The Sublessee must not dispose of, deal with or assign its interest, rights or powers as Sublessee under this Sub-Lease (whether legal or equitable) in any way except in accordance with Special Condition 4.

## **24. Common Area**

- (a) The Sublessee may use the Common Area to access the Premises and for the purpose for which it is intended in common with the Sublessor, the Sublessor's Associates and other people authorised by the Sublessor.

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- (b) The Landlord will regularly maintain, clean and repair the Common Area, unless the need for such maintenance, cleaning and repair is caused by the Sublessee, in which case these actions must be promptly attended to by the Sublessee at its cost.

## **25. Security Deposit**

- (a) In order to secure the performance of the Sublessee of its obligations under this Sub-Lease, the Sublessee must pay the Security Deposit to the Sublessor on or before the Commencement Date.
- (b) The Sublessee must ensure that the Security Deposit is maintained at the required level for the Term.
- (c) If the Sublessee breaches this Sub-Lease and the Sublessor suffers any resultant Costs, Loss, damage or Liability (or accrues some other entitlement to payment from the Sublessee), the Sublessor may, after giving 10 Business Days' Notice of the default to the Sublessee draw down on the Security Deposit without further notice to the Sublessee to the extent of such Costs, Loss, damage or Liability if the default remains unremedied.
- (d) If the Sublessor draws on the Security Deposit, the Sublessee must within 10 Business Days restore the relevant amount to ensure that the Security Deposit is maintained at the required level.
- (e) Subject to any right the Sublessor has to draw on the Security Deposit, the Sublessor must return the Security Deposit to the Sublessee within 60 days of the later of:
  - (i) the expiry of this Sub-Lease;
  - (ii) the Sublessee returning vacant possession of the Premises to the Sublessor in accordance with this Sub-Lease; or
  - (iii) the Sublessor being satisfied (acting reasonably) that the Sublessee has complied with all of its obligations under this Sub-Lease.

## **26. Sublessor's rights and obligations**

- (a) Quiet Enjoyment

Provided that the Sublessee is not in breach of the terms of this Sub-Lease, the Sublessor must not interfere with the Sublessee's use and

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occupation of the Premises except as may be provided by this Sub-Lease.

(b) Entry by the Sublessor or Landlord

The Sublessor or Landlord may enter the Premises at any given time after giving the Sublessee reasonable notice to:

- (i) inspect the condition of the Premises;
- (ii) rectify any default by the Sublessee under this Sub-Lease; and
- (iii) carry out any inspection, repairs, maintenance, works or alterations in the Premises,

provided that the Sublessor uses all reasonable endeavours to cause as the least amount of disruption to the Sublessee or the Sublessee's use of the Premises. The Sublessee acknowledges that either the Sublessor or Landlord may enter the Premises at any time without notice in an emergency situation.

(c) Right of Re-Entry

If:

- (i) any Lease Money is in arrears and the Sublessee has failed to pay the outstanding Lease Money after the Sublessor has given the Sublessee fourteen days' notice of non-payment;
- (ii) the Sublessee does not comply with an essential term of this Sub-Lease;
- (iii) the Sublessee commits some other breach of this Sub-Lease and the Sublessor gives the Sublessee a notice specifying that breach or default and the time period within which such breach must be remedied (which will be such period as is reasonable in the circumstances), and having been given that notice:
  - (A) where the breach or default is capable of remedy, the Sublessee does not remedy that breach or default within the time period specified in the notice; or
  - (B) where the breach or default is not capable of remedy, the Sublessee does not pay compensation for Loss sustained as a result that breach or default as reasonably determined by the Sublessor and detailed in the notice within the time period specified in the notice; or

an Insolvency Event occurs,

without limiting any other right of action or remedy available to the Sublessor in respect of any prior breach of any of the Sublessee's covenants, and in addition to any right or power for re-entry implied in this Sub-Lease, the Sublessor or any person on its behalf may at any

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time re-enter the Premises or any part thereof of the Premises in the name of the whole and terminate this Sub-Lease, but without relieving the Sublessee from liability for any antecedent breach of any of its covenants. The Sublessor's right of re-entry is subject to the provisions of any statute from time to time in force, to the extent that such statute binds the Sublessor.

- (d) Except in an emergency, the Sublessor must:
  - (i) give the Sublessee reasonable notice of the Sublessee's intended exercise of the rights set out in this clause 26;
  - (ii) only exercise the rights set out in clause 26, at reasonable times; and
  - (iii) take all reasonable steps to minimise interference to the Sublessee when exercising the rights set out in clause 26.
- (e) The Sublessor may exclude from entry to the Premises and the Common Areas any person, including any Invitees, whom the Sublessor believes:
  - (i) may endanger the safety or wellbeing of any student of the School or compromise the delivery of any School Program; or
  - (ii) would not pass the Working With Children Check, if that person were to apply for the Working With Children Check.

## **27. Default and Termination Events**

### **27.1 Damage, destruction, interruption or inaccessibility**

- (a) The Sublessor or the Sublessee may terminate this Sub-Lease by written notice to the other party if the Premises are damaged or destroyed or there is interruption to access to the Premises so as to render the Premises or any part thereof, wholly or substantially unfit for the Permitted Use and otherwise unfit for the occupation or use of the Sublessee or inaccessible by any usual means of access.
- (b) The Sublessee cannot exercise its right to terminate under clause 27.1(a) where the Sublessee has caused or materially contributed to the event giving rise to the right of termination.
- (c) If during the currency of this Sub-Lease the Premises or a substantial part thereof is destroyed so substantially as to be wholly unfit for occupation by the Sublessee then the rental hereby reserved shall abate and this Sub-Lease and the term hereby created may if the Sublessor so elects and of its election in writing notifies the Sublessee within one month of the destruction or damage be terminated and brought to an end provided that if the Sublessor does not give such notice and does not within a period of 3 months from such occurrence commence to restore the Premises the Sublessee may by notice in writing to the Sublessor terminate this Sub-Lease.

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- (d) In the event that the Premises or any part thereof shall at any time during the continuance of the Sub-Lease be damaged so as to render part of the same unfit for occupation and use by the Sublessee then a proportionate part of the rent hereby reserved according to the nature and extent of the damage sustained shall abate until the Premises shall have been rebuilt or made fit for the occupation and use of the Sublessee.
  - (e) In the event of the occurrences referred above the rent reserved by this Sub-Lease shall not abate in the event that any policy of insurance covering such occurrences or loss of rental policy shall have been vitiated or the policy money refused in whole or in part in consequence of some act or default by the Sublessee or their servants, agents, licensees and invitees.
  - (f) In the case of any difference concerning the amount of rental to abate then either party may ask the President of the Australian Property Institute (Victorian Division) to nominate a valuer to determine the dispute as an expert. The parties will be bound by the determination of the valuer and will equally bear the costs of the valuer.

## 27.2 By Agreement

The Sublessor and Sublessee may terminate this Sub-Lease at any time by written agreement.

## 27.3 Termination where Land not required for operation of a School

- (a) If during the Term the Landlord determines that the Land is not required for the operation of a School, the Sublessor may terminate this Sub-Lease by giving no less than five (5) months written notice to the Sublessee.
- (b) The Sublessor's compensation obligations in connection with early termination of this Sub-Lease under clause 27.3(a) will be limited to those described in clause 27.3(c);
- (c) In this clause 27.3:
  - (i) **Compensable Expense** means an expense reasonably incurred by the Sublessee in fitting out, upgrading or reinstating the Premises, consistent with the terms of this Sub-Lease and necessary for the Permitted Use:
    - (A) Including relevant architecture, construction and engineering expenses; and
    - (B) excluding:
      - (I) expenses incurred in installing fittings that do not become annexed to the Premises and can be removed by the Sublessee without materially damaging the Premises; and

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(II) relocation expenses, loss of profits and other forms of consequential loss; and

- (ii) **Compensable Days** means the balance of the Term remaining at the termination date for the purposes of clause 27.3(a), calculated in days.
- (d) Subject to subclause 27.3(e) below, if the Sublessor exercises his rights under clause 27.3(a), the Sublessor must reimburse the Sublessee for any Compensable Expense pro rata within 30 days of demand, calculated in accordance with the following formula:
- (i) Reimbursement payable by Sublessor =  $X(Y/Z)$ ,  
in which:
- (ii) **X** = the number of Compensable Days applicable; and
- (iii) **Y** = the total value of the Compensable Expense;
- (iv) **Z** = the duration of the Term expressed in days.
- (e) In order to be eligible for pro rata reimbursement of a Compensable Expense, the Sublessee must provide satisfactory itemised tax invoices and proof of payment to the Sublessor, which substantiate the existence of a Compensable Expense.
- (f) For the avoidance of doubt, the Sublessor has no obligation under this Sublease to compensate the Sublessee if this Sublease ends in circumstances other than those set out in clause 27.3(a).

## 28. Essential Terms

The Sublessee agrees that the following clauses are essential terms of this Sub-Lease:

- (a) 7 - Rent;
- (b) 11 - Rates, Taxes and Outgoings;
- (c) 13 - Use of Premises;
- (d) 15 - Compliance with Laws;
- (e) 16 - Improvements;
- (f) 17 - Construction Works;
- (g) 19 - Sublessee's Obligations;
- (h) 20 - Repairs;
- (i) 22 - Insurance, Release and Indemnity;
- (j) 23 - Assignment and Subletting;



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- (k) 34 - Sublessee's Obligations on the Expiry or End of Sub-Lease; and
  - (l) the special conditions set out in Schedule 2.

## **29. Sublessor's Rights to Damages**

In addition to the right of the Sublessor to re-enter the Premises in the event of default by the Sublessee, whether or not the default is a breach of an essential term of this Sub-Lease, and in addition to any other rights and remedies of the Sublessor, the Sublessor may sue the Sublessee for damages for loss of the benefits which performance of this Sub-Lease by the Sublessee for the balance of the Term would have conferred on the Sublessor. The Sublessor must use reasonable endeavours to mitigate the Sublessor's Loss in these circumstances.

## **30. Re-Entry by Sublessor not to Constitute Forfeiture**

If the Sublessee vacates the Premises during the Term (whether or not the Sublessee ceases to pay the Rent), in the absence of:

- (a) a written notice by the Sublessor accepting a surrender of the Sublessee's interest under this Sub-Lease; or
- (b) a formal notice of forfeiture or re-entry being served on the Sublessee by the Sublessor,

neither acceptance of the keys nor entry into the Premises by the Sublessor or by any person on the Sublessor's behalf for the purpose of:

- (c) inspection;
- (d) showing the Premises to prospective Sublessees or licensees; or
- (e) advertising the Premises for reletting,

will constitute a re-entry or forfeiture or waiver of the Sublessor's rights to recover in full all rent as well as all rates, taxes and outgoings payable by the Sublessee under this Sub-Lease, and this Sub-Lease is deemed to continue in full force and effect until the date on which a new licensee or Sublessee actually commences occupation of the Premises or the date on which the Term ends, whichever occurs first, and any entry by the Sublessor until that date is deemed to be an entry with the permission of the Sublessee. If a new licensee or Sublessee occupies the Premises during the Term, the Sublessee must pay the Sublessor the difference (if any) between the Rent and the licence fee or rent paid by the new licensee or Sublessee until the end of the Term.

## **31. Sublessor's Right to Remedy Sublessee's Default**

- (a) If the Sublessee fails to pay any money or do anything which it is obliged to do, after the Sublessor has given the Sublessee a notice specifying the particulars of the default and a remediation period, on or before the end of the applicable remediation period, the Sublessor may, but need not, pay such money or do such thing and:

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- (i) for the purpose of doing any such thing, the Sublessor may enter and remain on the Premises; and
  - (ii) the Sublessor may recover on demand from the Sublessee the amount paid and the Cost incurred by the Sublessor and any other person together with all incidental expenses.
- (b) The Sublessor's exercise of any right under this clause 31 is without prejudice to any other right or remedy which it has or may have for any non-payment or non-performance by the Sublessee.

## **32. Disputes**

- (a) If any dispute arises under this Sub-Lease between the Sublessor and the Sublessee, either party may give a Dispute Notice, referring the dispute for expert determination.
- (b) If a dispute is referred for expert determination, appointment of the Expert will be requested by the party giving the Dispute Notice.
- (c) The Expert will:
  - (i) fix and inform each party of a time for the parties to present their respective positions to the Expert. Unless otherwise agreed between the parties, the parties must present their respective positions to the Expert no later than 5 Business Days after the Expert's appointment;
  - (ii) make a determination or finding in respect of the dispute within 10 Business Days after the parties have presented their respective positions. Any determination of a dispute by the Expert will include a determination as to the award of costs and will be final and binding on all parties; and
  - (iii) act as an expert and not an arbitrator.
- (d) The parties will continue to perform their respective obligations under this Sub-Lease pending the resolution of a dispute under this clause 32.
- (e) The Sublessor and Sublessee will not oppose any application for interlocutory relief pending resolution of a dispute by the Expert under this clause 32.

## **33. Interest**

- (a) The Sublessee must pay interest on any money payable by it under this Sub-Lease for the period from the due date for payment until the date of actual payment, calculated on daily balances, without the need for any demand and without prejudice to any other rights of the Sublessor.
- (b) The rate of interest to be applied to each daily balance is 2% per annum above the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983*.

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## **34. Sublessee's Obligations on the Expiry or End of Sub-Lease**

### **34.1 Sublessee's Obligations**

At the end of this Sub-Lease, the Sublessee must:

- (a) vacate the Premises and give them back to the Sublessor in a condition consistent with the Sublessee having complied with its obligations under this Sub-Lease and otherwise in a condition satisfactory to the Sublessor;
- (b) remove the Sublessee's property (including all signs and lettering) and reinstate the Premises to the condition that they were in prior to the installation of the Sublessee's property, including making good any damage caused by the removal of the Sublessee's property;
- (c) give to the Sublessor all keys and other security devices used for the purposes of obtaining access to the Premises; and
- (d) unless a contrary direction is received from the Sublessor, remove from the Premises all improvements constructed or installed by the Sublessee after the Commencement Date or any earlier date that the Sublessee began occupation of the Premises, and in doing so:
  - (i) make good all damage caused by or arising from such removal at the Sublessee's sole Cost to the satisfaction of the Sublessor acting reasonably; and
  - (ii) comply with **Special Condition 2(d)**.

### **34.2 Sublessee's Property Left in Premises**

Anything left in the Premises for more than 7 days after the end of this Sub-Lease:

- (a) will be deemed to be abandoned by the Sublessee;
- (b) will become the property of the Sublessor for dealing with in the Sublessor's discretion; and
- (c) may be removed by the Sublessor at the Sublessee's cost and sole risk.

## **35. Holding Over**

- (a) If the Sublessee continues to occupy the Premises after the end of the Term with the Sublessor's consent, it does so as a monthly Sublessee:
  - (i) under the terms and conditions of this Sub-Lease with any changes necessary to convert this Sub-Lease to a monthly tenancy; and
  - (ii) at a rent equal to one month's proportion of the Rent payable under this Sub-Lease immediately before the end of the Term,

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payable monthly in advance, and the Sublessor may increase the Rent at any time by giving one month's notice to the Sublessee.

- (b) The Sublessor and the Sublessee may each terminate the monthly tenancy by giving at least one month's notice to the other, ending on any day.

### **36. Disclosure**

- (a) The Sublessee acknowledges that so long as the Landlord is the Minister this Sub-Lease may be published in accordance with the State's 'Contract management and contract disclosure policy', in any medium, including the internet, except to the extent that the Landlord is satisfied, using as a guide the criteria provided in the *Freedom of Information Act 1982* (Vic), that the relevant term should be exempt from publication.
- (b) For so long as the Landlord is the Minister, the Landlord may for benchmarking purposes, disclose to any Government Agency (whether of Victoria or any other State or Territory of Australia) the terms and conditions of this Sub-Lease without identifying the Rent and Outgoings, provided that prior to making any disclosure, the Landlord notifies the Sublessee of the proposed recipient and the extent of the proposed disclosure.

### **37. Notices**

- (a) A Notice must:
  - (i) be in writing;
  - (ii) signed by or on behalf of the party giving it; and
  - (iii) hand delivered to the address of the Authorised Representative or sent by prepaid post (airmail if posted to or from a place outside Australia) to the address of the Authorised Representative or sent by facsimile to the facsimile number of the Authorised Representative, or, if the Authorised Representative Notifies another address or facsimile number, then to that address or facsimile number.
- (b) A Notice takes effect from the time it is received, unless a later time is specified in it. A Notice will be deemed to have been received by the Authorised Representative:
  - (i) in the case of hand delivery, upon delivery at the address of the Authorised Representative;
  - (ii) in the case of post, on the tenth(fifteenth if posted to or from a place outside Australia) Business Day after posting; and
  - (iii) in the case of facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the

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facsimile number of the recipient, except where the facsimile is received on a non-Business Day, or after 4.00pm on a Business Day, in which case it is deemed to have been received on the next Business Day.

- (c) A party:
  - (i) may, from time to time, nominate a replacement Authorised Representative by Notice given in writing to the other party; and
  - (ii) must give Notice in writing to the other party within seven days of any change to the details of its Authorised Representative set out in Item 19 of the Schedule.
- (d) Notwithstanding clause 37(a), the Sublessor may deliver a Notice to the Sublessee's Authorised Representative by email, which the Sublessee will be deemed to have received in accordance with the provisions of the *Electronic Transactions (Victoria) Act 2000*.

### **38. Environmental Matters**

- (a) The Sublessee acknowledges that:
  - (i) the Sublessee will occupy the Premises in its present condition and has entered into this Sub-Lease on that basis; and
  - (ii) the Sublessor is not obliged to:
    - (A) remove, encapsulate or otherwise treat any asbestos which may be present in or on the improvements or any fixtures, fittings or installations in, to or on the Premises; or
    - (B) remove, empty, clean or take any action in relation to any underground storage tank or tanks or associated pipes, valves or appliances or any Contamination in, on, or under the Premises.
- (b) The Sublessee releases and discharges the Landlord, Sublessor and its successors, assigns, employees and agents from all Claims, arising after the date of occupation under this Sub-Lease or any earlier date that the Sublessee commenced occupation of the Premises, which the Sublessee has, may have, or which may accrue in the future, or which, but for the execution of this Sub-Lease, the Sublessee would or might have had against the Sublessor as a result of the presence of any asbestos or other Contamination in, on or under the Premises.
- (c) As from the date of occupation, the Sublessee indemnifies and holds harmless the Sublessor and the Sublessor's successors, assigns, employees and agents against all Claims, resulting or arising after the date of occupation, from the presence of any asbestos or other Contaminant in, on or under the Premises (including, without limitation, any Costs or expenses incurred in relation to any notice, direction or order issued or made under the Environment Protection

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Act or any other Act or Regulation in force in Victoria relating to protection of the Environment).

- (d) Clauses 38(b) and 38(c) do not apply to Claims by any person arising from their exposure before the date of this Sub-Lease to asbestos or any other Contaminant on the Premises.

### **39. Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right operate to preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

### **40. Entire Agreement**

This Sub-Lease is the entire agreement of the Sublessor and Sublessee on the subject matter. The only enforceable obligations and liabilities of the Sublessor and Sublessee in relation to the subject matter are those that arise out of the provisions contained in this Sub-Lease. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this Sub-Lease.

### **41. Negation of Warranties**

- (a) The Sublessee acknowledges that it has entered into this Sub-Lease solely on the basis of the terms and conditions in this Sub-Lease and that no additional warranties, representations or promises have been made by the Sublessor or its agents.
- (b) Without limiting clause 41(a), the Sublessee acknowledges that:
- (i) no warranties have been given by the Sublessor that the Premises are suitable for the Permitted Use; and
  - (ii) subject to the terms and conditions of this Sub-Lease, the Sublessee must do all things required, including obtaining all permits and approvals, to enable the Premises to be used for the Permitted Use.

### **42. Severability**

Any provision of this Sub-Lease which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the validity of the remaining provisions of this Sub-Lease or the validity or enforceability of that provision in any other jurisdiction.

### **43. Counterparts**

This Sub-Lease may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

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#### 44. Further Assurance

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts reasonably required of it or them by Notice from another party to effectively carry out their obligations under this Sub-Lease.

#### 45. Governing Law

This Sub-Lease is governed by the Law of the State of Victoria.

#### 46. Submission to Jurisdiction

The parties submit to the jurisdiction of the courts of the State of Victoria and any courts which may hear appeals from those courts in respect of any proceedings issued in connection with this Sub-Lease.

#### 47. Variations

No addition to or variation of this Sub-Lease will be of any force or effect unless in writing signed by or on behalf of all parties.

#### 48. Personal Property Securities Act

- (a) In this clause:
- (i) any capitalised words and expressions that are not defined in this Sub-Lease will have the meanings ascribed to them in the PPSA;
  - (ii) **Sublessor Personal Property** means any item of Personal Property:
    - (A) which is owned by the Sublessor; or
    - (B) in which the Sublessor has an interest,that is located on the Premises or the Land at any time during the Term;
  - (iii) **Personal Property** has the same meaning as defined in the PPSA including, without limitation, items of equipment, plant or business inventory, but will exclude any fixtures annexed to or forming part of the Premises or the Land;
  - (iv) **PPSA** means the *Personal Property Securities Act 2009* (Cth) and includes any regulations made under that Act;
  - (v) **Security Interest** has the same meaning as defined in the PPSA; and
  - (vi) **Sublessee Personal Property** means any item of Personal Property;

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- (A) which is owned by the Sublessee; or
  - (B) in which the Sublessee has an interest,

that is located on the Premises or the Land at any time during the Term, or following the expiry or earlier determination of this Sub-Lease.

- (b) The Sublessor may register any actual, impending or likely Security Interest arising from the operation of this Sub-Lease. The Sublessee must not make any Claim against the Sublessor in respect of any such registration, even if the registration is ended pursuant to s 151 of the PPSA, or it is determined by a court that registration of the Security Interest should not have occurred.
- (c) The Sublessee:
  - (i) must do all things reasonably requested by the Sublessor to enable the Sublessor to register any of the Sublessor's Security Interests arising in relation to this Sub-Lease and to enforce the Sublessor's rights under this clause and the PPSA;
  - (ii) must not grant or permit the granting of any Security Interest in the Sublessor Personal Property other than with the prior written consent of the Sublessor;
  - (iii) must not grant a Security Interest in respect of any of the Sublessee Personal Property to any person other than the Sublessor without obtaining the Sublessor's prior written consent;
  - (iv) must pay the Sublessor's reasonable Costs in respect of anything done or attempted by the Sublessor in the exercise of the Sublessor's rights under this clause or the PPSA;
  - (v) agrees that on the expiry or earlier determination of this Sub-Lease, the Sublessee must sign (or arrange for the holder of any registered Security Interest to sign) any document that the Sublessor reasonably considers necessary to discharge any registered Security Interest in relation to the Sublessee Personal Property or the Sublessor Personal Property;
  - (vi) gives the Sublessor an irrevocable power of attorney to do anything the Sublessor reasonably considers the Sublessee must do (and is unable or unwilling to do) under this clause;
  - (vii) waives the right to receive a Verification Statement in respect of any Financing Statement or Financing Change Statement relating to any Security Interest granted to the Sublessor by the Sublessee; and
  - (viii) hereby charges in favour of the Sublessor all of its title and interest in the Sublessee Personal Property as security for the performance of the Sublessee's obligations under this Sub-



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Lease, and acknowledges that this charge constitutes the granting of a Security Interest.

- (d) The Sublessor and the Sublessee agree not to disclose information of the kind that can be requested under s 275(1) of the PPSA in relation to any Security Interest held in respect of the Sublessor Personal Property or the Sublessee Personal Property.
- (e) Without limiting any other rights of the Sublessor, if this Sub-Lease is terminated by the Sublessor as a result of the Sublessee's breach of the Sub-Lease, the Sublessor may set off any Loss or damage caused by that breach by taking custody of the Sublessee Personal Property and may deal with it in any manner the Sublessor sees fit.
- (f) If there is any inconsistency between this clause and any other provision of this Sub-Lease, the provisions of this clause will prevail.

#### **49. Retail Leases Act acknowledgement**

The Sublessee acknowledges that the *Retail Leases Act 2003* does not apply to this Sub-Lease by virtue of paragraph 1(a)(i) and/or (ii) of the Ministerial Determination dated Monday 13 October 2014 (No. S 362).

#### **50. Miscellaneous**

- (a) The rights, powers and remedies set out in this Sub-Lease are cumulative with and not exclusive of the rights, powers or remedies provided by Law independently of this Sub-Lease.
- (b) Each indemnity in this Sub-Lease is a continuing obligation, separate and independent from the other obligations of the Sublessee, and survives expiry or termination of this Sub-Lease.
- (c) Unless this Sub-Lease provides otherwise, the Sublessor need not make demand for any amount payable by the Sublessee under this Sub-Lease.
- (d) The expiry or termination of this Sub-Lease does not affect:
  - (i) the Sublessor's rights in respect of a breach of this Sub-Lease by the Sublessee occurring before the expiry or termination; or
  - (ii) the Sublessee's obligation to pay Sub-Lease Money for periods before the expiry or termination.
- (e) This Sub-Lease does not constitute a partnership or a joint venture between the parties nor does it constitute one party the agent of the other party unless this Sub-Lease expressly provides otherwise. This Sub-Lease creates only the relationship of Sublessor and Sublessee between the parties.

#### **51. Premises and Additional Area**

- (a) At the Commencement Date, for the purposes of this Sub-Lease, '**Premises**' means part of the Land and the improvements erected on

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the Land, situated at 35 Etty Street, Castlemaine VIC 3450 and marked and outlined [to be confirmed] on the Plan.

- (b) Notwithstanding clause 51(a), the Sublessor may during the Term give the Sublessee written notice:
- (i) that the Premises is to be expanded to include the Additional Area, or any part of the Additional Area for the residue of the Term; and
  - (ii) specifying the date on which the Premises is to be expanded, being not less than thirty (30) days after delivery of the notice (**Expansion Date**)  
  
(the '**Expansion Notice**').
- (c) On and from the Expansion Date:
- (i) all references to the Premises in this Sub-Lease (other than in this clause 51 as the context requires) will be taken to be references to the Premises and the Additional Area or that part of the Additional Area specified in the Expansion Notice; and
  - (ii) for the avoidance of doubt, the Sublessee will be taken to occupy under this Sub-Lease the Additional Area or that part of the Additional Area specified in the Expansion Notice for the residue of the Term, subject to:
    - (A) the terms and conditions of this Sub-Lease;
    - (B) the encumbrances affecting the Additional Area; and
    - (C) any reservations in favour of the Sublessor or Government Agencies set out in this Sub-Lease.
- (d) If any Expansion Notice provided to the Sublessee specifies that the Premises is to be expanded to include only part of the Additional Area, the Sublessor may during the balance of the Term issue further Expansion Notices in relation to the remaining Additional Area, in which case the mechanism in this clause 51 will be applied to determine the revised dimensions of the Premises.

---

## Special Conditions

### 1. Use of Premises

Without limiting the generality of any other term of this Lease, the Sublessee must ensure that the Sublessee, any sub-tenant or other person authorised to enter the Premises by the Sublessee or any sub-tenant does not use the Premises in a way that:

- (a) affects the delivery of School Programs;
- (b) may bring the Landlord, the Department or the School into disrepute;
- (c) may cause damage or risk to students or property of the School or the Landlord;
- (d) may create excessive noise or pose a nuisance to nearby residents;
- (e) is illegal;
- (f) is inconsistent with the Permitted Use;
- (g) involves the smoking of tobacco in the vicinity of the Common Area, the Additional Area or the Excluded Area; or
- (h) involves the consumption of alcohol:
  - (i) during times on which students of the School may be on the Land; or
  - (ii) which is not in compliance with any Requirement or Law.

### 2. Condition Report and Evaluation Report

- (a) The **Sublessee** acknowledges:
  - (i) receipt of the Condition Report; and
  - (ii) that the Condition Report accurately details the condition of the Premises as at the Commencement Date (**Commencement Condition**).
- (b) The **Sublessor** or **Landlord** may commission a building surveyor, structural engineer (or similar) (**Building Consultant**) to:
  - (i) inspect the Premises; and
  - (ii) prepare a report which evaluates the condition of the Premises on or about the date that vacant possession is returned to the Landlord against the Commencement Condition, and identifies any deficiencies that need to be rectified for the Sublessee to restore the Premises to the Commencement Condition (**Evaluation Report**).
- (c) The Sublessee must:

- 
- (i) allow the Building Consultant access to the Premises for the purposes of conducting the inspections and preparing the Evaluation Report if the Sublessee is still in possession of the Premises at the time; and
  - (ii) reimburse the Landlord on a full indemnity basis within seven (7) days of demand for the Costs incurred in relation to the Building Consultant's inspections and preparation of the Evaluation Report.
- (d) Without limiting the generality of any other clause of this Lease, the Sublessee must at the end of this Lease:
- (i) promptly rectify all deficiencies identified in the Evaluation Report after receiving the Evaluation Report and restore the Premises to the Commencement Condition, fair wear and tear excepted; and
  - (ii) comply with all of the Sublessee's obligations under this Sub-Lease (for the avoidance of doubt, including under clause 30), at the Sublessee's sole Cost.
- (e) If the Sublessee fails to comply with Special Condition 2 within 21 days of the end of this Lease, the Sublessor may elect to enter the Premises and carry out any remedial works and repairs required to restore the Premises to the Commencement Condition itself.
- (f) If the Sublessor exercises its rights under Special Condition 2., the Tenant must reimburse the Sublessor on a full indemnity basis for all Costs incurred in doing so (including legal, surveying and construction Costs) within 7 days of demand, which until paid will be a debt due and payable to the Sublessor.

### **3. Floorspace for community use**

A minimum of 3.00% of the total premises referred to in Item 4 of the Schedule must be reserved for community use.

The total minimum floorspace for community use may be satisfied by agreement between the Sublessee under this Sub-Lease and any other party to which the Sublessor may have subleased any other part of Castlemaine Secondary College

Rental rates for community use of part of the premises should not exceed the appropriate hire rates set by the Mount Alexander Shire Council at the applicable time for the hiring of community venues.

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#### 4. Sublessor's approval for all tenancy licences

The Sublessor reserves the right to approve all tenancy licences that are offered by the Sublessee and may request at any stage a list of licensees.

The Sublessee may grant licences over portions of the Premises, provided that:

- (a) the licence terms:
  - (i) require the licensee to comply with the Sublessee's obligations under clause 19 of this Sub-Lease, modified to apply to a licence;
  - (ii) require the licensee to obtain and maintain for the duration of the licence, all permits and approvals required under Law in connection with the licensee's use of the Premises;
  - (iii) allow the Sublessor to automatically terminate the licence if:
    - (A) the licensee or any Invitee behaves in a manner that places the Sublessee in breach of the obligations set out in clause 19 of this Sub-Lease; or
    - (B) the Landlord exercises its right to repossess the premises under terms contained in the Head Lease; or
    - (C) the Sublessor requests the Sublessee to revoke the licence for the reasons set out in Special Condition 5(c) below; and
  - (iv) immediately end the licence if the Sub-Lease granted to Workspace Australia Limited ends for any reason; and
- (b) the Sublessee promptly notifies the Sublessor of the grant of a licence and, if requested to do so by the Sublessor, promptly provides the Sublessor with a copy of the executed agreement granting the licence; and
- (c) Notwithstanding Special Condition 4(a), the Sublessee acknowledges that it must:
  - (i) not grant a licence to any person; or
  - (ii) immediately revoke the licence of any licensee,

if the Sublessor notifies the Sublessee that the Sublessor believes on reasonable grounds that the proposed or existing licensee or one of its employees or Invitees may:

- 
- (iii) endanger the safety or wellbeing of any student of the School or compromise the delivery of any School Program;
  - (iv) not pass a Working With Children Check; or
  - (v) use the Premises in a manner that would place the Sublessee in breach of an essential term of this Sub-Lease.

## **5. Sublessor's right to withdraw Oval**

The Sublessor reserves the right to withdraw the oval area marked [add reference] from the demised premises (being the total lettable area described in Item 4 of the Schedule).

This right can be exercised by the Sublessor, either:

- (i) Immediately by mutual agreement between the Sublessor and Sublessee; or
- (ii) By the Sublessor providing six (6) months written notice to the Sublessee in the form approved by clause 38 of this Sub-Lease.

Exercise of this condition shall result in the Sublessee forfeiting all rights and entitlements that they might otherwise have in regard to the area marked in red on the map in Annexure B.

The Sublessee may not make any objection or claim for compensation from the Sublessor exercising its option under this condition. Further, exercise of this right by the Sublessor shall not be considered a breach of the covenant of quiet enjoyment or any other term, implied or otherwise, under this Sub-Lease.

## **6. Sublessee's right to terminate on planning permit refusal**

In the event that a planning permit for the occupation by the Sublessee of the Premises referred to in Item 4 of the Schedule for the intended use or works to facilitate that use is refused by the Mount Alexander Shire Council the Sublessee may elect to terminate this Sub-Lease within ten (10) Business Days of being provided with a notice of refusal, unless otherwise extended by an application to the Victorian Civil Administrative Tribunal (VCAT) by either party. This condition shall only apply to the initial planning permit application by the Sublessee and does not apply to any subsequent planning permit applications, including planning permit applications for any party granted a tenancy licence by the Sublessee.

Should the Sublessee not elect to terminate the Sub-Lease within ten (10) Business Days of being provided with a notice of refusal this condition shall be deemed to be satisfied and the Sublessee may not rely upon it in order to terminate this Sub-Lease.

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**ANNEXURE A**  
**PLAN**

DRAFT

## SCHEDULE

<b>Item 1: Landlord</b>	<b>The Hon. James Merlino, MP, Minister for Education for and on behalf of the Crown and in the right of the State of Victoria</b> of Level 3, 1 Treasury Place, East Melbourne VIC 3002 (“Landlord” in Head Lease))
<b>Item 2: Sublessor</b>	<b>Mount Alexander Shire Council</b> of 25 Lyttleton Street, Castlemaine, VIC 3450 (“Sublessor” in Sub-Lease)
<b>Item 3: Sublessee</b>	<b>Workspace Australia Limited (ACN 082 819 770)</b> of Unit 1, 118 King Street, Bendigo VIC 3550 (“Sublessee” in Sub-Lease)
<b>Item 4: Premises</b>	<b>Part Castlemaine Secondary College</b> , part of the Land, and improvements erected on the Land specified in clause 51(a) and subject to expansion pursuant to clause 51(b) and 51(d). Specific area should be confirmed on Plan.
<b>Item 5: Land</b>	The land contained in: (a) Certificate of Title Volume 04568 Folio 583; (b) Certificate of Title Volume 04568 Folio 582; (c) Certificate of Title Volume 08761 Folio 026; and (d) Certificate of Title Volume 04044 Folio 754, As well as the land described as Crown Allotment 2, Section 133, Township of Castlemaine, Parish of Castlemaine
<b>Item 6: Term</b>	<b>TBC</b>
<b>Item 7: Commencement Date</b>	<b>TBC</b>
<b>Item 8: Further term</b>	Two (2) further terms of five (5) years per term
<b>Item 9: Last date for exercising option for further term</b>	<b>TBC</b>
<b>Item 10: Rent</b>	\$120.00 per annum payable on demand
<b>Item 11: Rent Review Dates</b>	Not Applicable
<b>Item 12: Outgoings, Rates and Taxes</b>	100% of the Rates and Taxes assessed for the Premises in accordance with Clause 11 of this Sub-Lease
<b>Item 13: Permitted Use</b>	Office space, educational and community activities
<b>Item 14: Security Deposit</b>	Not Applicable



<b>Item 15: Rate</b>	2% higher than the rate fixed under section 2 of the Penalty Interest Rates Act 1983 (Vic), from time to time
<b>Item 16: Insurance</b>	\$20,000,000.00 for a single event. Industrial Special Risks Insurance (or equivalent insurance) including sufficient insurance for glass replacement in the premises. For the replacement value of the Sublessee's property and \$1.5 million for the Premises and any new improvements constructed on the Premises in accordance with clause 22.
<b>Item 17: Guarantors</b>	TBC
<b>Item 18: Excluded Clauses</b>	TBC
<b>Item 19: Authorised Representative</b>	<p>Authorised Representative:</p> <p>Address: Tel: Fax: Email:</p> <p>Authorised Representative:</p> <p>Address: Tel: Fax: Email:</p>

**Execution page**

**EXECUTED AS A DEED**

<b>EXECUTED for Mount Alexander Shire Council</b> by Darren Fuzzard in his capacity as Chief Executive Officer of the Council pursuant to Instrument of Delegation dated 27 September 2017 which it is certified has not been revoked or varied in the presence of:	) ) ) ) ) ) )	..... Signature
..... Witness		
..... Name of Witness		
.....		

<b>EXECUTED BY WORKSPACE AUSTRALIA LIMITED (ACN 082 819 770) IN ACCORDANCE WITH SECTION 173 OF THE CORPORATIONS ACT</b>	) ) ) ) ) ) )	
..... Name:		..... Name:
..... Witness		..... Witness
..... Name of Witness		..... Name of Witness



**Date**

**2019**

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**MOUNT ALEXANDER SHIRE COUNCIL**

**AND**

**CASTLEMAINE HOT ROD CENTRE LIMITED**

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**SUB-LEASE OF PREMISES**

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**Jennings Law & Conveyancing**  
21 Wills Street  
Bendigo VIC 3550  
PO Box 63  
Bendigo VIC 3550  
Ref: CS:12607

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ANNEXURE A

PLAN

## **Deed of Sub-Lease of premises**

### **BACKGROUND**

The Hon. James Merlino, MP, Minister for Education for and on behalf of the Crown and in the right of the State of Victoria Leased the Premises to the Sublessor pursuant to the Head Lease.

The Sublessor Sub-Leases the Premises to the Sublessee on the terms and conditions herein contained and the Landlord has given its consent to the Sub-Lease.



## Background

### 1. Definitions and Interpretation

#### 1.1 Definitions

In this Sub-Lease, unless the context otherwise requires:

**Act** means the *Retail Leases Act 2003* (Vic).

**Associates** means any officer, employee, agent, contractor, subcontractor, consultant, advisor, invitee, licensee or servant, to the extent that such person or entity is performing an act or a function directly related to the Sub-Lease and, in the case of the Sublessor, any other person, committee or delegate (including any Government Agency or statutory body corporate or committee for the time being responsible for the administration, care and management of the Land) from time to time responsible for carrying out functions, including the functions of the Sublessor, under this Sub-Lease.

**Authorised Representative** means the person, whose details are set out at Item 19 of the Schedule, authorised by a party to give and receive Notices on its behalf.

**Business Day** means any day that is not a Saturday, Sunday or a public holiday in Melbourne, Victoria specified under the *Public Holiday Act 1993* (Vic).

**Claim** includes any claim, demand, remedy, suit, injury, damage, Loss, Cost, Liability, action, proceeding and right of action.

**Clean Up Notice** means any notice issued under the Environment Protection Act requiring the monitoring, abatement, remediation or rectification of any adverse Environmental condition including without limitation noise, vibration, radiation, odour, contamination, pollution or presence of waste.

**Commencement Date** means the commencement date of this Sub-Lease set out in Item 7 of the Schedule.

**Common Area** means the areas of the Land that are licensed for common use, being the areas denoted as such on the Plan, and such access routes as are reasonably required to access the Additional Area and the Excluded Area **[DET to mark common areas (other than access routes) on the Plan]**

**Condition Report** means the report attached to this Sub-Lease at Attachment 2.

**Contaminant or Contamination** means anything (including a solid, a liquid, a gas, an odour, temperature, sound, vibration or radiation) which makes or may make the Premises, the Land or the Environment:

- (a) unsafe or unfit for humans or animals;
- (b) degraded in any way including in its capacity to support plant life;
- (c) materially diminished in value; or

- 
- (d) assessable as being in a condition that contravenes the *Environment Protection Act 1970*.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Cost** includes any cost, charge, expense, outgoing, payment or other expenditure of any nature.

**Department** means the Department of Education and Training of the State of Victoria, or such other Department of the State responsible to the Minister.

**Dispute Notice** means a notice in writing given by either party to the other setting out details of a dispute that has arisen in relation to this Sub-Lease between the Sublessor and Sublessee.

**Environment** means the physical factors of the surroundings of, human /non-human life forms, including without limitation the land, soil, plants, habitat, waters, atmosphere, climate, sounds, odours, tastes, biodiversity and the social and aesthetic values of landscapes.

**Environment Protection Act** means the *Environment Protection Act 1970*.

**Excluded Area** means that part of the Land denoted as such on the Plan.

**Expert** means the expert appointed by the President of the Law Institute of Victoria from time to time.

**Expiry Date** means the last day of the Term.

**Further Term** means the further term(s) set out in Item 8 of the Schedule.

**Government Agency** means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity or authority and includes a Minister of the Crown or the Commonwealth of Australia and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

**GST** means the Goods and Services Tax as defined in the GST Act.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended).

**Head Lease** means the Lease entered into between The Hon. James Merlino, MP, Minister for Education for and on behalf of the Crown and in the right of the State of Victoria and the Sublessor on [date].

**Improvements** means any buildings, structures, rail infrastructure, paving, earthworks, fences, fixtures and fitting and other works and items that are erected, constructed or located above or below the Premises.

**Insolvency Event** means if the Sublessee:

- (a) unlawfully stops or suspends payment of all or a class of its debts;
- (b) is insolvent within the meaning of section 95A(2) of the Corporations Act;

- 
- (c) fails to comply with a statutory demand (within the meaning of section 459F(1) of the Corporations Act) unless the debt to which the statutory demand relates is discharged within 15 Business Days of the date of the failure or the statutory demand is set aside;
  - (d) has an administrator appointed over all or any of its assets or undertakings;
  - (e) has a controller within the meaning of section 9 of the Corporations Act or similar officer appointed to all or any of its assets or undertaking;
  - (f) has an application or order made, proceedings commenced, a resolution passed, an application to a court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up or dissolution or for it to enter into an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them; or
  - (g) has any step taken to enforce security over or a distress, execution or other similar process levied or served out against the whole or any of its assets or undertakings,

or any event occurs which, under the laws of any relevant jurisdiction, has an analogous or equivalent effect to any of the events listed above.

**Invitees** means any person authorised to enter the Premises by the Sublessee, by any Sublessee or by any licensee, including the Sublessee's Associates.

**Item** means an item of contained in the Schedule.

**Land** means the land described in Item 5 of the Schedule. and all rights, easements and appurtenances usually enjoyed with that land.

**Landlord** means the Landlord specified in Item 1 of the Schedule and includes, where appropriate, its employees or agents or other authorised persons.

**Law** means:

- (a) principles of law or equity established by decisions of courts within the Commonwealth of Australia;
- (b) statutes, regulations, by-laws, ordinances, orders, awards, proclamations and local laws of the Commonwealth, State of Victoria, any local government or a Government Agency;
- (c) the Constitution of the Commonwealth;
- (d) binding requirements and mandatory approvals (including conditions) of the Commonwealth, the State of Victoria or a Government Agency which have the force of law;

- 
- (e) the National Construction Code, which incorporates the Building Code of Australia; and
  - (f) guidelines of the Commonwealth, the State of Victoria or a Government Agency which have the force of law.

**Liability** means any debt, obligation, Cost, expense, Loss, damage, compensation, charge or liability of any kind, including those that are prospective or contingent and those which are not yet ascertainable.

**Lease Money** means the Rent, Outgoings, Rates and Taxes and all other money payable by the Sublessee to the Sublessor under this Sub-Lease.

**Loss** means any liability (including legal expenses) of any kind whatsoever and includes, but is not limited to, direct and indirect, consequential or special damage, loss of profits, loss of use, loss of revenue, anticipated revenue, interest or other claim arising from any cause whatsoever whether or not the loss, damage or claim is based on contract, statute, warranty, tort (including negligence), indemnity or otherwise.

**Market Rent** means the amount of the Rent determined for the Premises by the Valuer-General at the Review Date.

**Minister** means the Minister for Education (Schools) in right of the State of Victoria, or such other Minister of the State administering the Act in connection with this subject matter.

**Ministerial Determination** means the determination made by the Minister for Small Business under section 5(1)(c) of the *Retail Leases Act 2003* dated 6 October 2014.

**Notice** means a notice, consent, approval or other communication given under this Sub-Lease.

**Outgoings** means all charges made for the supply and use of gas, electricity, water and excess water, telecommunications and other similar services on the Premises and other utilities exclusively used in or charged against the Premises, and includes the cost of repairing and maintaining any mechanical services, plant or equipment from time to time utilised for accessing the Premises.

**Permitted Use** means the use of the Premises as specified in Item 13 of the Schedule.

**Plan** means the plan attached to this Sub-Lease at **[to be inserted]**.

**Premises** means the premises described in Item 4 of the Schedule.

**Rates and Taxes** means all existing and future rates (including any special rates or levies, including without limitation the fire services property levy and the congestion levy), taxes (including land tax on a single holding basis but excluding any income based tax), duties, charges, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the Land or in connection with the Land.

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**Rent** means the rent specified in Item 10 of the Schedule as varied from time to time under this Sub-Lease.

**Requirement** includes any lawful notice, order or direction received from or given by any Government Agency or pursuant to any Law, in writing or otherwise, and notwithstanding to whom such Requirement is addressed or directed, but if not addressed to the Sublessee, the Sublessee must be given a copy.

**Review Date** means the review date(s) specified in Item 11 of the Schedule..

**Review Notice** means a notice of the Market Rent given by the Sublessor to the Sublessee.

**Review Period** means the period following each Review Date until the next Review Date or until the end of this Sub-Lease.

**Schedule** means any schedule(s) appended to this Sub-Lease.

**School** means the Castlemaine Secondary College, or any other school operating on the Land under the *Education and Training Reform Act 2006* (Vic).

**School Program** means any program delivered by the School or the State in relation to the School, including the provision of education and extra-curricular activities for students of the School.

**Security Deposit** means the security deposit referred to in clause 23 for the amount specified in Item 14 of the Schedule.

**Small Business Commissioner** means the Commissioner appointed pursuant to the Act.

**State** means the Crown in right of the State of Victoria.

**Sub-Lease** means this Sub-Lease and includes all schedules, appendices, attachments, plans and specifications, annexures and exhibits to it.

**Sublessee** means the Sublessee specified in Item 3 of the Schedule, and includes, where appropriate, its employees or agents or contractors or other authorised persons.

**Sublessee's Improvements** means all items, plant machinery, equipment and installations in the Premises owned or Sub-Leased by the Sublessee.

**Sublessor** means the Sublessor specified in Item 2 of the Schedule and includes, where appropriate, its employees or agents or other authorised persons.

**Supplier** means the party who gives a *taxable supply* under this Sub-Lease (where the expression in italics has the meaning given in the GST Act).

**Term** means the period of this Sub-Lease specified in Item 6 of the Schedule, including any extension of it or any further period during which the Sublessee has possession of the Premises.

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**Utilities** means any utility charges for the Premises including:

- (a) garbage removal;
- (b) electricity;
- (c) gas;
- (d) sewerage;
- (e) water; and
- (f) telecommunications services;

**Valuer-General** means the holder of the office of Valuer-General under the *Valuation of Land Act 1960*.

**Valuer** means a valuer appointed by the Small Business Commissioner pursuant to section 37 of the Act.

**Working With Children Check** has the meaning given to that term under the *Working with Children Act 2005*.

## 1.2 Interpretation

In this Sub-Lease, unless the context otherwise requires:

- (a) a reference to this Sub-Lease or any other document referred to in this Sub-Lease includes any variation or replacement of any of them;
- (b) the Sublessor includes its executors, administrators, successors, and assigns and for the purpose of giving any notice under this Sub-Lease the managing agent appointed by the Sublessor from time to time;
- (c) the Sublessee includes its executors, administrators, successors and assigns;
- (d) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) the singular includes the plural and vice versa;
- (f) headings are for guidance only and are to be ignored in interpreting this Sub-Lease;
- (g) a reference to a person includes a firm, a body corporate, an unincorporated association or a responsible authority, as constituted from time to time;
- (h) any provision of this Sub-Lease to be performed by 2 or more persons shall bind those persons jointly and severally;

- 
- (i) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes, assigns, employees, servants, agents, consultants, contractors, advisers, financiers, subcontractors, licensees and invitees;
  - (j) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
  - (k) words importing any gender include all other genders, as applicable;
  - (l) a reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it, and a reference to a group of persons is a reference to any one or more of them;
  - (m) a reference to a recital, clause, item, schedule or annexure is to a recital, clause, item, schedule or annexure in or to this Sub-Lease, unless a contrary intention is expressed;
  - (n) day means the period of time commencing at midnight and ending 24 hours later;
  - (o) any reference in this Sub-Lease to a month or monthly shall mean respectively calendar month and calendar monthly;
  - (p) the payment of money within a specified time is a reference to the full clearance of any personal cheque into the account of the payee within that time;
  - (q) words, phrases or participles derived from a defined word have a corresponding meaning;
  - (r) 'dollars' or '\$' refers to Australian currency;
  - (s) a reference to any professional body, association or institute includes any succeeding body, association or institute with similar objects;
  - (t) a covenant, promise, undertaking or agreement by the Sublessee to perform or refrain from performing some act or thing, includes a covenant by the Sublessee to procure that its employees, officers, agents, contractors and servants also perform or refrain from performing such act or thing;
  - (u) no rule of construction will apply to disadvantage a party because that party proposed a provision of this Sub-Lease or the Sub-Lease itself;
  - (v) if anything to be done under this Sub-Lease falls on a day which is not a Business Day, it must be done on the next Business Day
  - (w) in respect of any warranty given by the Sublessee under this Sub-Lease, the Sublessee indemnifies the Sublessor and the Sublessor's Associates for any reasonably foreseeable Loss,

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damage or expense arising out of or associated with a breach of that warranty;

- (x) responsibility and risk allocations for Contamination and the Environment are effective to the extent that the Law permits; and
- (y) reference to any authority, institute, association or body whether statutory or otherwise shall in the event of any such authority, institution, association or body ceasing to exist or being reconstituted renamed or replaced or the powers or functions thereof being transferred to any other organisation be deemed to refer respectively to the organization established or constituted in lieu of or replacement for or which serves substantially the same purpose or objects of such authority institute association or body.

## **2. Grant of Sub-Lease**

The Sublessor grants to the Sublessee a Sub-Lease to occupy the Premises for the Term beginning on the Commencement Date, subject to:

- (a) the terms and conditions of this Sub-Lease;
- (b) the encumbrances affecting the Land; and
- (c) any reservations in favour of the Landlord or Government Agencies set out in this Lease.

## **3. Moratorium**

To the extent permitted by Law, the application to this Sub-Lease or to any party of any Law, or any Requirement or moratorium having the effect of extending or reducing the Term, reducing or postponing the payment of the Rent or any part of it or otherwise affecting the operation of the terms of this Sub-Lease or its application to any party is excluded and hereby expressly negated.

## **4. Precedence**

Any special condition set out in Schedule 2 overrides any other provision of this Sub-Lease to the extent of any inconsistency.

## **5. Sublessor Delegation**

- (a) The Sublessor may delegate any power, function or responsibility which the Sublessor has under this Sub-Lease or elect to perform or exercise such power, function or responsibility personally.
- (b) Any such delegation may be:
  - (i) revoked, changed or sub-delegated; and
  - (ii) limited or may be subject to such conditions as the Sublessor determines from time to time.



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- (c) Where the Sublessor delegates any powers, functions or responsibilities under this Sub-Lease to an individual, the Sublessor must give notice of such delegation to the Sublessee including the identity and address of any person to whom such powers, functions or responsibilities are delegated and any changes in the identity and address of such person. The notification by the Sublessor may contain details of the delegation of any powers, functions or responsibilities. Where such notice has been given by the Sublessor, the Sublessee is entitled to rely upon such notice unless and until given notice of revocation of that delegation.
  - (d) The Sublessee is entitled to request details of the delegation of any power, function or responsibility under this Sub-Lease where a person purports to be acting under such a delegation. Once the Sublessee obtains such details, it is entitled to rely on them unless and until given notice of the revocation of that delegation.
  - (e) Any person to whom powers, functions or responsibilities are delegated by the Sublessor has, subject to the extent of that delegation and compliance with the terms of such delegation, the full power and authority to act for and on behalf of and to bind the Sublessor under this Sub-Lease.

## **6. Negotiation and Disclosure requirements**

Negotiation for Sub-Lease

If the Act applies to this Sub-Lease, the Sublessee acknowledges receiving from the Sublessor:

- (a) A copy of other proposed Sub-Lease; and
- (b) A copy of the Information brochure about retail Leases published by the Small Business Commissioner  
as soon as the Sublessee entered into negotiations with the Sublessor.

## **7. Rent**

The Rent applicable on the Commencement Date is set out in Item 10 of the Schedule. Where applicable, the Rent will be reviewed periodically in accordance with the arrangements set out in clause 8 and Item 11 of the Schedule.

The Sublessee must pay the Rent to the Sublessor at the Sublessor's address specified in Item 2 of the Schedule (or to any other address or in any other way the Sublessor Notifies to the Sublessee).

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## **8. Rent and rent reviews**

### **8.1 Rent**

The Sublessee must pay the Rent to the Sublessor without demand in accordance with the manner specified in Item 10 of the Schedule or such other manner specified by the Sublessor from time to time.

### **8.2 Payment requirements**

- (a) The Sublessee must pay all amounts due under this Sub-Lease to the Sublessor without setoff or deduction.
- (b) In the event that the Sublessee does not pay any amounts owing to the Sublessor by the due date, the Sublessee must, upon demand by the Sublessor, pay interest at the Rate.

### **8.3 Security Deposit**

The Sublessee will pay to the Sublessor the Security Deposit in the amount specified in Item 14 of the Schedule and the Sublessor may use any amount of the Security Deposit if the Sublessee does not perform its obligations under this Sub-Lease.

### **8.4 Percentage Rent Increase**

On each Percentage Rent Increase Date, except for Rent Review Date(s), the Rent will be increased by the Percentage Rent Increase Amount and the Sublessee must pay the increased Rent to the Sublessor irrespective of whether the Sublessor has notified the Sublessee of the increased Rent amount.

### **8.5 Rent Review**

- (a) At any time before a Rent Review Date, the Sublessor may give notice to the Sublessee of the Sublessor's assessment of the market rent for the Premises to apply from the Rent Review Date.
- (b) If the Sublessee objects to the Sublessor's assessment of the market rent, the Sublessee must, within fourteen (14) days of receiving the notice referred to in clause 8.5(a), given written notice of its objection to the Sublessor. In the event that the Sublessee does not given written notice to the Sublessor in accordance with this clause 8.5(b), the Sublessee will be deemed to have accepted the Sublessor's assessment of the market rent.
- (c) If the Sublessee objects to the Sublessor's assessment of the market rent, the new Rent must be determined by the Valuer

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who will act as an expert and the Valuer's decision will be binding upon the parties.

- (d) The parties may make written submissions to the Valuer within 14 days of the Valuer's appointment.
- (e) The Valuer will determine the new Rent payable having regard to the matters contained in section 37(2) of the Act, within 45 days of his or her appointment as the Valuer.
- (f) The parties will jointly share the costs of the Valuer.
- (g) Until the new Rent has been agreed or determined by the Valuer, the Sublessee must continue to pay the rent at the rate assessed by the Sublessor, with any necessary adjustments to be made after the new Rent has been agreed or determined by the Valuer.

## **9. Market Review of Rent**

- (a) If a Market Review Date is specified in Item 11 of the Schedule, the Sublessor may give, not earlier than six months before a Review Date, the Sublessee a Review Notice specifying the Market Rent to apply for the Review Period.
- (b) The Valuer-General's decision in relation to the amount of the Market Rent is final and binds the parties.
- (c) In determining the Market Rent the Valuer-General must:
  - (i) have regard to the terms of this Sub-Lease including the Permitted Use;
  - (ii) disregard the value of the Sublessee's fixtures and fittings (except where the Sublessor has contributed to the cost of any such fixtures and fittings in which case the extent of the Sublessor's contribution must be recognised) and the goodwill of the Sublessee's business; and
  - (iii) determine a Market Rent which is not less than the Rent payable immediately before the relevant Review Period.

## **10. Reimbursement of Costs**

The Sublessee must reimburse the Sublessor within seven (7) days of demand for the Costs incurred in relation to the following (including legal expenses) on a full indemnity basis:

- (a) preparation, negotiation and execution of this Sub-Lease;
- (b) considering any request for consent or approval under this Sub-Lease (whether or not the consent or approval is granted);
- (c) lawful attempts to enforce this Sub-Lease against the Sublessee; and

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- (d) the Sublessee's breach of this Sub-Lease.

## 11. Rates and Taxes and Outgoings

- (a) Where the Premises have been separately assessed for Rates and Taxes and Outgoings, the Sublessee must pay the Rates and Taxes and all the Outgoings for the Premises:
  - (i) to the assessing Government Agency or the supplier on time if the Sublessee receives the assessment notice directly; or
  - (ii) otherwise, to the Sublessor by the date which is 10 Business Days before the due date for payment, if the Sublessee receives the assessment notice and has given the Sublessee a copy of the notice at least 10 Business Days before then.
- (b) If the Premises have not been separately assessed, the Sublessee must within 10 Business Days of demand reimburse the Sublessor for its share of the Rates and Taxes and the Outgoings:
  - (i) in the proportion that the total floor space of the buildings within the Premises bears to the total area of buildings on the land that is the subject of the assessment notice; or
  - (ii) as determined by the Sublessor using some other method acting reasonably (which the parties acknowledge, in relation to the Common Areas, is 50% as at the Commencement Date).
- (c) The Sublessee must, within 10 Business Days of demand, reimburse the Sublessor for 50% of the cost of maintenance, cleaning and repairs of the Common Area as at the Commencement Date.
- (d) If necessary, the Rates and Taxes, the Outgoings and the Sublessee's liability under clause 11(c) will be apportioned on a pro rata daily basis at the beginning and end of the Term.
- (e) The Sublessee will, if requested by the Sublessor provide copies of receipts for payment of the Rates and Taxes and Utilities.

## 12. Goods and services tax

- (a) An amount payable under this Sub-Lease by a party to the other party, in respect of a *supply* which is a *taxable supply*, represents the GST exclusive value of the *supply*.
- (b) The Sublessor shall provide the Sublessee with a tax invoice in relation to any taxable supply made to the Sublessee who shall pay to the Sublessor the applicable goods and services tax in addition to the cost of the supply.
- (c) Rent is exclusive of GST and it is payable in addition to the rent, unless rent is expressed to be inclusive of GST in the summary.
- (d) The Sublessor must pass on the benefit of any input tax credits received by the Sublessor in relation to any amount payable by the Sublessee to the Sublessor.

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- (e) In this clause, expressions set out in italics have the meaning given to those expressions in the GST Act.
  - (f) The party who receives a *taxable supply* under this Sub-Lease from the Supplier must, upon receipt of a *tax invoice* from the Supplier, pay GST to the Supplier in addition to the GST exclusive consideration for the *supply*.
  - (g) Any penalty or interest payable as a result of late payment of any GST payable under this Sub-Lease is payable by the party who causes the late payment.
  - (h) If the Supplier is entitled to an *input tax credit* for any GST recoverable from the other party under this Sub-Lease, the amount of GST payable by the other party is to be reduced by the amount of the *input tax credit* which the Supplier has received or is entitled to receive.

### 13. Use of Premises

- (a) The Sublessee must not use or allow the Premises or the Land to be used for:
  - (i) any purpose other than the Permitted Use; or
  - (ii) a purpose that is inconsistent with the Permitted Use.
- (b) The Sublessee acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the Sublessor regarding the suitability of the Premises for the conduct of the Permitted Use otherwise than as expressly contained in this Sublease, or for any other use.
- (c) The Sublessee must maintain all licences and permits as may be required to conduct the Permitted Use.
- (d) The Sublessee must ensure the Premises are kept secure, clean and free from debris and rubbish;
- (e) The Sublessee must not use the Premises for any illegal purpose or carry on any noxious or offensive activity on the Premises.
- (f) The Sublessee shall not use or permit to be used for other than their designed purposes any of the fixtures or fittings in the Premises or the estate.
- (g) The Sublessee must not store any objects in the Premises which are likely to cause damage to the Premises.
- (h) The Sublessee must not do anything at the Premises which may cause a nuisance or interfere with any other person or be dangerous or offensive in the Sublessor's reasonable opinion.
- (i) The Sublessee must not install any fixtures or fittings, except for those necessary for the Permitted Use, and subject to the

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Sublessor's prior written consent (but such consent will not be necessary for internal installations that do not require any structural alterations to the Premises, provided that these installations are carried out in compliance with all Laws and after obtaining all necessary planning and building approvals from the relevant Government Agency).

- (j) The Sublessee shall secure the Premises against unauthorised entry at all times when the Premises are left unoccupied and the Sublessor reserves the right by its servants and agents to enter upon the premises and fasten same if the Premises are left unsecured.
- (k) The Sublessee must not erect, display, affix or exhibit on or at the Premises any signs that:
  - (i) identify a business, commercial project or activity (which will be taken to include the programs and activities of the Mount Alexander Shire Council pursuant to the Permitted Use) and/or require a planning and/or building permit from the relevant Government Agency without obtaining the prior consent of the Sublessor (which may be granted or withheld in the Sublessor's absolute discretion, and if granted, may be made subject to conditions), excluding signs used purely to provide directions within the Premises; or
  - (ii) generally, contravene any applicable Law or have a surface area of more than 3 metres in total, excluding signs used purely to provide directions within the premises.

#### **14. Sublessor may carry out works on the Premises**

- (a) The Sublessor may carry out any works on the Premises, that are contained in the disclosure statement or that were otherwise specifically drawn to the attention of the Sublessee before this Sub-Lease was entered into.
- (b) The works may include:
  - (i) demolishing and/or reconstructing any part of the Premises;
  - (ii) extending or reducing the size of the Premises;
  - (iii) renovation or refurbishment;
  - (iv) altering the size, location, composition and arrangement of any parts of the Premises
  - (v) altering the size, location, composition and arrangement of the common areas; and
  - (vi) altering the means of access to the Premises.
- (c) If the Sublessor employs reputable contractors or tradespeople to carry out the works and if they do so during hours and using methods

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and practices that are not unusual for work of the kind they are doing, the Sublessor will not be in breach of the Sub-Lease, will not be liable to the Sublessee for nuisance, negligence, any other tort or any other breach of the Sub-Lease for carrying out the works or for anything related to doing so and will not be liable to pay compensation to the Sublessee.

## **15. Compliance with Laws**

- (a) The Sublessee must at its own expense in all respects observe and comply with all Laws that apply to this Sub-Lease and all directions, notices and Requirements of any Government Agency relating to the development, construction, use and occupation of the Premises, and any other use or development which the Sublessee may undertake on the Premises.
- (b) The Sublessee must keep in force and available for inspection by the Sublessor all licences, permits and registrations required for the carrying on of any business use or other activity conducted by the Sublessee in or upon the Premises.

## **16. Improvements**

- (a) The Sublessee acknowledges that:
  - (i) subject to clause 34, at the end of this Sub-Lease, all improvements financed and constructed on the Premises by the Sublessee will be owned by the Sublessor; and
  - (ii) subject to clause 34, until the Sub-Lease comes to an end, all improvements constructed by the Sublessor on the Premises will be owned and maintained and may be depreciated by the Sublessee.
- (b) The Sublessee must not and must not permit any other person to construct on the Premises:
  - (i) without the Sublessor's prior written consent, any improvements that:
    - (A) require planning and/or building approvals from a Government Agency; or
    - (B) cost more than \$5,000 to construct; and
  - (ii) generally, any improvements that are not in compliance with Laws or without obtaining all necessary planning and building approvals from the relevant Government Agency.
  - (iii) The Sublessee must promptly:
    - (A) notify the Sublessor of all improvements constructed on the Premises that did not require the consent of the Sublessor under this clause 16; and

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- (B) provide the Sublessee with copies of any planning and/or building approvals or certificates of compliance (or similar) issued by a Government Agency in relation to the construction or completion of improvements on the Premises by the Sublessee.
  - (c) In seeking the Sublessor's consent, the Sublessee must submit any plans and specifications for the proposed improvements to the Sublessor for approval. If the Sublessor initially declines to grant consent, the Sublessee must re-submit revised plans and specifications for the Sublessor's consideration as many times as is reasonably required until the necessary consent has been granted.
  - (d) The Sublessor may give consent on condition that:
    - (i) in carrying out any improvements, the Sublessee complies with all reasonable directions of the Sublessor in accordance with the consent given by the Sublessor, and such directions may include Requirements in relation to materials and contractors or tradesmen to be used to construct the improvements;
    - (ii) any improvements are completed promptly and continuously in a proper and workmanlike manner, in accordance with all Laws and Requirements and the terms of the consent given by the Sublessor;
    - (iii) the Sublessee pays on demand all Costs incurred by the Sublessor in considering or inspecting the improvements and their supervision, including the reasonable fees of architects, engineers or other building consultants reasonably engaged by or on behalf of the Sublessor for this purpose;
    - (iv) the Sublessee obtains, maintains and complies with the terms of any approvals or permits from Government Agencies which are required in connection with the proposed improvements, and must on request by the Sublessor produce for inspection copies of all such approvals and permits;
    - (v) within 30 days of completion of the improvements, the Sublessee produces to the Sublessor, copies of any unconditional certificates of compliance or satisfactory completion issued by relevant Government Agencies and a certificate by a consultant approved by the Sublessor that the improvements have been carried out in accordance with the plans and specifications approved by the Sublessor; and
    - (vi) the improvements are completed within the time period (if any) reasonably specified by the Sublessor.

## 17. Construction Works

- (a) If the Sublessee undertakes any construction works, within the meaning of that phrase in regulation 321 of the *Occupational Health and Safety Regulations 2017* at the Premises, having a value in excess of \$350,000.00 (**Construction Works**), the Sublessor hereby



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appoints the Sublessee as the Principal Contractor in accordance with regulation 333(1)(a) of the *Occupational Health and Safety Regulations 2017* for the relevant Construction Works.

- (b) The Sublessee hereby acknowledges and accepts its appointment as Principal Contractor, and covenants to discharge the obligations of a Principal Contractor contained in the *Occupational Health and Safety Regulations 2017*, and accepts all liability in respect thereof.
- (c) The Sublessee hereby acknowledges that it has the management and control of the Premises, to the extent necessary to discharge the duties imposed on a Principal Contractor by the *Occupational Health and Safety Regulations 2017*.
- (d) Nothing in this clause 17 will prevent the Sublessee from appointing any other party as the Principal Contractor in respect of the Construction Works.
- (e) In this clause 17, 'Principal Contractor' has the meaning given to that term in regulation 5.1.14 of the *Occupational Health and Safety Regulations 2017*.

## **18. Further Term**

- (a) The Sublessor must renew this Sub-Lease for the Further Term if:
  - (i) at the time of receiving a renewal request,
    - (A) there is no un-remedied breach of this Sub-Lease by the Sublessee of which the Sublessor has given the Sublessee written notice;
    - (B) the Sublessee has not persistently committed breaches of this Sub-Lease of which the Sublessor has given the Sublessee written notice; and
  - (ii) the Sublessee has issued a written request for renewal to the Sublessor, not earlier than twelve (12) months and not later than four (4) months before the Expiry Date.
- (b) Where applicable, the renewed Sub-Lease:
  - (i) commences on the day after this Sub-Lease expires;
  - (ii) has a starting Rent as set out in the Review Notice specifying the Market Rent provided by the Sublessor to the Sublessee; and
  - (iii) must contain the same terms and conditions as this Sub-Lease except that on the exercise of each option for renewal the number of further options set out at Item 9 will be progressively reduced, with no option for renewal after the last option for a Further Term has been exercised.

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## 19. Sublessee's Obligations

The Sublessee must:

- (a) not use the Premises for any illegal purpose;
- (b) have regard to the safety and well-being of the students of the School and not engage in any conduct or allow any Invitee to engage in any conduct that may:
  - (i) endanger the safety and wellbeing of the students of the School;
  - (ii) compromise the delivery of any School Program; or
  - (iii) damage any property on the Land;
- (c) exclude from the Premises any person who:
  - (i) engages in the behaviour described in clause 19(b)(i)-(iii); or
  - (ii) would not pass or would be unlikely to pass the Working With Children Check, if that person were to apply for a Working With Children Check;
- (d) not keep or use chemicals, inflammable liquids, acids or other hazardous things on the Premises except as required for the Permitted Use, or create fire hazards;
- (e) not overload the floor of the Premises;
- (f) comply with all Departmental policies or guidelines which deal with the safety or health of persons on the Premises or otherwise under its control;
- (g) observe fire precautions;
- (h) at all times exercise due care, skill and judgement and act with the utmost good faith; and
- (i) maintain the oval and surrounding area at all times.

## 20. Repairs and Maintenance

- (a) The Sublessee must, at its own cost, maintain the Premises in sound structural repair and windproof and waterproof condition and undertake all repairs that are required to the Premises, including but not limited to:
  - (i) repairs and maintenance of any plant and equipment in the Premises;
  - (ii) repairs that are required as a result of fair wear and tear to the Premises; and

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- (iii) all structural and capital repairs.
- (b) In carrying out repairs required under this Sub-Lease, the Sublessee must use high quality materials and workmanship and such repairs must be in keeping with the standard, quality and appearance of the Premises.
- (c) For the avoidance of any doubt, the Sublessee acknowledges that the Sublessor is not responsible for any repairs or maintenance to the Premises.
- (d) The Sublessee shall keep the interior of the Premises and all fixtures and fittings therein in a state of good repair having regard to its condition at the commencement of the Sub-Lease and the Condition Report, fair wear and tear and damage caused by fire, flood, storm, tempest excepted unless any policy of insurance covering such occurrences shall have been vitiated or the policy money refused as a result of the act or omission of the Sublessee, its servants, agents, licensees or invitees.
- (e) Any plant or machinery located within and exclusively servicing the Premises shall be maintained and serviced and kept in a state of good repair by the Sublessee at its expense and the Sublessee will keep current such maintenance service and repair contracts that are reasonably required by the Sublessor. The Sublessor or a representative of the Sublessor may, upon providing reasonable notice, enter upon the Premises and view the state of repair and may serve upon the Sublessee, a notice in writing of any defect, requiring the Sublessee, within a reasonable time, to repair same in accordance with any covenant expressed or implied in the Sub-Lease, and that in default of the Sublessee's so doing it shall be lawful for the Sublessor, from time to time, to enter and execute the required repairs.
- (f) The Sublessee shall repair, replace and maintain all glass broken in the Premises either at the condition it was at the time of the Commencement Date, or any future condition that the Sublessor may repair the glass to following the Commencement Date.
- (g) The Sublessee shall repair, replace and maintain all non-operative light fittings.
- (h) The Sublessee shall regularly clean the Premises and dispose of all waste products and shall take all necessary steps to control any pest infestation and shall keep the Premises in a clean and tidy condition.
- (i) The Sublessee shall repair, replace and maintain all heating, electrical and plumbing fittings installed in the premises broken or damaged as a result of the use of Premises by the Sublessee.
- (j) The Sublessee shall comply with all statutory requirements affecting the Premises and will comply with any notices or orders which may be given by any authority in respect of the use of the Premises by the Sublessee provided that the Sublessee shall be under no liability in

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respect of any structural alterations unless that liability arises out of the Sublessee's particular use or occupation of the Premises.

- (k) The Sublessee shall keep and maintain the waste pipes, drains and water closets servicing the demised premises in a clean, clear and operative condition and shall employ licensed tradesman to clear any blockages which may occur therein and will regularly clean and service any grease traps provided for the use of the Premises.
- (l) In the event of the Sublessee failing to perform any of its obligations under the foregoing provisions then the Sublessor may do such things as are necessary to comply with such provisions and may recover from the Sublessee the costs of so doing as if the cost was unpaid rental hereunder.

## **21. Guarantors**

- (a) In consideration of the Sublessor at the request of the persons named in Item 17 of the Schedule hereinafter called the guarantors which expression shall include their executors, administrators, successors and assigns entering into this Sub-Lease with the Sublessee the guarantors covenant and agree with the Sublessor that they will be jointly and severally liable to the Sublessor for the due payments of all money under this Sub-Lease and the due performance of all covenants and conditions of this Sub-Lease on the part of the Sublessee to be performed.
- (b) The guarantor shall remain liable to the Sublessor notwithstanding that the Sublessor has not exercised all or any of its rights under the Sub-Lease or that the Sublessor has not made prior demand upon the Sublessee notwithstanding the granting of time or any other indulgence to the Sublessee and notwithstanding the death or insolvency of the Sublessee, and the guarantors shall be primarily liable as if named as the Sublessee herein.
- (c) The guarantors liability shall not in any way be conditional upon the validity or enforceability of the covenants and agreements herein contained against any other person and the guarantors liability hereunder shall continue until all money has been paid and all obligations have been satisfied and in the event of the exercise of any option herein contained by the Sublessee shall continue during the further term of the Sub-Lease and this guarantee shall endure for the benefit of the Sublessor, its executors, administrators and assigns.

## **22. Insurance, Release and Indemnity**

### **22.1 Public Liability, Building and Glass Insurance**

- (a) The Sublessee must maintain the following insurances specified in Item 16 of the Schedule. in the joint names of the Sublessor, Landlord and the Sublessee with an insurer approved by the Sublessor for:
  - (i) public liability for the amount of \$20 million concerning any single event (or such greater sum as reasonably required by the Sublessor);

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- (ii) all buildings, erections, extensions and improvements on the Premises for their full replacement value; and
    - (iii) any windows and any other glass in the Premises for their full replacement value.
  - (b) The Sublessee must ensure that the insurances effected under clause 22.1(a), contain a cross-liability clause extending the benefit of the policy, so that the words 'the insured' are considered as applying to each party comprising the insured, as though a separate policy has been issued to each of the insured parties, in the same manner as if that party were the only party named as the insured.
  - (c) The Sublessee must insure the Sublessee's property, fixtures and fittings for Loss and damage from risks including fire and water damage for its full replacement value.
  - (d) The Sublessee must pay all insurance premiums on or before the due date for payment and produce to the Sublessor copies of the certificates of currency for such insurance, on or before each anniversary of the Commencement Date.
  - (e) The Sublessee must:
    - (i) not do anything which may make any insurance effected by the Sublessor or the Sublessee invalid, capable by being cancelled or rendered ineffective, or which may increase any insurance premium effected by the Sublessor; and
    - (ii) pay any increase in the insurance premium caused by the Sublessee's acts, defaults or particular use of the Premises.
  - (f) The Sublessee must comply with all reasonable requirements of the Sublessor's insurer in connection with the Premises.
  - (g) If the Sublessee fails to obtain or maintain any of the insurances required under clause 22.1 during the operation of this Sub-Lease:
    - (i) the Sublessor may, but will not be obliged to, obtain the insurances itself;
    - (ii) the Cost of doing so will be:
      - (A) a debt due and payable by the Sublessee to the Sublessor; and
      - (B) recoverable as Rent due and payable under this Sub-Lease; and
    - (iii) proceeds received under any such insurance, must, if required by the Sublessor, be applied in:
      - (A) reinstating the Premises; or
      - (B) effecting improvements to the Premises.

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## **22.2 Release**

The Sublessee uses and occupies the Premises at its own risk and releases, to the full extent permitted by Law, the Landlord, Sublessor and its Associates from all Claims and demands of any kind for or resulting from any accident, damage, Loss or injury occurring in or on the Premises, except for those caused or contributed to by the Sublessor's negligent or unlawful act or omission or breach of this Sub-Lease.

## **22.3 Indemnity**

- (a) The Sublessee must indemnify and keep indemnified the Landlord, Sublessor and its Associates against all Claims that the Sublessor or its Associates suffer or incur in respect of or arising from:
  - (i) any negligent or unlawful act or omission of the Sublessee in connection with this Sub-Lease;
  - (ii) any loss, injury, illness or damage to persons (including death) including any member of the public or any third party to the extent that it is caused or contributed to by the act or omission of the Sublessee in connection with this Sub-Lease;
  - (iii) any loss of or damage to property of any kind to the extent that it is caused or contributed to by the act or omission of the Sublessee in connection with this Sub-Lease; or
  - (iv) the Sublessee's breach of this Sub-Lease.
- (b) The obligations of the Sublessee under clauses 22.2 and 22.3(a) will continue after the expiration or termination of this Sub-Lease in respect of any act, deed, matter or thing happening during the Term but before such expiration or termination.
- (c) The Sublessee covenants at all times and in all respects to comply at its own expense with the requirements of any other relevant statute or regulation.
- (d) In the event that the Sublessee does or omits to do anything whereby the premiums of any insurance effected by the Sublessor are increased then the Sublessee shall pay such increase in insurance to the Sublessor.

## **23. Assignment and Subletting**

The Sublessee must not dispose of, deal with or assign its interest, rights or powers as Sublessee under this Sub-Lease (whether legal or equitable) in any way except in accordance with Special Condition 4.

## **24. Common Area**

- (a) The Sublessee may use the Common Area to access the Premises and for the purpose for which it is intended in common with the Sublessor, the Sublessor's Associates and other people authorised by the Sublessor.

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- (b) The Landlord will regularly maintain, clean and repair the Common Area, unless the need for such maintenance, cleaning and repair is caused by the Sublessee, in which case these actions must be promptly attended to by the Sublessee at its cost.

## **25. Security Deposit**

- (a) In order to secure the performance of the Sublessee of its obligations under this Sub-Lease, the Sublessee must pay the Security Deposit to the Sublessor on or before the Commencement Date.
- (b) The Sublessee must ensure that the Security Deposit is maintained at the required level for the Term.
- (c) If the Sublessee breaches this Sub-Lease and the Sublessor suffers any resultant Costs, Loss, damage or Liability (or accrues some other entitlement to payment from the Sublessee), the Sublessor may, after giving 10 Business Days' Notice of the default to the Sublessee draw down on the Security Deposit without further notice to the Sublessee to the extent of such Costs, Loss, damage or Liability if the default remains unremedied.
- (d) If the Sublessor draws on the Security Deposit, the Sublessee must within 10 Business Days restore the relevant amount to ensure that the Security Deposit is maintained at the required level.
- (e) Subject to any right the Sublessor has to draw on the Security Deposit, the Sublessor must return the Security Deposit to the Sublessee within 60 days of the later of:
  - (i) the expiry of this Sub-Lease;
  - (ii) the Sublessee returning vacant possession of the Premises to the Sublessor in accordance with this Sub-Lease; or
  - (iii) the Sublessor being satisfied (acting reasonably) that the Sublessee has complied with all of its obligations under this Sub-Lease.

## **26. Sublessor's rights and obligations**

- (a) Quiet Enjoyment

Provided that the Sublessee is not in breach of the terms of this Sub-Lease, the Sublessor must not interfere with the Sublessee's use and

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occupation of the Premises except as may be provided by this Sub-Lease.

(b) Entry by the Sublessor or Landlord

The Sublessor or Landlord may enter the Premises at any given time after giving the Sublessee reasonable notice to:

- (i) inspect the condition of the Premises;
- (ii) rectify any default by the Sublessee under this Sub-Lease; and
- (iii) carry out any inspection, repairs, maintenance, works or alterations in the Premises,

provided that the Sublessor uses all reasonable endeavours to cause as the least amount of disruption to the Sublessee or the Sublessee's use of the Premises. The Sublessee acknowledges that either the Sublessor or Landlord may enter the Premises at any time without notice in an emergency situation.

(c) Right of Re-Entry

If:

- (i) any Lease Money is in arrears and the Sublessee has failed to pay the outstanding Lease Money after the Sublessor has given the Sublessee fourteen days' notice of non-payment;
- (ii) the Sublessee does not comply with an essential term of this Sub-Lease;
- (iii) the Sublessee commits some other breach of this Sub-Lease and the Sublessor gives the Sublessee a notice specifying that breach or default and the time period within which such breach must be remedied (which will be such period as is reasonable in the circumstances), and having been given that notice:
  - (A) where the breach or default is capable of remedy, the Sublessee does not remedy that breach or default within the time period specified in the notice; or
  - (B) where the breach or default is not capable of remedy, the Sublessee does not pay compensation for Loss sustained as a result that breach or default as reasonably determined by the Sublessor and detailed in the notice within the time period specified in the notice; or

an Insolvency Event occurs,

without limiting any other right of action or remedy available to the Sublessor in respect of any prior breach of any of the Sublessee's covenants, and in addition to any right or power for re-entry implied in this Sub-Lease, the Sublessor or any person on its behalf may at any



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time re-enter the Premises or any part thereof of the Premises in the name of the whole and terminate this Sub-Lease, but without relieving the Sublessee from liability for any antecedent breach of any of its covenants. The Sublessor's right of re-entry is subject to the provisions of any statute from time to time in force, to the extent that such statute binds the Sublessor.

- (d) Except in an emergency, the Sublessor must:
  - (i) give the Sublessee reasonable notice of the Sublessee's intended exercise of the rights set out in this clause 26;
  - (ii) only exercise the rights set out in clause 26, at reasonable times; and
  - (iii) take all reasonable steps to minimise interference to the Sublessee when exercising the rights set out in clause 26.
- (e) The Sublessor may exclude from entry to the Premises and the Common Areas any person, including any Invitees, whom the Sublessor believes:
  - (i) may endanger the safety or wellbeing of any student of the School or compromise the delivery of any School Program; or
  - (ii) would not pass the Working With Children Check, if that person were to apply for the Working With Children Check.

## **27. Default and Termination Events**

### **27.1 Damage, destruction, interruption or inaccessibility**

- (a) The Sublessor or the Sublessee may terminate this Sub-Lease by written notice to the other party if the Premises are damaged or destroyed or there is interruption to access to the Premises so as to render the Premises or any part thereof, wholly or substantially unfit for the Permitted Use and otherwise unfit for the occupation or use of the Sublessee or inaccessible by any usual means of access.
- (b) The Sublessee cannot exercise its right to terminate under clause 27.1(a) where the Sublessee has caused or materially contributed to the event giving rise to the right of termination.
- (c) If during the currency of this Sub-Lease the Premises or a substantial part thereof is destroyed so substantially as to be wholly unfit for occupation by the Sublessee then the rental hereby reserved shall abate and this Sub-Lease and the term hereby created may if the Sublessor so elects and of its election in writing notifies the Sublessee within one month of the destruction or damage be terminated and brought to an end provided that if the Sublessor does not give such notice and does not within a period of 3 months from such occurrence commence to restore the Premises the Sublessee may by notice in writing to the Sublessor terminate this Sub-Lease.

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- (d) In the event that the Premises or any part thereof shall at any time during the continuance of the Sub-Lease be damaged so as to render part of the same unfit for occupation and use by the Sublessee then a proportionate part of the rent hereby reserved according to the nature and extent of the damage sustained shall abate until the Premises shall have been rebuilt or made fit for the occupation and use of the Sublessee.
  - (e) In the event of the occurrences referred above the rent reserved by this Sub-Lease shall not abate in the event that any policy of insurance covering such occurrences or loss of rental policy shall have been vitiated or the policy money refused in whole or in part in consequence of some act or default by the Sublessee or their servants, agents, licensees and invitees.
  - (f) In the case of any difference concerning the amount of rental to abate then either party may ask the President of the Australian Property Institute (Victorian Division) to nominate a valuer to determine the dispute as an expert. The parties will be bound by the determination of the valuer and will equally bear the costs of the valuer.

## 27.2 By Agreement

The Sublessor and Sublessee may terminate this Sub-Lease at any time by written agreement.

## 27.3 Termination where Land not required for operation of a School

- (a) If during the Term the Landlord determines that the Land is not required for the operation of a School, the Sublessor may terminate this Sub-Lease by giving no less than five (5) months written notice to the Sublessee.
- (b) The Sublessor's compensation obligations in connection with early termination of this Sub-Lease under clause 27.3(a) will be limited to those described in clause 27.3(c);
- (c) In this clause 27.3:
  - (i) **Compensable Expense** means an expense reasonably incurred by the Sublessee in fitting out, upgrading or reinstating the Premises, consistent with the terms of this Sub-Lease and necessary for the Permitted Use:
    - (A) Including relevant architecture, construction and engineering expenses; and
    - (B) excluding:
      - (I) expenses incurred in installing fittings that do not become annexed to the Premises and can be removed by the Sublessee without materially damaging the Premises; and

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(II) relocation expenses, loss of profits and other forms of consequential loss; and

- (ii) **Compensable Days** means the balance of the Term remaining at the termination date for the purposes of clause 27.3(a), calculated in days.
- (d) Subject to subclause 27.3(e) below, if the Sublessor exercises his rights under clause 27.3(a), the Sublessor must reimburse the Sublessee for any Compensable Expense pro rata within 30 days of demand, calculated in accordance with the following formula:
- (i) Reimbursement payable by Sublessor =  $X(Y/Z)$ ,  
in which:
- (ii) **X** = the number of Compensable Days applicable; and
- (iii) **Y** = the total value of the Compensable Expense;
- (iv) **Z** = the duration of the Term expressed in days.
- (e) In order to be eligible for pro rata reimbursement of a Compensable Expense, the Sublessee must provide satisfactory itemised tax invoices and proof of payment to the Sublessor, which substantiate the existence of a Compensable Expense.
- (f) For the avoidance of doubt, the Sublessor has no obligation under this Sublease to compensate the Sublessee if this Sublease ends in circumstances other than those set out in clause 27.3(a).

## 28. Essential Terms

The Sublessee agrees that the following clauses are essential terms of this Sub-Lease:

- (a) 7 - Rent;
- (b) 11 - Rates, Taxes and Outgoings;
- (c) 13 - Use of Premises;
- (d) 15 - Compliance with Laws;
- (e) 16 - Improvements;
- (f) 17 - Construction Works;
- (g) 19 - Sublessee's Obligations;
- (h) 20 - Repairs;
- (i) 22 - Insurance, Release and Indemnity;
- (j) 23 - Assignment and Subletting;

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- (k) 34 - Sublessee's Obligations on the Expiry or End of Sub-Lease; and
  - (l) the special conditions set out in Schedule 2.

## **29. Sublessor's Rights to Damages**

In addition to the right of the Sublessor to re-enter the Premises in the event of default by the Sublessee, whether or not the default is a breach of an essential term of this Sub-Lease, and in addition to any other rights and remedies of the Sublessor, the Sublessor may sue the Sublessee for damages for loss of the benefits which performance of this Sub-Lease by the Sublessee for the balance of the Term would have conferred on the Sublessor. The Sublessor must use reasonable endeavours to mitigate the Sublessor's Loss in these circumstances.

## **30. Re-Entry by Sublessor not to Constitute Forfeiture**

If the Sublessee vacates the Premises during the Term (whether or not the Sublessee ceases to pay the Rent), in the absence of:

- (a) a written notice by the Sublessor accepting a surrender of the Sublessee's interest under this Sub-Lease; or
- (b) a formal notice of forfeiture or re-entry being served on the Sublessee by the Sublessor,

neither acceptance of the keys nor entry into the Premises by the Sublessor or by any person on the Sublessor's behalf for the purpose of:

- (c) inspection;
- (d) showing the Premises to prospective Sublessees or licensees; or
- (e) advertising the Premises for reletting,

will constitute a re-entry or forfeiture or waiver of the Sublessor's rights to recover in full all rent as well as all rates, taxes and outgoings payable by the Sublessee under this Sub-Lease, and this Sub-Lease is deemed to continue in full force and effect until the date on which a new licensee or Sublessee actually commences occupation of the Premises or the date on which the Term ends, whichever occurs first, and any entry by the Sublessor until that date is deemed to be an entry with the permission of the Sublessee. If a new licensee or Sublessee occupies the Premises during the Term, the Sublessee must pay the Sublessor the difference (if any) between the Rent and the licence fee or rent paid by the new licensee or Sublessee until the end of the Term.

## **31. Sublessor's Right to Remedy Sublessee's Default**

- (a) If the Sublessee fails to pay any money or do anything which it is obliged to do, after the Sublessor has given the Sublessee a notice specifying the particulars of the default and a remediation period, on or before the end of the applicable remediation period, the Sublessor may, but need not, pay such money or do such thing and:

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- (i) for the purpose of doing any such thing, the Sublessor may enter and remain on the Premises; and
  - (ii) the Sublessor may recover on demand from the Sublessee the amount paid and the Cost incurred by the Sublessor and any other person together with all incidental expenses.
- (b) The Sublessor's exercise of any right under this clause 31 is without prejudice to any other right or remedy which it has or may have for any non-payment or non-performance by the Sublessee.

## **32. Disputes**

- (a) If any dispute arises under this Sub-Lease between the Sublessor and the Sublessee, either party may give a Dispute Notice, referring the dispute for expert determination.
- (b) If a dispute is referred for expert determination, appointment of the Expert will be requested by the party giving the Dispute Notice.
- (c) The Expert will:
  - (i) fix and inform each party of a time for the parties to present their respective positions to the Expert. Unless otherwise agreed between the parties, the parties must present their respective positions to the Expert no later than 5 Business Days after the Expert's appointment;
  - (ii) make a determination or finding in respect of the dispute within 10 Business Days after the parties have presented their respective positions. Any determination of a dispute by the Expert will include a determination as to the award of costs and will be final and binding on all parties; and
  - (iii) act as an expert and not an arbitrator.
- (d) The parties will continue to perform their respective obligations under this Sub-Lease pending the resolution of a dispute under this clause 32.
- (e) The Sublessor and Sublessee will not oppose any application for interlocutory relief pending resolution of a dispute by the Expert under this clause 32.

## **33. Interest**

- (a) The Sublessee must pay interest on any money payable by it under this Sub-Lease for the period from the due date for payment until the date of actual payment, calculated on daily balances, without the need for any demand and without prejudice to any other rights of the Sublessor.
- (b) The rate of interest to be applied to each daily balance is 2% per annum above the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983*.

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## **34. Sublessee's Obligations on the Expiry or End of Sub-Lease**

### **34.1 Sublessee's Obligations**

At the end of this Sub-Lease, the Sublessee must:

- (a) vacate the Premises and give them back to the Sublessor in a condition consistent with the Sublessee having complied with its obligations under this Sub-Lease and otherwise in a condition satisfactory to the Sublessor;
- (b) remove the Sublessee's property (including all signs and lettering) and reinstate the Premises to the condition that they were in prior to the installation of the Sublessee's property, including making good any damage caused by the removal of the Sublessee's property;
- (c) give to the Sublessor all keys and other security devices used for the purposes of obtaining access to the Premises; and
- (d) unless a contrary direction is received from the Sublessor, remove from the Premises all improvements constructed or installed by the Sublessee after the Commencement Date or any earlier date that the Sublessee began occupation of the Premises, and in doing so:
  - (i) make good all damage caused by or arising from such removal at the Sublessee's sole Cost to the satisfaction of the Sublessor acting reasonably; and
  - (ii) comply with **Special Condition 2(d)**.

### **34.2 Sublessee's Property Left in Premises**

Anything left in the Premises for more than 7 days after the end of this Sub-Lease:

- (a) will be deemed to be abandoned by the Sublessee;
- (b) will become the property of the Sublessor for dealing with in the Sublessor's discretion; and
- (c) may be removed by the Sublessor at the Sublessee's cost and sole risk.

## **35. Holding Over**

- (a) If the Sublessee continues to occupy the Premises after the end of the Term with the Sublessor's consent, it does so as a monthly Sublessee:
  - (i) under the terms and conditions of this Sub-Lease with any changes necessary to convert this Sub-Lease to a monthly tenancy; and
  - (ii) at a rent equal to one month's proportion of the Rent payable under this Sub-Lease immediately before the end of the Term,

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payable monthly in advance, and the Sublessor may increase the Rent at any time by giving one month's notice to the Sublessee.

- (b) The Sublessor and the Sublessee may each terminate the monthly tenancy by giving at least one month's notice to the other, ending on any day.

### **36. Disclosure**

- (a) The Sublessee acknowledges that so long as the Landlord is the Minister this Sub-Lease may be published in accordance with the State's 'Contract management and contract disclosure policy', in any medium, including the internet, except to the extent that the Landlord is satisfied, using as a guide the criteria provided in the *Freedom of Information Act 1982* (Vic), that the relevant term should be exempt from publication.
- (b) For so long as the Landlord is the Minister, the Landlord may for benchmarking purposes, disclose to any Government Agency (whether of Victoria or any other State or Territory of Australia) the terms and conditions of this Sub-Lease without identifying the Rent and Outgoings, provided that prior to making any disclosure, the Landlord notifies the Sublessee of the proposed recipient and the extent of the proposed disclosure.

### **37. Notices**

- (a) A Notice must:
  - (i) be in writing;
  - (ii) signed by or on behalf of the party giving it; and
  - (iii) hand delivered to the address of the Authorised Representative or sent by prepaid post (airmail if posted to or from a place outside Australia) to the address of the Authorised Representative or sent by facsimile to the facsimile number of the Authorised Representative, or, if the Authorised Representative Notifies another address or facsimile number, then to that address or facsimile number.
- (b) A Notice takes effect from the time it is received, unless a later time is specified in it. A Notice will be deemed to have been received by the Authorised Representative:
  - (i) in the case of hand delivery, upon delivery at the address of the Authorised Representative;
  - (ii) in the case of post, on the tenth(fifteenth if posted to or from a place outside Australia) Business Day after posting; and
  - (iii) in the case of facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the

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facsimile number of the recipient, except where the facsimile is received on a non-Business Day, or after 4.00pm on a Business Day, in which case it is deemed to have been received on the next Business Day.

- (c) A party:
  - (i) may, from time to time, nominate a replacement Authorised Representative by Notice given in writing to the other party; and
  - (ii) must give Notice in writing to the other party within seven days of any change to the details of its Authorised Representative set out in Item 19 of the Schedule.
- (d) Notwithstanding clause 37(a), the Sublessor may deliver a Notice to the Sublessee's Authorised Representative by email, which the Sublessee will be deemed to have received in accordance with the provisions of the *Electronic Transactions (Victoria) Act 2000*.

### **38. Environmental Matters**

- (a) The Sublessee acknowledges that:
  - (i) the Sublessee will occupy the Premises in its present condition and has entered into this Sub-Lease on that basis; and
  - (ii) the Sublessor is not obliged to:
    - (A) remove, encapsulate or otherwise treat any asbestos which may be present in or on the improvements or any fixtures, fittings or installations in, to or on the Premises; or
    - (B) remove, empty, clean or take any action in relation to any underground storage tank or tanks or associated pipes, valves or appliances or any Contamination in, on, or under the Premises.
- (b) The Sublessee releases and discharges the Landlord, Sublessor and its successors, assigns, employees and agents from all Claims, arising after the date of occupation under this Sub-Lease or any earlier date that the Sublessee commenced occupation of the Premises, which the Sublessee has, may have, or which may accrue in the future, or which, but for the execution of this Sub-Lease, the Sublessee would or might have had against the Sublessor as a result of the presence of any asbestos or other Contamination in, on or under the Premises.
- (c) As from the date of occupation, the Sublessee indemnifies and holds harmless the Sublessor and the Sublessor's successors, assigns, employees and agents against all Claims, resulting or arising after the date of occupation, from the presence of any asbestos or other Contaminant in, on or under the Premises (including, without limitation, any Costs or expenses incurred in relation to any notice, direction or order issued or made under the Environment Protection



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Act or any other Act or Regulation in force in Victoria relating to protection of the Environment).

- (d) Clauses 38(b) and 38(c) do not apply to Claims by any person arising from their exposure before the date of this Sub-Lease to asbestos or any other Contaminant on the Premises.

### **39. Waiver**

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right operate to preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

### **40. Entire Agreement**

This Sub-Lease is the entire agreement of the Sublessor and Sublessee on the subject matter. The only enforceable obligations and liabilities of the Sublessor and Sublessee in relation to the subject matter are those that arise out of the provisions contained in this Sub-Lease. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this Sub-Lease.

### **41. Negation of Warranties**

- (a) The Sublessee acknowledges that it has entered into this Sub-Lease solely on the basis of the terms and conditions in this Sub-Lease and that no additional warranties, representations or promises have been made by the Sublessor or its agents.
- (b) Without limiting clause 41(a), the Sublessee acknowledges that:
- (i) no warranties have been given by the Sublessor that the Premises are suitable for the Permitted Use; and
  - (ii) subject to the terms and conditions of this Sub-Lease, the Sublessee must do all things required, including obtaining all permits and approvals, to enable the Premises to be used for the Permitted Use.

### **42. Severability**

Any provision of this Sub-Lease which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the validity of the remaining provisions of this Sub-Lease or the validity or enforceability of that provision in any other jurisdiction.

### **43. Counterparts**

This Sub-Lease may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

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#### 44. Further Assurance

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts reasonably required of it or them by Notice from another party to effectively carry out their obligations under this Sub-Lease.

#### 45. Governing Law

This Sub-Lease is governed by the Law of the State of Victoria.

#### 46. Submission to Jurisdiction

The parties submit to the jurisdiction of the courts of the State of Victoria and any courts which may hear appeals from those courts in respect of any proceedings issued in connection with this Sub-Lease.

#### 47. Variations

No addition to or variation of this Sub-Lease will be of any force or effect unless in writing signed by or on behalf of all parties.

#### 48. Personal Property Securities Act

- (a) In this clause:
- (i) any capitalised words and expressions that are not defined in this Sub-Lease will have the meanings ascribed to them in the PPSA;
  - (ii) **Sublessor Personal Property** means any item of Personal Property:
    - (A) which is owned by the Sublessor; or
    - (B) in which the Sublessor has an interest,that is located on the Premises or the Land at any time during the Term;
  - (iii) **Personal Property** has the same meaning as defined in the PPSA including, without limitation, items of equipment, plant or business inventory, but will exclude any fixtures annexed to or forming part of the Premises or the Land;
  - (iv) **PPSA** means the *Personal Property Securities Act 2009* (Cth) and includes any regulations made under that Act;
  - (v) **Security Interest** has the same meaning as defined in the PPSA; and
  - (vi) **Sublessee Personal Property** means any item of Personal Property;

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- (A) which is owned by the Sublessee; or
  - (B) in which the Sublessee has an interest,

that is located on the Premises or the Land at any time during the Term, or following the expiry or earlier determination of this Sub-Lease.

- (b) The Sublessor may register any actual, impending or likely Security Interest arising from the operation of this Sub-Lease. The Sublessee must not make any Claim against the Sublessor in respect of any such registration, even if the registration is ended pursuant to s 151 of the PPSA, or it is determined by a court that registration of the Security Interest should not have occurred.
- (c) The Sublessee:
  - (i) must do all things reasonably requested by the Sublessor to enable the Sublessor to register any of the Sublessor's Security Interests arising in relation to this Sub-Lease and to enforce the Sublessor's rights under this clause and the PPSA;
  - (ii) must not grant or permit the granting of any Security Interest in the Sublessor Personal Property other than with the prior written consent of the Sublessor;
  - (iii) must not grant a Security Interest in respect of any of the Sublessee Personal Property to any person other than the Sublessor without obtaining the Sublessor's prior written consent;
  - (iv) must pay the Sublessor's reasonable Costs in respect of anything done or attempted by the Sublessor in the exercise of the Sublessor's rights under this clause or the PPSA;
  - (v) agrees that on the expiry or earlier determination of this Sub-Lease, the Sublessee must sign (or arrange for the holder of any registered Security Interest to sign) any document that the Sublessor reasonably considers necessary to discharge any registered Security Interest in relation to the Sublessee Personal Property or the Sublessor Personal Property;
  - (vi) gives the Sublessor an irrevocable power of attorney to do anything the Sublessor reasonably considers the Sublessee must do (and is unable or unwilling to do) under this clause;
  - (vii) waives the right to receive a Verification Statement in respect of any Financing Statement or Financing Change Statement relating to any Security Interest granted to the Sublessor by the Sublessee; and
  - (viii) hereby charges in favour of the Sublessor all of its title and interest in the Sublessee Personal Property as security for the performance of the Sublessee's obligations under this Sub-

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Lease, and acknowledges that this charge constitutes the granting of a Security Interest.

- (d) The Sublessor and the Sublessee agree not to disclose information of the kind that can be requested under s 275(1) of the PPSA in relation to any Security Interest held in respect of the Sublessor Personal Property or the Sublessee Personal Property.
- (e) Without limiting any other rights of the Sublessor, if this Sub-Lease is terminated by the Sublessor as a result of the Sublessee's breach of the Sub-Lease, the Sublessor may set off any Loss or damage caused by that breach by taking custody of the Sublessee Personal Property and may deal with it in any manner the Sublessor sees fit.
- (f) If there is any inconsistency between this clause and any other provision of this Sub-Lease, the provisions of this clause will prevail.

#### **49. Retail Leases Act acknowledgement**

The Sublessee acknowledges that the *Retail Leases Act 2003* does not apply to this Sub-Lease by virtue of paragraph 1(a)(i) and/or (ii) of the Ministerial Determination dated Monday 13 October 2014 (No. S 362).

#### **50. Miscellaneous**

- (a) The rights, powers and remedies set out in this Sub-Lease are cumulative with and not exclusive of the rights, powers or remedies provided by Law independently of this Sub-Lease.
- (b) Each indemnity in this Sub-Lease is a continuing obligation, separate and independent from the other obligations of the Sublessee, and survives expiry or termination of this Sub-Lease.
- (c) Unless this Sub-Lease provides otherwise, the Sublessor need not make demand for any amount payable by the Sublessee under this Sub-Lease.
- (d) The expiry or termination of this Sub-Lease does not affect:
  - (i) the Sublessor's rights in respect of a breach of this Sub-Lease by the Sublessee occurring before the expiry or termination; or
  - (ii) the Sublessee's obligation to pay Sub-Lease Money for periods before the expiry or termination.
- (e) This Sub-Lease does not constitute a partnership or a joint venture between the parties nor does it constitute one party the agent of the other party unless this Sub-Lease expressly provides otherwise. This Sub-Lease creates only the relationship of Sublessor and Sublessee between the parties.

#### **51. Premises and Additional Area**

- (a) At the Commencement Date, for the purposes of this Sub-Lease, '**Premises**' means part of the Land and the improvements erected on

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the Land, situated at 35 Eddy Street, Castlemaine VIC 3450 and marked and outlined [to be confirmed] on the Plan.

- (b) Notwithstanding clause 51(a), the Sublessor may during the Term give the Sublessee written notice:
- (i) that the Premises is to be expanded to include the Additional Area, or any part of the Additional Area for the residue of the Term; and
  - (ii) specifying the date on which the Premises is to be expanded, being not less than thirty (30) days after delivery of the notice (**Expansion Date**)  
  
(the '**Expansion Notice**').
- (c) On and from the Expansion Date:
- (i) all references to the Premises in this Sub-Lease (other than in this clause 51 as the context requires) will be taken to be references to the Premises and the Additional Area or that part of the Additional Area specified in the Expansion Notice; and
  - (ii) for the avoidance of doubt, the Sublessee will be taken to occupy under this Sub-Lease the Additional Area or that part of the Additional Area specified in the Expansion Notice for the residue of the Term, subject to:
    - (A) the terms and conditions of this Sub-Lease;
    - (B) the encumbrances affecting the Additional Area; and
    - (C) any reservations in favour of the Sublessor or Government Agencies set out in this Sub-Lease.
- (d) If any Expansion Notice provided to the Sublessee specifies that the Premises is to be expanded to include only part of the Additional Area, the Sublessor may during the balance of the Term issue further Expansion Notices in relation to the remaining Additional Area, in which case the mechanism in this clause 51 will be applied to determine the revised dimensions of the Premises.

---

## Special Conditions

### 1. Use of Premises

Without limiting the generality of any other term of this Lease, the Sublessee must ensure that the Sublessee, any sub-tenant or other person authorised to enter the Premises by the Sublessee or any sub-tenant does not use the Premises in a way that:

- (a) affects the delivery of School Programs;
- (b) may bring the Landlord, the Department or the School into disrepute;
- (c) may cause damage or risk to students or property of the School or the Landlord;
- (d) may create excessive noise or pose a nuisance to nearby residents;
- (e) is illegal;
- (f) is inconsistent with the Permitted Use;
- (g) involves the smoking of tobacco in the vicinity of the Common Area, the Additional Area or the Excluded Area; or
- (h) involves the consumption of alcohol:
  - (i) during times on which students of the School may be on the Land; or
  - (ii) which is not in compliance with any Requirement or Law.

### 2. Condition Report and Evaluation Report

- (a) The **Sublessee** acknowledges:
  - (i) receipt of the Condition Report; and
  - (ii) that the Condition Report accurately details the condition of the Premises as at the Commencement Date (**Commencement Condition**).
- (b) The **Sublessor** or **Landlord** may commission a building surveyor, structural engineer (or similar) (**Building Consultant**) to:
  - (i) inspect the Premises; and
  - (ii) prepare a report which evaluates the condition of the Premises on or about the date that vacant possession is returned to the Landlord against the Commencement Condition, and identifies any deficiencies that need to be rectified for the Sublessee to restore the Premises to the Commencement Condition (**Evaluation Report**).
- (c) The Sublessee must:

- 
- (i) allow the Building Consultant access to the Premises for the purposes of conducting the inspections and preparing the Evaluation Report if the Sublessee is still in possession of the Premises at the time; and
  - (ii) reimburse the Landlord on a full indemnity basis within seven (7) days of demand for the Costs incurred in relation to the Building Consultant's inspections and preparation of the Evaluation Report.
- (d) Without limiting the generality of any other clause of this Lease, the Sublessee must at the end of this Lease:
- (i) promptly rectify all deficiencies identified in the Evaluation Report after receiving the Evaluation Report and restore the Premises to the Commencement Condition, fair wear and tear excepted; and
  - (ii) comply with all of the Sublessee's obligations under this Sub-Lease (for the avoidance of doubt, including under clause 30), at the Sublessee's sole Cost.
- (e) If the Sublessee fails to comply with Special Condition 2 within 21 days of the end of this Lease, the Sublessor may elect to enter the Premises and carry out any remedial works and repairs required to restore the Premises to the Commencement Condition itself.
- (f) If the Sublessor exercises its rights under Special Condition 2., the Tenant must reimburse the Sublessor on a full indemnity basis for all Costs incurred in doing so (including legal, surveying and construction Costs) within 7 days of demand, which until paid will be a debt due and payable to the Sublessor.

### **3. Floorspace for community use**

A minimum of 3.00% of the total premises referred to in Item 4 of the Schedule must be reserved for community use.

The total minimum floorspace for community use may be satisfied by agreement between the Sublessee under this Sub-Lease and any other party to which the Sublessor may have subleased any other part of Castlemaine Secondary College

Rental rates for community use of part of the premises should not exceed the appropriate hire rates set by the Mount Alexander Shire Council at the applicable time for the hiring of community venues.

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#### 4. Sublessor's approval for all tenancy licences

The Sublessor reserves the right to approve all tenancy licences that are offered by the Sublessee and may request at any stage a list of licensees.

The Sublessee may grant licences over portions of the Premises, provided that:

- (a) the licence terms:
  - (i) require the licensee to comply with the Sublessee's obligations under clause 19 of this Sub-Lease, modified to apply to a licence;
  - (ii) require the licensee to obtain and maintain for the duration of the licence, all permits and approvals required under Law in connection with the licensee's use of the Premises;
  - (iii) allow the Sublessor to automatically terminate the licence if:
    - (A) the licensee or any Invitee behaves in a manner that places the Sublessee in breach of the obligations set out in clause 19 of this Sub-Lease; or
    - (B) the Landlord exercises its right to repossess the premises under terms contained in the Head Lease; or
    - (C) the Sublessor requests the Sublessee to revoke the licence for the reasons set out in Special Condition 5(c) below; and
  - (iv) immediately end the licence if the Sub-Lease granted to Castlemaine Hot Rod Centre Limited ends for any reason; and
- (b) the Sublessee promptly notifies the Sublessor of the grant of a licence and, if requested to do so by the Sublessor, promptly provides the Sublessor with a copy of the executed agreement granting the licence; and
- (c) Notwithstanding Special Condition 4(a), the Sublessee acknowledges that it must:
  - (i) not grant a licence to any person; or
  - (ii) immediately revoke the licence of any licensee,

if the Sublessor notifies the Sublessee that the Sublessor believes on reasonable grounds that the proposed or existing licensee or one of its employees or Invitees may:



- 
- (iii) endanger the safety or wellbeing of any student of the School or compromise the delivery of any School Program;
  - (iv) not pass a Working With Children Check; or
  - (v) use the Premises in a manner that would place the Sublessee in breach of an essential term of this Sub-Lease.

## **5. Sublessor's right to withdraw Oval**

The Sublessor reserves the right to withdraw the oval area marked [add reference] from the demised premises (being the total lettable area described in Item 4 of the Schedule).

This right can be exercised by the Sublessor, either:

- (i) Immediately by mutual agreement between the Sublessor and Sublessee; or
- (ii) By the Sublessor providing six (6) months written notice to the Sublessee in the form approved by clause 38 of this Sub-Lease.

Exercise of this condition shall result in the Sublessee forfeiting all rights and entitlements that they might otherwise have in regard to the area marked in red on the map in Annexure B.

The Sublessee may not make any objection or claim for compensation from the Sublessor exercising its option under this condition. Further, exercise of this right by the Sublessor shall not be considered a breach of the covenant of quiet enjoyment or any other term, implied or otherwise, under this Sub-Lease.

## **6. Sublessee's right to terminate on planning permit refusal**

In the event that a planning permit for the occupation by the Sublessee of the Premises referred to in Item 4 of the Schedule for the intended use or works to facilitate that use is refused by the Mount Alexander Shire Council the Sublessee may elect to terminate this Sub-Lease within ten (10) Business Days of being provided with a notice of refusal, unless otherwise extended by an application to the Victorian Civil Administrative Tribunal (VCAT) by either party. This condition shall only apply to the initial planning permit application by the Sublessee and does not apply to any subsequent planning permit applications, including planning permit applications for any party granted a tenancy licence by the Sublessee.

Should the Sublessee not elect to terminate the Sub-Lease within ten (10) Business Days of being provided with a notice of refusal this condition shall be deemed to be satisfied and the Sublessee may not rely upon it in order to terminate this Sub-Lease.

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**ANNEXURE A**  
**PLAN**

DRAFT

## SCHEDULE

<b>Item 1: Landlord</b>	<b>The Hon. James Merlino, MP, Minister for Education for and on behalf of the Crown and in the right of the State of Victoria</b> of Level 3, 1 Treasury Place, East Melbourne VIC 3002 (“Landlord” in Head Lease))
<b>Item 2: Sublessor</b>	<b>Mount Alexander Shire Council</b> of 25 Lyttleton Street, Castlemaine, VIC 3450 (“Sublessor” in Sub-Lease)
<b>Item 3: Sublessee</b>	<b>Castlemaine Hot Rod Centre Limited</b> of 69 Forest Street, Castlemaine VIC 3450 (“Sublessee” in Sub-Lease)
<b>Item 4: Premises</b>	<b>Part Castlemaine Secondary College</b> , part of the Land, and improvements erected on the Land specified in clause 51(a) and subject to expansion pursuant to clause 51(b) and 51(d). Specific area should be confirmed on Plan.
<b>Item 5: Land</b>	The land contained in: (a) Certificate of Title Volume 04568 Folio 583; (b) Certificate of Title Volume 04568 Folio 582; (c) Certificate of Title Volume 08761 Folio 026; and (d) Certificate of Title Volume 04044 Folio 754, As well as the land described as Crown Allotment 2, Section 133, Township of Castlemaine, Parish of Castlemaine
<b>Item 6: Term</b>	<b>TBC</b>
<b>Item 7: Commencement Date</b>	<b>TBC</b>
<b>Item 8: Further term</b>	Two (2) further terms of five (5) years per term
<b>Item 9: Last date for exercising option for further term</b>	<b>TBC</b>
<b>Item 10: Rent</b>	\$120.00 per annum payable on demand
<b>Item 11: Rent Review Dates</b>	Not Applicable
<b>Item 12: Outgoings, Rates and Taxes</b>	100% of the Rates and Taxes assessed for the Premises in accordance with Clause 11 of this Sub-Lease
<b>Item 13: Permitted Use</b>	Office space, educational and community activities
<b>Item 14: Security Deposit</b>	Not Applicable

<b>Item 15: Rate</b>	2% higher than the rate fixed under section 2 of the Penalty Interest Rates Act 1983 (Vic), from time to time
<b>Item 16: Insurance</b>	\$20,000,000.00 for a single event. Industrial Special Risks Insurance (or equivalent insurance) including sufficient insurance for glass replacement in the premises. For the replacement value of the Sublessee's property and \$1.5 million for the Premises and any new improvements constructed on the Premises in accordance with clause 22.
<b>Item 17: Guarantors</b>	TBC
<b>Item 18: Excluded Clauses</b>	TBC
<b>Item 19: Authorised Representative</b>	<p>Authorised Representative:</p> <p>Address: Tel: Fax: Email:</p> <p>Authorised Representative:</p> <p>Address: Tel: Fax: Email:</p>

**Execution page**

**EXECUTED AS A DEED**

<b>EXECUTED for Mount Alexander Shire Council</b> by Darren Fuzzard in his capacity as Chief Executive Officer of the Council pursuant to Instrument of Delegation dated 27 September 2017 which it is certified has not been revoked or varied in the presence of:	) ) ) ) ) )	..... Signature
..... Witness		
..... Name of Witness		
.....		

<b>EXECUTED BY CASTLEMAINE HOT ROD CENTRE LIMITED (ABN 33 125 576 212)</b>	) )	
..... Name:		..... Name:
..... Witness		..... Witness
..... Name of Witness		..... Name of Witness

The Mayor and Councillors

27 May 2019

Dear Mayor and Councillors

ENCLOSED PETITION FROM RESIDENTS OF AND VISITORS TO SUTTON  
GRANGE REQUESTING A SPEED REDUCTION ON PORTION OF THE

- (1) ELPHINSTONE TO BENDIGO ROAD AND
- (2) FARADAY TO REDESDALE ROAD

As a member of the Sutton Grange Hall Committee in the recent past, I was approached on many occasions by residents and also visitors to see if I had any influence with the Mount Alexander Shire Council and, if so, could I do anything to get the Shire or Vic Roads to lower the speed limit through Sutton Grange. I and other residents raised the issue at a few Council Meetings arranged to be held at the Sutton Grange Hall. The response from the Shire to these questions was along the lines that the request had been made previously and had been declined by Vic Roads, and presumably the Council, and that no fatalities had happened on this stretch of road.

These requests were first aired some 16 years ago, in approximately 2003 when only 10 persons resided in and off Kellow Street, known as the Village and a further 8 persons on the main Elphinstone/Bendigo Road in the vicinity of Kellow Street and Ontario Lodge Road, a total of 18 residents. Today in the same locality 58 people reside, 40 more than in 2003.

In 2003 the Calder Freeway terminated in Kyneton and the Elphinstone/Bendigo Road was a quiet and peaceful drive. Many times when going to and returning from work in Gisborne I would see no traffic on the Elphinstone/Sutton Grange Road at all. Today I can sometimes be in a queue of traffic up to 12 cars, with other cars travelling in the opposite direction in the same kind of queue. Although supposedly 'banned', many heavy trucks, in addition to cars and vans use this road as a short cut to the suburbs east of Bendigo. A double bogie "earth-moving truck fully loaded (loaded weight 60 tonnes) was clocked at 143 kph over the stretch of road and I personally had to pull off the road onto the grass reserve to avoid being mown down. No fatalities have been recorded, but many incidents have happened.

Date Registered 28/05/2019 at 14:20  
Container FOL/12/2065-08  
Record Number **DOC/19/21987**



The Crossroads at Sutton Grange and the intersections of Kellow Street, Ontario Lodge Road, Greys Road and the Sutton Grange/North Harcourt Road have limited visibility. Residents on the Elphinstone/Bendigo Road in this vicinity have seconds only to cross the road when turning either right or left. Many accidents have happened and a number of cars have been written off by their insurers. Many residents fear for their lives every time they leave their homes.

Recently in the village 2 new homes have been constructed. Many of the tradesmen, bricklayers, concreters and carpenters, big strong healthy people driving utes, trucks, some pulling trailers, asked me "How can you live here? We fear for our lives every time we enter or leave Kellow Street".

With these comments ringing in my ears, I decided to gather the signatures of the residents, tradespersons and visitors (the tradespeople are noted in the margin). There are 126 signatures to the petition and I understand that people outside Sutton Grange that use the road have been organising another petition. This proved to me that it is not just a whim of the local people, but the community at large that would welcome a reduction.

I also found that the difficulties experienced on the Elphinstone/Bendigo Road were being voiced as the same on the Faraday/Sutton Grange Road. New building permits have been awarded to families now living on the Faraday/Sutton Grange Road. One resident has property on both sides of the road and says it is nearly impossible for him to move his stock because of the high speed of traffic.

I personally noted the traffic approaching the Sutton Grange cross roads from Faraday over one 40 minute period in 2018. During these 40 minutes 42 cars and 4 bicycles came from Faraday. Of these 42 cars 37 DID NOT STOP at the crossroads. None of the bicycles stopped either. Some of the cars did not appear to slow down and how one of the cars crossed towards Redesdale between two cars travelling in opposite directions on the Elphinstone/Bendigo Road I will never know. This could have resulted in 6 deaths.

I earnestly implore the Councillors to come and take a look at the situation and see how they feel taking off from a dirt road in many situations with limited visibility with vehicles thundering down at them at speed, in many cases in excess of 100 kph. It is time that a decision to decrease the speed through Sutton Grange by taken before fatalities occur.

Yours sincerely



[Redacted name]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The Mayor and Councillors  
Shire of Mount Alexander  
Littleton Street  
Castlemaine 3450

Dear Sir/Madam

SPEED CONTROL ELPHINSTONE/SUTTON GRANGE/BENDIGO ROAD  
REQUEST FOR SPEED RESTRICTIONS TO BE LOWERED TO 80KPH BETWEEN  
SMITHS ROAD AND GREYS ROAD SUTTON GRANGE.

I wish to draw your attention to the safety or lack thereof of traffic entering the Bendigo/Sutton Grange Road from the inside curve of the road between Smiths Road and Greys Road.

In 2014 I brought up this subject to a Council Meeting and had no acknowledgement of the request. I again brought the subject up at the Council Meeting in 2016 and wrote a letter and received no response from the Shire. I am writing to you again to point out that there have been great developments in residential housing in the past few years in this district and we are all entering a road that has become markedly busier, faster and carrying heavier traffic, with the same limited visibility.

I live in Ludlow Street in the township of Sutton Grange (map attached). My access (along with the residents from 17 homes in Kellow, Ludlow and Broad Streets) to the Sutton Grange/Bendigo Road is via Kellow Street. I am like all residents in the district, entering a curved main road from the inside of the curve, which means that visibility is minimal when entering the Bendigo Road, which has a speed limit of 100kph. Oh that much of the traffic only did 100kph. It seems to me that much of the traffic is doing more than 100kph and there is so much more traffic and heavier vehicles than there used to be.

In addition to the cars from 17 homes that enter from Kellow Street, there are the many tradespeople who have for some years been building new houses,



there are water tankers and there are friends visiting and leaving. This district has become markedly busier since I settled here in 2004.

In addition to the traffic entering the Bendigo Road from Kellow Street, there are 4 residences that enter the road from private driveways north and south of Kellow Street, all with equally inadequate visibility. There are another two residences entering the road from Ontario Lodge Road. In our township alone there are cars from 23 residences attempting to enter the Bendigo Road from an inside curve, as well as the extra vehicles visiting and servicing these properties as mentioned in the last paragraph.

Further north, there are another 5 residences attempting to enter the road from North Harcourt/Sutton Grange Road and Grays Road from the inside curve of the Bendigo Road, all with poor visibility and, in the case of Grays Road, appalling visibility.

I don't think that either the Shire or Vicroads is aware of the number of residents that live on the inside of this curve. At the point of entry of Kellow Street into the Bendigo Road, we have 90 of my paces of visibility towards Elphinstone and my paces are not 1m in length. There is a high bank blocking visibility, as well as audibility. This means that a car travelling at 100 kph or more from Elphinstone has only a couple of seconds to connect with my driver's door entering my point of my visibility 90 paces away. I have to listen for traffic because I cannot see it. I have to ask whether a person would be allowed to enter a 100kph Highway with that limited visibility. I believe the answer would be 'no'.

Well I was possibly not writing this letter today, as I was the passenger in a car travelling south from Bendigo last week. The driver was attempting to turn right into Kellow Street. There was a car at the rear travelling fast and not attending to the right hand blinker on our car. The road is broken away on the left hand side at this point and there is little room to pass on the left because of the Myrtle bridge approach. My driver slowed down to turn right and was part across the right hand lane when, out of the blue, approaching from Elphinstone and from the crossroads with the Faraday/Redesdale Road came a truck travelling at high speed. I saw my life before me. This is not the first time such an event has happened to me and neither is it the first time for most the people on this petition. I know we have to have a fatality before anything can change and fortunately for all of us that fatality was not last week, but only by seconds.

I am acutely aware that people travelling on these roads do not realize or care that there is a township in Sutton Grange. The township on the main road is visible, but the township, which is the biggest part, is not visible from the roads. It is hidden away behind trees.

Our terrain in this area is both hilly and winding, not allowing much time to turn right or left with fast traffic approaching, which may not be visible at the time of entering the road.

It is beyond me that a road like the Elphinstone/Bendigo Road, with broken shoulders, no shoulders, deep drops where there should be shoulders, poor visibility in most areas, carrying heavy traffic, trucks, B-doubles and car carriers and much of it, can have a speed limit of 100kph and then be an advertised bicycle tourist route into the bargain. Is this truly looking after the safety of residents and all those drivers and cyclists? I would say not. To me it belies logic.

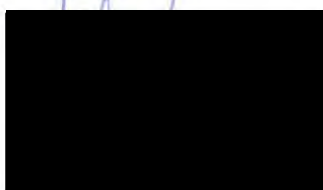
I put this to the Shire and to Vicroads, that this is a matter for consideration in this day and age when our populations are blowing out and all the bells and whistles that go with population like cars, speed and heavy vehicles.

The people of Sutton Grange have requested the following:

- (a) An 80 kph speed limit.
- (b) A sign to advise traffic it is entering a residential area with concealed roads.
- (c) A full investigation into the amount of traffic and actual speeds being travelled.

We thank you for your consideration of this matter yet again.

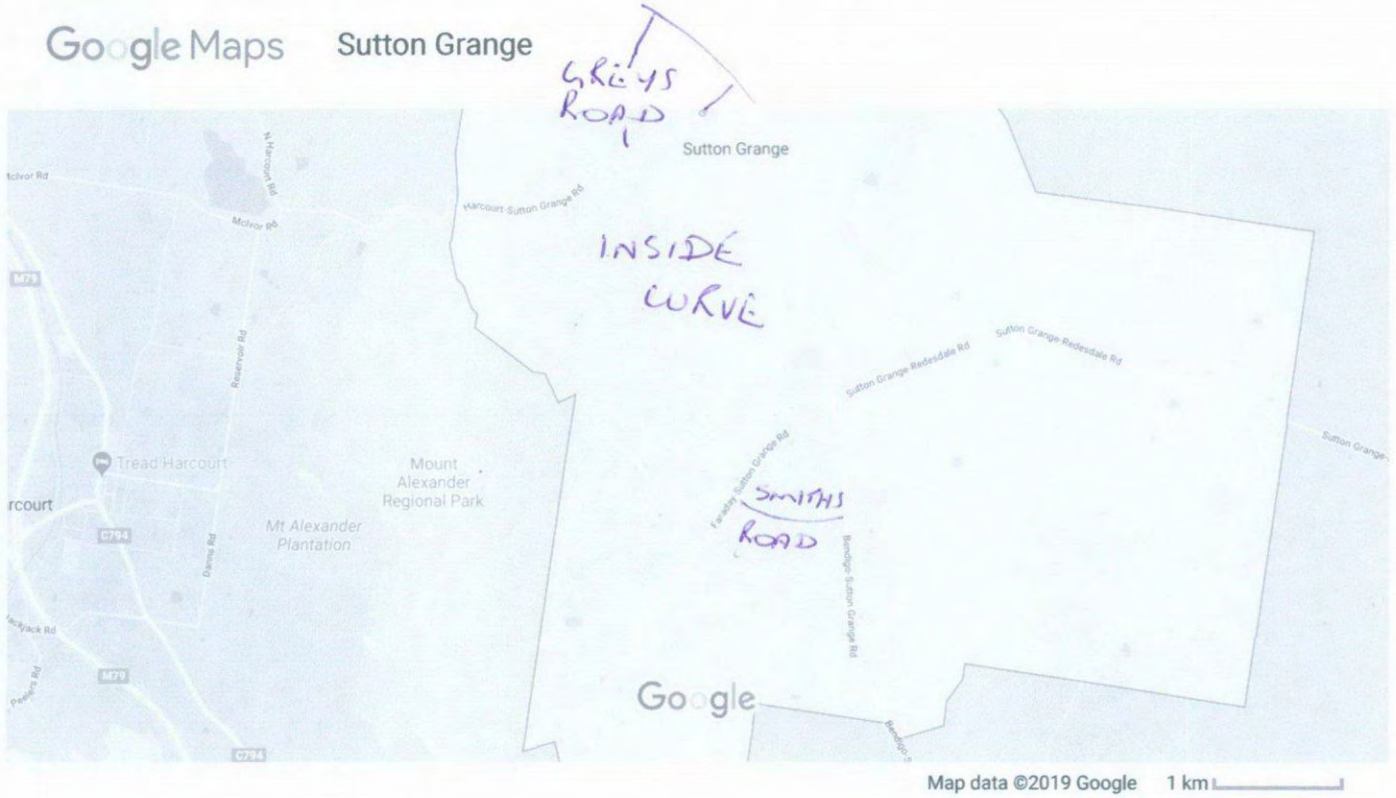
Yours sincerely



Google Maps Sutton Grange **TOWNSHIP**



# Google Maps Sutton Grange



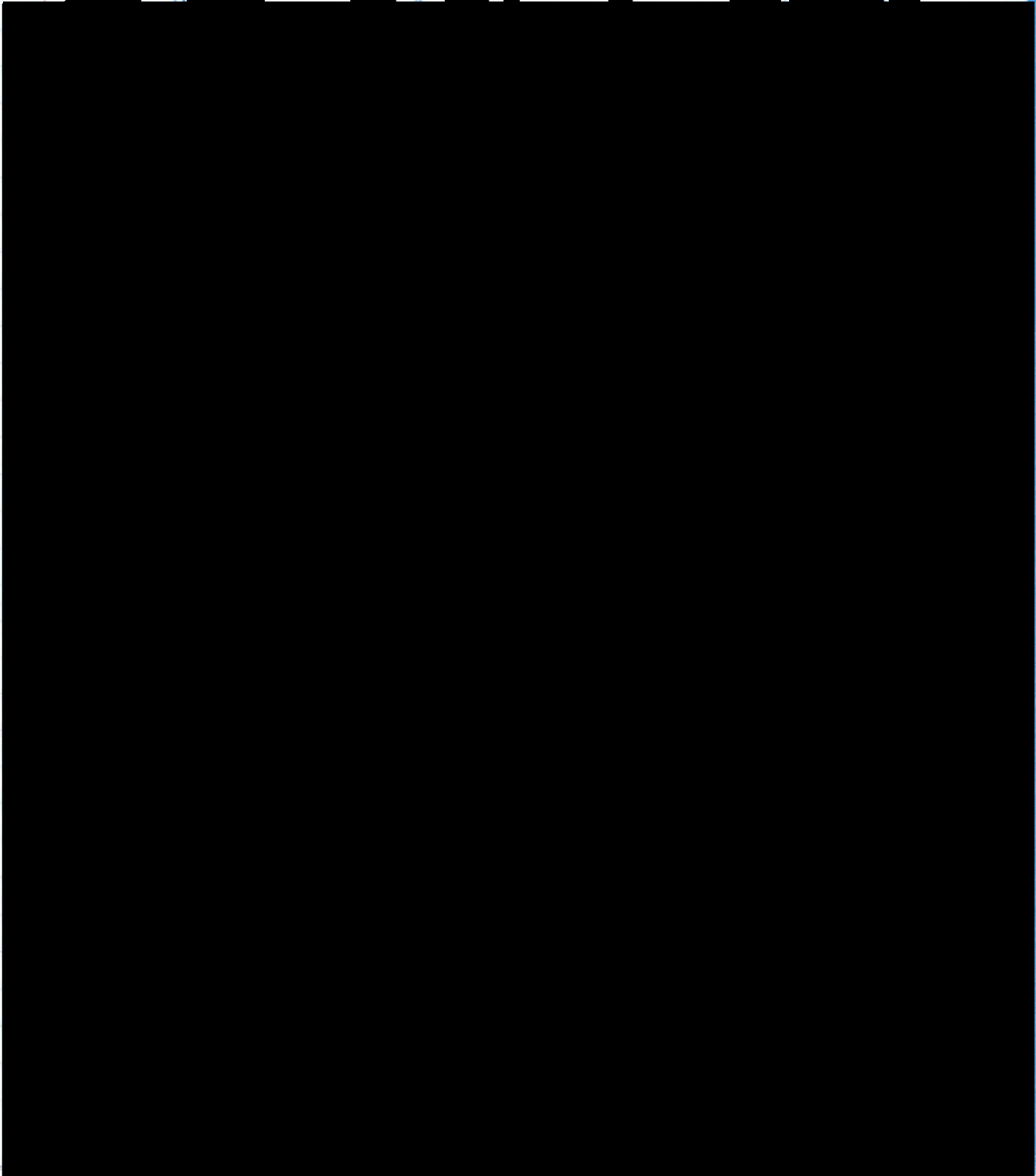
# PETITION

We the undersigned petition the Council of the Mount Alexander Shire and the Victorian Roads Board. to reduce the speed limit between Smiths Lane and Greys Road intersections with the Elphinstone to Bendigo Road in Sutton Grange to 80 kph and between Smiths Lane and the crossroads on the Faraday to Sutton Grange Road.




## PETITION

We the undersigned petition the Council of the Mount Alexander Shire and the Victoria Roads Board to reduce the speed limit between Smiths Lane and Greys Road intersections with the Elphinstone to Bendigo Road in Sutton Grange to 80 kph and between Smiths Lane and the overroads on the Faraday to Sutton Road.



# PETITION.

We the undersigned petition the Council of the Mount Alexander Shire and the Victorian Road Board to reduce the speed limit between Smiths Lane and Grey Road intersections with the K-Ohm line to Bendigo Road in Sutton Grange [redacted] between Smiths Road and the cross [redacted] the farway to Sutton Grange Road



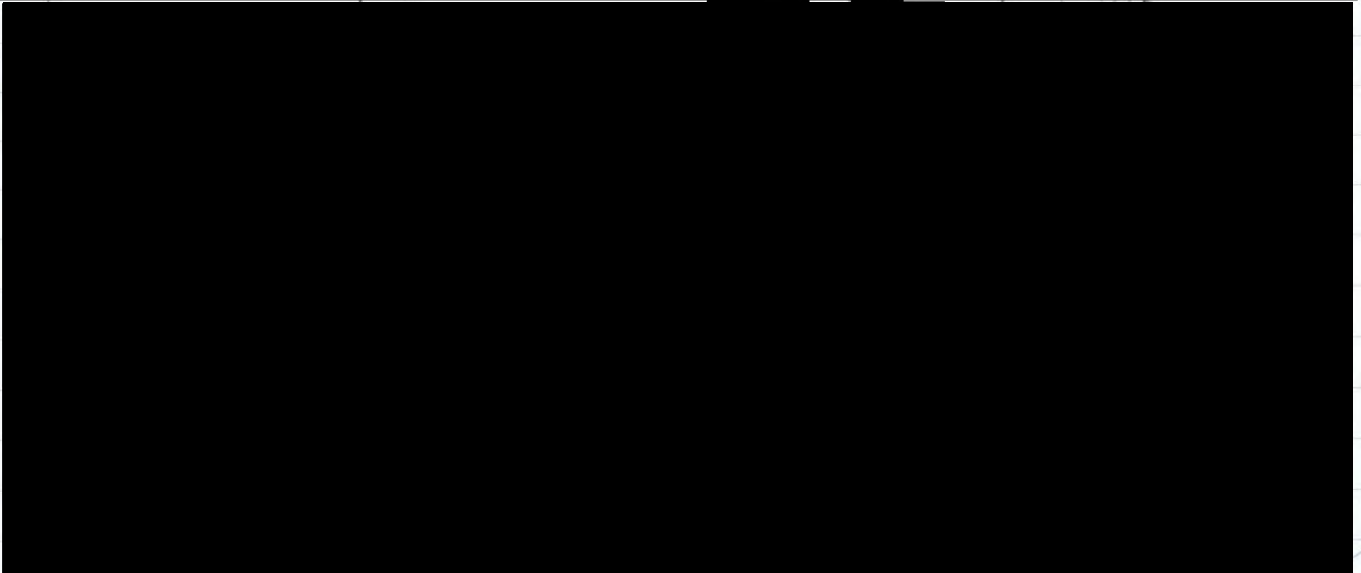
Petition.

We the undersigned petition the council of the Mount Alexander Shire and the Victorian Roads Board to reduce the speed limit between Smiths Lane and Greys Road intersection with the Kelfhinstone to Bendigo Road Sutton Grange to 80 k.p.h. and between Smiths Road and the crossroads on the Faraday to Sutton Grange Road.

NAME

ADDRESS.

Tel No.





PETITION

We the undersigned petition the Council of the Mount Alexander Shire and the Victorian Roads Board to reduce the speed limit between Smiths Lane and Grays Road intersections with the Elphinstone to Bendigo Road Sutton Grange to 80 k.p.h. and between Smiths Lane and the crossroads on the Faraday to Sutton Grange Road.

NAME

ADDRESS

Phone No.

[REDACTED]

1507 Bend

**Mount Alexander Shire Council  
ANNUAL FINANCIAL REPORT**

*For the Year Ended 30 June 2019*

**Mount Alexander Shire Council  
Financial Report  
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## Certification of the Financial Statements

In my opinion, the accompanying financial statements have been prepared in accordance with the *Local Government Act 1989*, the *Local Government (Planning and Reporting) Regulations 2014*, the Australian Accounting Standards and other mandatory professional reporting requirements.

*Carolyn Ross*  
**Principal Accounting Officer**

**Date :** <Date>  
<Location>

In our opinion the accompanying financial statements present fairly the financial transactions of Mount Alexander Shire Council for the year ended 30 June 2019 and the financial position of the Council as at that date.

As at the date of signing, we are not aware of any circumstances that would render any particulars in the financial statements to be misleading or inaccurate.

We have been authorised by the Council and by the *Local Government (Planning and Reporting) Regulations 2014* to certify the financial statements in their final form.

*Bronwen Machin*  
**Councillor**

**Date :** <Date>  
<Location>

*Max Lesser*  
**Councillor**

**Date :** <Date>  
<Location>

*Darren Fuzzard*  
**Chief Executive Officer**

**Date :** <Date>  
<Location>

**<INSERT VAGO REPORT - PAGE 1>**

**<INSERT VAGO REPORT - PAGE 2>**

## Comprehensive Income Statement For the Year Ended 30 June 2019

	Note	2019 \$'000	2018 \$'000
<b>Income</b>			
Rates and charges	3.1	23,227	22,365
Statutory fees and fines	3.2	1,238	1,149
User fees	3.3	1,236	1,166
Grants - operating	3.4	7,648	7,329
Grants - capital	3.4	3,782	4,594
Contributions - monetary	3.5	253	253
Contributions - non monetary	3.5	247	292
Share of net profits (or loss) of associates and joint ventures	6.2	(62)	65
Found assets		111	192
Other income	3.7	1,742	987
<b>Total income</b>		<b>39,422</b>	<b>38,392</b>
<b>Expenses</b>			
Employee costs	4.1	14,324	13,542
Materials and services	4.2	10,643	11,294
Depreciation and amortisation	4.3	8,772	8,343
Bad and doubtful debts		42	32
Borrowing costs		193	224
Net gain (or loss) on disposal of property, infrastructure, plant and equipment	3.6	715	415
Increase/(decrease) in provision for landfill liability	5.5	670	-
Other expenses	4.4	1,528	1,520
<b>Total expenses</b>		<b>36,887</b>	<b>35,370</b>
<b>Surplus/(deficit) for the year</b>		<b>2,535</b>	<b>3,022</b>
<b>Other comprehensive income</b>			
<b>Items that will not be reclassified to surplus or deficit in future periods</b>			
Net asset revaluation increment/(decrement)	6.1	17,880	31,360
<b>Total comprehensive result</b>		<b>20,415</b>	<b>34,382</b>

The above income statement should be read in conjunction with the accompanying notes.

**Balance Sheet  
As at 30 June 2019**

	Note	2019 \$'000	2018 \$'000
<b>Assets</b>			
<b>Current assets</b>			
Cash and cash equivalents	5.1	5,175	2,394
Trade and other receivables	5.1	4,218	2,547
Other financial assets	5.1	13,750	16,250
Inventories	5.2	85	69
Non-current assets classified as held for sale		-	186
Other assets	5.2	343	423
<b>Total current assets</b>		<b>23,571</b>	<b>21,869</b>
<b>Non-current assets</b>			
Trade and other receivables	5.1	-	5
Investments in associates, joint arrangements and subsidiaries	6.2	584	646
Property, infrastructure, plant and equipment	6.1	357,532	339,279
Intangible assets	5.2	1,321	1,180
<b>Total non-current assets</b>		<b>359,437</b>	<b>341,110</b>
<b>Total assets</b>		<b>383,008</b>	<b>362,979</b>
<b>Liabilities</b>			
<b>Current liabilities</b>			
Trade and other payables	5.3	1,291	1,839
Trust funds and deposits	5.3	1,031	1,151
Provisions	5.5	3,593	6,322
Interest-bearing liabilities	5.4	482	476
<b>Total current liabilities</b>		<b>6,397</b>	<b>9,788</b>
<b>Non-current liabilities</b>			
Provisions	5.5	5,538	2,051
Interest-bearing liabilities	5.4	3,443	3,926
<b>Total non-current liabilities</b>		<b>8,981</b>	<b>5,977</b>
<b>Total liabilities</b>		<b>15,378</b>	<b>15,765</b>
<b>Net assets</b>		<b>367,629</b>	<b>347,214</b>
<b>Equity</b>			
Accumulated surplus		107,702	103,284
Reserves	9.1	259,927	243,930
<b>Total equity</b>		<b>367,629</b>	<b>347,214</b>

The above balance sheet should be read in conjunction with the accompanying notes.



**Statement of Changes in Equity  
For the Year Ended 30 June 2019**

2019	Note	Total \$'000	Accumulated Surplus \$'000	Revaluation Reserve \$'000	Other Reserves \$'000
Balance at beginning of the financial year		347,214	103,284	225,810	18,120
Surplus/(deficit) for the year		2,535	2,535	-	-
Net asset revaluation increment/(decrement)	6.1	17,880	-	17,880	-
Transfers to other reserves	9.1	-	(7,185)	-	7,185
Transfers from other reserves	9.1	-	9,068	-	(9,068)
<b>Balance at end of the financial year</b>		<b>367,629</b>	<b>107,702</b>	<b>243,690</b>	<b>16,237</b>

2018		Total \$'000	Accumulated Surplus \$'000	Revaluation Reserve \$'000	Other Reserves \$'000
Balance at beginning of the financial year		312,832	107,121	194,450	11,261
Surplus/(deficit) for the year		3,022	3,022	-	-
Net asset revaluation increment/(decrement)	6.1	31,360	-	31,360	-
Transfers to other reserves	9.1	-	(10,888)	-	10,888
Transfers from other reserves	9.1	-	4,029	-	(4,029)
<b>Balance at end of the financial year</b>		<b>347,214</b>	<b>103,284</b>	<b>225,810</b>	<b>18,120</b>

The above statement of changes in equity should be read in conjunction with the accompanying notes.

**Statement of Cash Flows  
For the Year Ended 30 June 2019**

	Note	2019 Inflows/ (Outflows) \$'000	2018 Inflows/ (Outflows) \$'000
<b>Cash flows from operating activities</b>			
Rates and charges		22,156	22,149
Statutory fees and fines		1,238	1,149
User fees		1,236	1,166
Grants - operating		7,519	7,192
Grants - capital		3,270	4,554
Contributions - monetary		253	253
Interest received		643	559
Trust funds and deposits (net)		(120)	262
Other receipts		1,104	407
Net GST refund/(payment)		(2,095)	(1,711)
Employee costs		(14,250)	(13,468)
Materials and services		(9,559)	(9,557)
Other payments		(926)	(1,538)
<b>Net cash provided by/(used in) operating activities</b>		<b><u>10,469</u></b>	<b><u>11,417</u></b>
<b>Cash flows from investing activities</b>			
Payments for property, infrastructure, plant and equipment	6.1	(9,790)	(8,141)
Proceeds from sale of property, infrastructure, plant and equipment		271	264
Payments for investments		(13,750)	(16,250)
Proceeds from sale of investments		16,250	13,000
<b>Net cash provided by/(used in) investing activities</b>		<b><u>(7,019)</u></b>	<b><u>(11,127)</u></b>
<b>Cash flows from financing activities</b>			
Finance costs		(193)	(223)
Repayment of borrowings		(476)	(446)
<b>Net cash provided by/(used in) financing activities</b>		<b><u>(669)</u></b>	<b><u>(669)</u></b>
Net increase/(decrease) in cash and cash equivalents		2,781	(378)
Cash and cash equivalents at the beginning of the financial year		2,394	2,772
<b>Cash and cash equivalents at the end of the financial year</b>		<b><u>5,175</u></b>	<b><u>2,394</u></b>
Financing arrangements	5.6		
Restrictions on cash assets	5.1		

The above statement of cash flows should be read in conjunction with the accompanying notes.

## Statement of Capital Works For the Year Ended 30 June 2019

	Note	2019 \$'000	2018 \$'000
<b>Property</b>			
Land improvements		140	619
<b>Total land</b>		<b>140</b>	<b>619</b>
Buildings and improvements		2,641	556
Site improvements		740	1,348
<b>Total buildings</b>		<b>3,381</b>	<b>1,904</b>
<b>Total property</b>		<b>3,521</b>	<b>2,523</b>
<b>Plant and equipment</b>			
Plant, machinery and equipment		892	980
Computers and telecommunications		127	165
Intangibles		283	364
<b>Total plant and equipment</b>		<b>1,302</b>	<b>1,509</b>
<b>Infrastructure</b>			
Roads		2,330	2,534
Bridges		445	732
Footpaths and cycleways		720	617
Drainage		1,218	141
Kerb and channel		197	-
Waste management		56	85
<b>Total infrastructure</b>		<b>4,968</b>	<b>4,109</b>
<b>Total capital works expenditure</b>		<b>9,790</b>	<b>8,141</b>
<b>Represented by:</b>			
New asset expenditure		3,517	708
Asset renewal expenditure		6,239	7,404
Asset expansion expenditure		4	-
Asset upgrade expenditure		31	29
<b>Total capital works expenditure</b>		<b>9,790</b>	<b>8,140</b>

The above statement of capital works should be read in conjunction with the accompanying notes.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

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**OVERVIEW**

**Introduction**

The Mount Alexander Shire Council was established by an Order of the Governor in Council on 17 January 1995 and is a body corporate. The Council's main office is located at the corner of Lyttleton and Lloyd Streets, Castlemaine.

**Statement of compliance**

These financial statements are a general purpose financial report that consists of a Comprehensive Income Statement, Balance Sheet, Statement of Changes in Equity, Statement of Cash Flows, Statement of Capital Works and Notes accompanying these financial statements. The general purpose financial report complies with the Australian Accounting Standards (AAS), other authoritative pronouncements of the Australian Accounting Standards Board, the *Local Government Act 1989*, and the *Local Government (Planning and Reporting) Regulations 2014*.

**Significant accounting policies**

**(a) Basis of accounting**

The accrual basis of accounting has been used in the preparation of these financial statements, whereby assets, liabilities, equity, income and expenses are recognised in the reporting period to which they relate, regardless of when cash is received or paid.

Judgements, estimates and assumptions are required to be made about the carrying values of assets and liabilities that are not readily apparent from other sources. The estimates and associated judgements are based on professional judgement derived from historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Revisions to accounting estimates are recognised in the period in which the estimate is revised and also in future periods that are affected by the revision. Judgements and assumptions made by management in the application of AAS's that have significant effects on the financial statements and estimates relate to:

- the fair value of land, buildings, infrastructure, plant and equipment (refer to Note 6.1)
- the determination of depreciation for buildings, infrastructure, plant and equipment (refer to Note 6.1)
- the determination of employee provisions (refer to Note 5.5)
- the determination of landfill provisions (refer to Note 5.5)
- other areas requiring judgements

Unless otherwise stated, all accounting policies are consistent with those applied in the prior year. Where appropriate, comparative figures have been amended to accord with current presentation, and disclosure has been made of any material changes to comparatives.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**Note 1 Performance against budget**

The performance against budget notes compare Council's financial plan, expressed through its annual budget, with actual performance. The *Local Government (Planning and Reporting) Regulations 2014* requires explanation of any material variances. Council has adopted a materiality threshold with explanations provided if the variance is greater than 10 percent and is greater than \$100,000. Explanations have not been provided for variations below the materiality threshold unless the variance is considered to be material because of its nature.

The budget figures detailed below are those adopted by Council on 26 June 2018. The Budget was based on assumptions that were relevant at the time of adoption of the Budget. Council sets guidelines and parameters for income and expense targets in this budget in order to meet Council's planning and financial performance targets for both the short and long-term. The budget did not reflect any changes to equity resulting from asset revaluations, as their impacts were not considered predictable.

These notes are prepared to meet the requirements of the *Local Government Act 1989* and the *Local Government (Planning and Reporting) Regulations 2014*.

**1.1 Income and expenditure**

	Budget 2019 \$'000	Actual 2019 \$'000	Variance 2019 \$'000	Variance %	Ref
<b>Income</b>					
Rates and charges	23,044	23,227	183	1%	
Statutory fees and fines	997	1,238	241	24%	1
User fees	898	1,236	338	38%	2
Grants - operating	4,722	7,648	2,926	62%	3
Grants - capital	2,101	3,782	1,681	80%	4
Contributions - monetary	70	253	183	261%	5
Contributions - non monetary	-	247	247	0%	
Share of net profits/(losses) of associates and joint ventures	-	(62)	(62)	0%	
Found assets	-	111	111	0%	
Other income	927	1,742	815	88%	6
<b>Total income</b>	<b>32,759</b>	<b>39,422</b>	<b>6,663</b>	<b>20%</b>	
<b>Expenses</b>					
Employee costs	14,621	14,324	297	2%	
Materials and services	9,327	10,643	(1,316)	(14%)	7
Depreciation and amortisation	8,521	8,772	(251)	(3%)	
Bad and doubtful debts	6	42	(36)	(608%)	
Borrowing costs	194	193	1	1%	
Net gain/(loss) on disposal of property, infrastructure, plant and equipment	485	715	230	47%	8
Increase/(decrease) in provision for landfill liability	-	670	670	0%	9
Other expenses	1,569	1,528	41	3%	
<b>Total expenses</b>	<b>34,723</b>	<b>36,887</b>	<b>(364)</b>	<b>(1%)</b>	
<b>Surplus/(deficit) for the year</b>	<b>(1,964)</b>	<b>2,535</b>	<b>6,299</b>	<b>(321%)</b>	

**(i) Explanation of material variations**

Variance Ref	Item	Explanation
1	Statutory fees and fines	Greater than expected planning fees have been received due to an underestimation of the amount of planning activity that has occurred in the Shire (\$243k)
2	User fees	Greater than expected receipt of user fees relating to developer fees, landfill gate receipts and water standpipes.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**Note 1 Performance against budget continued**

**(i) Explanation of material variations**

<b>Variance Ref</b>	<b>Item</b>	<b>Explanation</b>
3	Grants - operating	The Victoria Grants Commission paid \$2.59m of the 2019/2020 grant early in 2018/2019. A number of other unexpected grants were received during the year, with expenditure for most of these projects to be incurred in 2019/2020.
4	Grants - capital	A number of unexpected grants were received during the year, namely the Fixing Country Roads Program (\$1.17m) and flood levee upgrades (\$417k), with expenditure for these projects to be incurred in 2019/2020.
5	Contributions - monetary	Greater than expected contributions have been received for open space levies (\$147k), with these monies set aside to fund future works.
6	Other income	An unbudgeted amount of \$800k was received in reimbursement for costs incurred due to flood and storm events, as well as greater than anticipated revenue being received on investments and outstanding rates (\$193k).
7	Materials and services	\$242k has been incurred for additional services of handling and loading commingled recyclable products; due to dry weather conditions, Council was required to hire water trucks to complete grading of gravel roads (\$150k); the cost of utilities, mainly water, has increased (\$212k), as has information technology software (\$99k); additional labour hire costs of \$320k were incurred, offset by savings in employee costs.
8	Net gain/(loss) on disposal	Unbudgeted disposal of infrastructure assets was incurred (\$160k), as well as the unbudgeted disposal of a block of land (\$35k).
9	Increase/(decrease) in provision for landfill liability	An amount of \$670k has been recognised as an estimate for 30 years of anticipated after-care costs on the closing and capping of cells at the Castlemaine Landfill.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**Note 1 Performance against budget continued****1.2 Capital works**

	Budget 2019 \$'000	Actual 2019 \$'000	Variance 2019 \$'000	Variance 2019 %	Ref
<b>Property</b>					
Land improvements	292	140	(152)	(52%)	1
<b>Total land</b>	<b>292</b>	<b>140</b>	<b>(152)</b>	<b>(52%)</b>	
Buildings and site improvements	3,433	3,381	(52)	(2%)	
<b>Total buildings</b>	<b>3,433</b>	<b>3,381</b>	<b>(52)</b>	<b>(2%)</b>	
<b>Total property</b>	<b>3,725</b>	<b>3,521</b>	<b>(204)</b>	<b>(5%)</b>	
<b>Plant and equipment</b>					
Plant, machinery and equipment	905	892	(13)	(1%)	
Computers and telecommunications	131	127	(4)	(3%)	
Intangibles	200	283	83	42%	2
<b>Total plant and equipment</b>	<b>1,236</b>	<b>1,302</b>	<b>66</b>	<b>5%</b>	
<b>Infrastructure</b>					
Roads	3,600	2,330	(1,270)	(35%)	3
Bridges	829	445	(384)	(46%)	4
Footpaths and cycleways	460	720	260	57%	5
Drainage	903	1,218	315	35%	6
Kerb and channel	-	197	197	0%	
Waste management	600	56	(544)	(91%)	7
<b>Total infrastructure</b>	<b>6,392</b>	<b>4,968</b>	<b>(1,424)</b>	<b>(22%)</b>	
<b>Total capital works expenditure</b>	<b>11,353</b>	<b>9,790</b>	<b>(1,563)</b>	<b>(14%)</b>	
<b>Represented by:</b>					
New asset expenditure	1,484	3,517	2,033	137%	
Asset renewal expenditure	8,438	6,239	(2,199)	(26%)	
Asset expansion expenditure	844	4	(840)	(100%)	
Asset upgrade expenditure	587	31	(556)	(95%)	
<b>Total capital works expenditure</b>	<b>11,353</b>	<b>9,790</b>	<b>(1,563)</b>	<b>(14%)</b>	

**(i) Explanation of material variations**

Variance Ref	Item	Explanation
1	Land improvements	A preferred and suitable site has been selected for the Dog Park project and work will commence to complete the permit/approval process (\$60k); designs and plans for community streetscapes have been approved and a draft works package has been developed, with works likely to commence mid-2019 (\$72k).
2	Intangibles	Council began the roll-out of a multi-year installation of a new Integrated Corporate System and is gradually replacing many core stand-alone systems. The project is now moving into Stage 3 and implementation of further modules will occur in 2019/2020.
3	Roads	The Metcalfe Redesdale Road project is awaiting State Government agency referral approval for planning approval for the works to progress (\$570k); accessible car parking works have been completed in June and July 2019 (\$80k); latent risks were identified with road safety improvement works at Golden Point Reserve and O'Hallorans Road and this project was not proceeded with (\$48k); Harcourt infrastructure works have been deferred to 2019/2020 (\$50k); works on progressing the Maldon streetscape project will continue with community consultation scheduled in July 2019 (\$155k); the Castlemaine Primary School crossing project is continuing into 2019/2020 (\$201k).
4	Bridges	Prior year works were completed for Bubbs Lane and Old Drummond Road bridges (\$170k), offset by delays in construction due to need to relocate utilities for the Campbells Creek Fryers Road bridge (\$772k).
5	Footpaths and cycleways	Prior year works were completed for Winters Flat Primary School footpath (\$161k) and Templeton Street footpath (\$249k); offset by Castlemaine CBD streetscape works in Mostyn and Hargraves Street that will now be considered as part of a wider project in 2019/2020 incorporating Frederick St Castlemaine.
6	Drainage	Projects budgeted for in other categories had, on completion of the project, identified expenditure components that were drainage in nature.
7	Waste management	The initial case study for the business case for a new Resource Recovery Centre at the Castlemaine Waste Facility has commenced and is due to be presented to Councillors in early 2020 (\$600k).

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

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**Note 2.1 Analysis of Council results by program**

Council delivers its functions and activities through the following programs.

**2 (a) Our People**

- socially connected, safe and inclusive communities
- local services that support the needs of our community
- improved health and wellbeing
- a welcoming place for all

Population | Health | Wellbeing | Support | Resilience | Partnerships | Social services | Connections

**Our Place**

- well managed assets for now and into the future
- a clean and green community
- well planned-for growth

Buildings | Sport and recreation facilities | Roads | Footpaths | Drainage | Trails | Playgrounds | Gardens | Natural environment | Waste | Recycling | Heritage

**Our Economy**

- a creative and innovative economy
- great opportunities for education and technology
- an innovative and sustainable organisation

Business | Economy | Jobs | Education | Creativity | Innovation | Tourism | Culture



**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**Note 2.1 Analysis of Council results by program**

**2.1 (b) Summary of revenues, expenses, assets and capital expenses by program**

	Income	Expenses	Surplus/ (Deficit)	Grants included in income	Total assets
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>2019</b>					
Our People	3,203	10,339	(7,135)	2,298	686
Our Place	12,209	20,909	(8,700)	5,712	358,028
Our Economy	24,010	5,639	18,371	3,421	24,293
Unattributed	-	-	-	-	-
	<b>39,422</b>	<b>36,887</b>	<b>2,535</b>	<b>11,430</b>	<b>383,007</b>

	Income	Expenses	Surplus/ (Deficit)	Grants included in income	Total assets
	\$'000	\$'000	\$'000	\$'000	\$'000
<b>2018</b>					
Our People	3,225	10,064	(6,838)	2,124	779
Our Place	11,791	19,976	(8,185)	6,571	339,109
Our Economy	23,376	5,331	18,045	3,228	23,091
Unattributed	-	-	-	-	-
	<b>38,392</b>	<b>35,370</b>	<b>3,022</b>	<b>11,923</b>	<b>362,979</b>

**Notes to the Financial Report**  
**For the Year Ended 30 June 2019**

<b>Note 3 Funding for the delivery of our services</b>	<b>2019</b>	<b>2018</b>
<b>3.1 Rates and charges</b>	<b>\$'000</b>	<b>\$'000</b>

Council uses capital improved valuation (CIV) as the basis of valuation of all properties within the municipal district. The CIV of a property is its value of land and all its improvements.

The valuation base used to calculate general rates for 2018/2019 was \$4.303 billion (2017/18 \$4.205 billion).

General rates	18,937	17,298
Municipal charge	-	1,060
Waste management charge	4,290	4,007
<b>Total rates and charges</b>	<b>23,227</b>	<b>22,365</b>

The date of the latest general revaluation of land for rating purposes within the municipal district was 1 January 2019, and the valuation will be first applied in the rating year commencing 1 July 2019.

Annual rates and charges are recognised as revenues when Council issues annual rates notices. Supplementary rates are recognised when a valuation and reassessment is completed and a supplementary rates notice issued.

### 3.2 Statutory fees and fines

Animal control	195	192
Planning permits and fees	560	480
Health registrations	123	115
Local laws	107	120
Parking fines	101	104
Other fines	152	138
<b>Total statutory fees and fines</b>	<b>1,238</b>	<b>1,149</b>

Statutory fees and fines (including parking fees and fines) are recognised as revenue when the service has been provided, the payment is received, or when the penalty has been applied, whichever first occurs.

### 3.3 User fees

Home and community care	388	392
Employee vehicle contribution	101	109
Facility hire	64	53
Tourism services	69	114
Building services	1	-
Waste management services	345	345
Other fees and charges	268	153
<b>Total user fees</b>	<b>1,236</b>	<b>1,166</b>

User fees are recognised as revenue when the service has been provided or council has otherwise earned the income.

### 3.4 Funding from other levels of government

Grants were received in respect of the following:

#### Summary of grants

Commonwealth funded grants	7,858	7,809
State funded grants	3,572	4,122
<b>Total grants received</b>	<b>11,430</b>	<b>11,931</b>

#### (a) Operating Grants

##### **Recurrent - Commonwealth Government**

Financial Assistance Grants	5,037	4,839
Home support packages	1,325	1,029
Veterans' Affairs	87	79
Flood recovery	35	-
Other	4	10

##### **Recurrent - State Government**

Home and community care	263	537
School crossing supervisors	54	53
Maternal and child health	267	184
Community health	20	19
Environment	32	40
Emergency management	120	120
Youth	67	63
Social Housing	112	-
Other	2	-
<b>Total recurrent operating grants</b>	<b>7,425</b>	<b>6,975</b>

**Notes to the Financial Report**  
**For the Year Ended 30 June 2019**

	2019	2018
	\$'000	\$'000
<b>Non-recurrent - Commonwealth Government</b>		
Other	2	-
Environmental planning	-	45
<b>Non-recurrent - State Government</b>		
Family and children	31	10
Youth	23	25
Infrastructure	57	252
Arts	10	13
Waste management	16	-
Recreation facilities & reserves	27	-
Centralised annual valuations	33	-
Other	26	9
<b>Total non-recurrent operating grants</b>	<b>224</b>	<b>354</b>
<b>Total operating grants</b>	<b>7,648</b>	<b>7,329</b>
<b>(b) Capital Grants</b>		
<b>Recurrent - Commonwealth Government</b>		
Roads to Recovery	1,368	1,798
Community facilities	-	9
<b>Total recurrent capital grants</b>	<b>1,368</b>	<b>1,807</b>
<b>Non-recurrent - State Government</b>		
Buildings	47	63
Infrastructure	1,925	734
Emergency management	41	-
Waste management	23	-
Recreation facilities & reserves	378	1,990
<b>Total non-recurrent capital grants</b>	<b>2,414</b>	<b>2,787</b>
<b>Total capital grants</b>	<b>3,782</b>	<b>4,594</b>
<b>(c) Unspent grants received on condition that they be spent in a specific manner</b>		
Balance at start of year	2,441	2,315
Received during the financial year and remained unspent at balance date	2,594	2,441
Received in prior years and spent during the financial year	2,441	2,315
Balance at year end	<b>2,594</b>	<b>2,441</b>

Grant income is recognised when Council obtains control of the contribution. Control is normally obtained upon receipt (or acquittal), or upon earlier notification that a grant has been secured.

### 3.5 Contributions

Monetary	253	253
Non-monetary	247	292
<b>Total contributions</b>	<b>500</b>	<b>545</b>

*Contributions of non monetary assets were received in relation to the following asset classes.*

Land	-	14
Roads	130	85
Drainage	10	193
Pathways	108	-
<b>Total non-monetary contributions</b>	<b>247</b>	<b>292</b>

Monetary and non monetary contributions are recognised as revenue when Council obtains control over the contributed asset.

### 3.6 Net gain/(loss) on disposal of property, infrastructure, plant and equipment

Proceeds of sale	271	264
Written down value of assets disposed	(986)	(679)
<b>Total net gain/(loss) on disposal of property, infrastructure, plant and equipment</b>	<b>(715)</b>	<b>(415)</b>

The profit or loss on sale of an asset is determined when control of the asset has passed to the buyer.

**Notes to the Financial Report**  
**For the Year Ended 30 June 2019**

3.7 Other income	2019	2018
	\$'000	\$'000
Interest	643	580
Net gain on landfill provision	-	19
Fuel Tax Credits	63	52
Rates and valuation reimbursements	33	44
Debt collection	47	57
Insurance claims	663	62
Rental	137	87
Other	156	86
<b>Total other income</b>	<b>1,742</b>	<b>987</b>

Interest is recognised as it is earned.

Other income is measured at the fair value of the consideration received or receivable and is recognised when Council gains control over the right to receive the income.

**Note 4 The cost of delivering services**

**4.1 (a) Employee costs**

Wages and salaries	12,433	11,918
WorkCover insurance	335	117
Superannuation	1,110	1,110
Fringe benefits tax	54	62
Other	392	335
<b>Total employee costs</b>	<b>14,324</b>	<b>13,542</b>

**(b) Superannuation**

Council made contributions to the following funds:

**Defined benefit fund**

Employer contributions to Local Authorities Superannuation Fund (Vision Super)	92	62
	<b>92</b>	<b>62</b>
Employer contributions payable at reporting date.	-	-

**Accumulation funds**

Employer contributions to Local Authorities Superannuation Fund (Vision Super)	1,018	1,048
	<b>1,018</b>	<b>1,048</b>
Employer contributions payable at reporting date.	-	-

Refer to note 9.3 for further information relating to Council's superannuation obligations.

**4.2 Materials and services**

Service providers	7,363	7,472
Materials	881	1,452
Utilities	663	582
Office administration	335	308
Information technology	538	553
Insurance	289	265
Plant and fleet	557	662
Other	17	-
<b>Total materials and services</b>	<b>10,643</b>	<b>11,294</b>

**4.3 Depreciation and amortisation**

Property	2,284	2,324
Plant and equipment	798	745
Infrastructure	5,524	5,146
<b>Total depreciation</b>	<b>8,606</b>	<b>8,215</b>
Intangible assets	166	128
<b>Total depreciation and amortisation</b>	<b>8,772</b>	<b>8,343</b>

Refer to note 5.2( c ) and 6.1 for a more detailed breakdown of depreciation and amortisation charges and accounting policy.

**Notes to the Financial Report**  
**For the Year Ended 30 June 2019**

	2019	2018
	\$'000	\$'000
<b>4.4 Other expenses</b>		
Auditors' remuneration - VAGO	36	35
Auditors' remuneration - internal	22	61
Councillors' allowances	201	184
Community grants	334	276
Library contribution	512	501
Landfill levy	274	332
Others	149	131
<b>Total other expenses</b>	<b>1,528</b>	<b>1,520</b>
<b>Note 5 Our financial position</b>	<b>2019</b>	<b>2018</b>
<b>5.1 Financial assets</b>	<b>\$'000</b>	<b>\$'000</b>
<b>(a) Cash and cash equivalents</b>		
Cash on hand	2	2
Cash at bank	5,168	2,387
Term deposits	5	5
<b>Total cash and cash equivalents</b>	<b>5,175</b>	<b>2,394</b>
<b>(b) Other financial assets</b>		
Term deposits - current	13,750	16,250
<b>Total other financial assets</b>	<b>13,750</b>	<b>16,250</b>
<b>Total financial assets</b>	<b>18,925</b>	<b>18,644</b>
Councils cash and cash equivalents are subject to external restrictions that limit amounts available for discretionary use. These include:		
- Trust funds and deposits (Note 5.3)	1,031	1,151
- Statutory reserve funds allocated for specific future purposes (Note 9.1)	1,158	942
Total restricted funds	<b>2,189</b>	<b>2,093</b>
Total unrestricted cash and cash equivalents	<b>2,986</b>	<b>301</b>
<b>Intended allocations</b>		
Although not externally restricted the following amounts have been allocated for specific future purposes by Council:		
- cash held to fund carried forward works	2,882	3,568
- cash held for unspent grants (Note 9.1)	2,594	2,441
- cash held for other discretionary reserves (Note 9.1)	9,604	8,197
Total funds subject to intended allocations	<b>15,080</b>	<b>14,206</b>
<b>Available cash funds</b>	<b>1,656</b>	<b>2,345</b>

Cash and cash equivalents include cash on hand, deposits at call, and other highly liquid investments with original maturities of 90 days or less, net of outstanding bank overdrafts.

Other financial assets are valued at fair value, at balance date. Term deposits are measured at original cost. Any unrealised gains and losses on holdings at balance date are recognised as either a revenue or expense.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

	2019	2018
(c) Trade and other receivables	\$'000	\$'000
<b>Current</b>		
<i>Statutory receivables</i>		
Rates debtors	2,847	2,017
Provision for doubtful debts - rates	(159)	(140)
Traffic infringement debtors	36	71
Provision for doubtful debts - traffic infringements	-	(32)
Pet infringement debtors	11	23
Provision for doubtful debts - pet infringements	-	(13)
Net GST receivable	1	15
<i>Non statutory receivables</i>		
Home and community care	55	39
State government	145	1
Other debtors	1,287	584
Provision for doubtful debts - other debtors	(5)	(18)
Total current trade and other receivables	<b>4,218</b>	<b>2,547</b>
<b>Non-current</b>		
<i>Statutory receivables</i>		
Special rate scheme	-	5
Total non-current trade and other receivables	-	5
<b>Total trade and other receivables</b>	<b>4,218</b>	<b>2,552</b>

Short term receivables are carried at invoice amount. A provision for doubtful debts is recognised when there is objective evidence that an impairment has occurred. Long term receivables are carried at amortised cost using the effective interest rate method.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

<b>5.2 Non-financial assets</b>	<b>2019</b>	<b>2018</b>
<b>(a) Inventories</b>	<b>\$'000</b>	<b>\$'000</b>
Inventories held for distribution	24	29
Inventories held for sale	61	40
<b>Total inventories</b>	<b>85</b>	<b>69</b>
Inventories held for distribution are measured at cost, adjusted when applicable for any loss of service potential. All other inventories, including land held for sale, are measured at the lower of cost and net realisable value. Where inventories are acquired for no cost or nominal consideration, they are measured at current replacement cost at the date of acquisition.		
<b>(b) Other assets</b>		
Prepayments	169	200
Accrued income	174	223
<b>Total other assets</b>	<b>343</b>	<b>423</b>
<b>(c) Intangible assets</b>		
Software	1,321	1,180
<b>Total intangible assets</b>	<b>1,321</b>	<b>1,180</b>
	<b>Software</b>	<b>Total</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Gross carrying amount</b>		
Balance at 1 July 2018	1,509	1,509
Additions from internal developments	308	308
Other additions	-	-
Balance at 1 July 2019	1,817	1,817
<b>Accumulated amortisation and impairment</b>		
Balance at 1 July 2018	329	329
Amortisation expense	166	166
Balance at 1 July 2019	495	495
Net book value at 30 June 2018	1,180	1,180
Net book value at 30 June 2019	<b>1,321</b>	<b>1,321</b>

Intangible assets with finite lives are amortised as an expense on a systematic basis over the asset's useful life. Amortisation is generally calculated on a straight line basis, at a rate that allocates the asset value, less any estimated residual value over its estimated useful life. Estimates of the remaining useful lives and amortisation method are reviewed at least annually, and adjustments made where appropriate.

<b>5.3 Payables</b>	<b>2019</b>	<b>2018</b>
<b>(a) Trade and other payables</b>	<b>\$'000</b>	<b>\$'000</b>
Trade payables	324	355
Loan interest	9	9
Accrued expenses	958	1,475
<b>Total trade and other payables</b>	<b>1,291</b>	<b>1,839</b>
<b>(b) Trust funds and deposits</b>		
Refundable deposits	50	42
Fire Services Property Levy	271	250
Retention amounts	312	227
Heritage Fund	34	34
Central Victorian PCP	359	598
Other	5	-
<b>Total trust funds and deposits</b>	<b>1,031</b>	<b>1,151</b>

Amounts received as deposits and retention amounts controlled by Council are recognised as trust funds until they are returned, transferred in accordance with the purpose of the receipt, or forfeited. Trust funds that are forfeited, resulting in Council gaining control of the funds, are to be recognised as revenue at the time of forfeit.

*Purpose and nature of items*

Refundable deposits - Deposits are taken by council as a form of surety in a number of circumstances, including in relation to building works, tender deposits, contract deposits and the use of civic facilities.

Fire Service Property Levy - Council is the collection agent for fire services property levy on behalf of the State Government. Council remits amounts received on a quarterly basis. Amounts disclosed here will be remitted to the State Government in line with that process.

Retention Amounts - Council has a contractual right to retain certain amounts until a contractor has met certain requirements or a related warrant or defect period has elapsed. Subject to the satisfactory completion of the contractual obligations, or the elapsing of time, these amounts will be paid to the relevant contractor in line with Council's contractual obligations.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

5.4 Interest-bearing liabilities	2019	2018
	\$'000	\$'000
<b>Current</b>		
Borrowings - secured	482	476
	<u>482</u>	<u>476</u>
<b>Non-current</b>		
Borrowings - secured	3,443	3,926
	<u>3,443</u>	<u>3,926</u>
<b>Total</b>	<u>3,925</u>	<u>4,402</u>

Borrowings are secured by a mortgage over the general rates and charges of Council

(a) The maturity profile for Council's borrowings is:

Not later than one year	482	476
Later than one year and not later than five years	1,838	2,194
Later than five years	1,605	1,733
	<u>3,925</u>	<u>4,402</u>

Borrowings are initially measured at fair value, being the cost of the interest bearing liabilities, net of transaction costs. The measurement basis subsequent to initial recognition depends on whether the Council has categorised its interest-bearing liabilities as either financial liabilities designated at fair value through the profit and loss, or financial liabilities at amortised cost. Any difference between the initial recognised amount and the redemption value is recognised in net result over the period of the borrowing using the effective interest method.

The classification depends on the nature and purpose of the interest bearing liabilities. The Council determines the classification of its interest bearing liabilities at initial recognition.

**5.5 Provisions**

	Employee	Landfill restoration	Total
	\$ '000	\$ '000	\$ '000
<b>2019</b>			
Balance at beginning of the financial year	2,622	5,750	8,372
Additional provisions	1,177	670	1,847
Amounts used	(1,262)	-	(1,262)
Change in the discounted amount arising because of time and the effect of any change in the discount rate	162	12	174
Balance at the end of the financial year	<u>2,699</u>	<u>6,432</u>	<u>9,131</u>
<b>2018</b>			
Balance at beginning of the financial year	2,549	5,762	8,311
Additional provisions	1,197	-	1,197
Amounts used	(1,023)	-	(1,023)
Change in the discounted amount arising because of time and the effect of any change in the discount rate	(101)	(12)	(113)
Balance at the end of the financial year	<u>2,622</u>	<u>5,750</u>	<u>8,372</u>



**Notes to the Financial Report  
For the Year Ended 30 June 2019**

	2019	2018
	\$'000	\$'000
<b>(a) Employee provisions</b>		
<b>Current provisions expected to be wholly settled within 12 months</b>		
Annual leave	679	757
Long service leave	200	156
Rostered days off	110	86
	<b>989</b>	<b>999</b>
<b>Current provisions expected to be wholly settled after 12 months</b>		
Annual leave	161	112
Long service leave	943	1,195
	<b>1,104</b>	<b>1,307</b>
Total current employee provisions	<b>2,093</b>	<b>2,306</b>
<b>Non-current</b>		
Long service leave	606	317
Total non-current employee provisions	<b>606</b>	<b>317</b>
Aggregate carrying amount of employee provisions:		
Current	2,093	2,306
Non-current	606	317
Total aggregate carrying amount of employee provisions	<b>2,699</b>	<b>2,623</b>

The calculation of employee costs and benefits includes all relevant on-costs and are calculated as follows at reporting date.

*Wages and salaries and annual leave*

Liabilities for wages and salaries, including non-monetary benefits and annual leave expected to be wholly settled within 12 months of the reporting date are recognised in the provision for employee benefits in respect of employee services up to the reporting date, classified as current liabilities and measured at their nominal values.

Liabilities that are not expected to be wholly settled within 12 months of the reporting date are recognised in the provision for employee benefits as current liabilities, measured at the present value of the amounts expected to be paid when the liabilities are settled using the remuneration rate expected to apply at the time of settlement.

*Long service leave*

Liability for long service leave (LSL) is recognised in the provision for employee benefits. LSL is measured at present value. Unconditional LSL is disclosed as a current liability. Conditional LSL that has been accrued, where an employee is yet to reach a qualifying term of employment, is disclosed as a non-current liability.

Key assumptions:

- discount rate	1.46%	2.65%
- index rate	4.31%	3.88%
	<b>2019</b>	<b>2018</b>
	<b>\$'000</b>	<b>\$'000</b>

**(b) Landfill restoration**

Current	1,500	4,016
Non-current	4,932	1,742
	<b>6,432</b>	<b>5,758</b>

Council is obligated to restore the Castlemaine landfill site to a particular standard. The forecast life of the site is based on current estimates of remaining capacity and the forecast rate of infill. The provision for landfill restoration has been calculated based on the present value of the expected cost of works to be undertaken. The expected cost of works has been estimated based on current understanding of work required to reinstate the site to a suitable standard. Accordingly, the estimation of the provision required is dependent on the accuracy of the forecast timing of the work, work required and related costs.

Key assumptions:

- inflation rate	1.30%	1.90%
- estimated cost to rehabilitate	\$5,758,063	\$5,758,063

**5.6 Financing arrangements**

The Council has the following funding arrangements in place as at 30 June 2019

Bank overdraft	500	500
Credit card facilities	300	300
Total facilities	<b>800</b>	<b>800</b>
Used facilities	66	40
Unused facilities	<b>734</b>	<b>760</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**5.7 Commitments**

The Council has entered into the following commitments. Commitments are not recognised in the Balance Sheet. Commitments are disclosed at their nominal value and presented inclusive of the GST payable.

2019	Not later than 1	Later than 1 year	Later than 2 years	Total
	year	and not later than	and not later than	
	\$'000	2 years	5 years	\$'000
		\$'000	\$'000	
<b>Operating</b>				
Aged and disability services	200	-	-	200
Consultancy	141	-	-	141
Election services	136	-	-	136
IT and software licenses	266	133	224	623
Professional services	178	112	292	582
Recreation services	491	508	-	999
Regulatory compliance	198	204	210	612
Utility supply	190	-	-	190
Waste management	2,182	2,498	6,235	10,915
<b>Total operating</b>	<b>3,982</b>	<b>3,454</b>	<b>6,961</b>	<b>14,397</b>
<b>Capital</b>				
Buildings	313	-	-	313
Drainage	101	-	-	101
Other	41	-	-	41
Pathways	9	-	-	9
Recreation	605	-	-	605
Roads	797	-	-	797
<b>Total capital</b>	<b>1,867</b>	<b>-</b>	<b>-</b>	<b>1,867</b>
<b>2018</b>				
		Later than 1 year	Later than 2 years	
	Not later than 1	and not later than	and not later than	Total
	year	2 years	5 years	
	\$'000	\$'000	\$'000	\$'000
<b>Operating</b>				
Aged and disability services	217	-	-	217
Consultancy	22	-	-	22
Election services	-	136	-	136
IT and software licenses	269	222	321	812
Professional services	182	67	51	300
Recreation services	471	491	508	1,470
Utility supply	200	190	-	390
Waste management	2,353	1,961	4,794	9,109
<b>Total operating</b>	<b>3,715</b>	<b>3,067</b>	<b>5,675</b>	<b>12,457</b>
<b>Capital</b>				
Buildings	2,397	-	-	2,397
Bridges	577	-	-	577
Drainage	521	-	-	521
IT software and services	351	-	-	351
Other	261	-	-	261
Pathways	428	-	-	428
Recreation	34	-	-	34
Roads	160	-	-	160
<b>Total capital</b>	<b>4,729</b>	<b>-</b>	<b>-</b>	<b>4,729</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

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**5.7 Commitments continued**

	<b>2019</b>	<b>2018</b>
	<b>\$'000</b>	<b>\$'000</b>

At the reporting date, the Council had the following obligations under non-cancellable operating leases for the lease of equipment and land and buildings for use within Council's activities (these obligations are not recognised as liabilities):

Not later than one year	5	19
Later than one year and not later than five years	-	3
	5	22

Lease payments for operating leases are required by the accounting standard to be recognised on a straight line basis, rather than expensed in the years in which they are incurred.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**6.1 Property, infrastructure, plant and equipment**

**6.1 a Summary of property, infrastructure, plant and equipment**

	<b>At Fair Value 30 June 2018</b>	<b>Additions</b>	<b>Contributions</b>	<b>Revaluation</b>	<b>Depreciation</b>	<b>Disposal</b>	<b>Write-off</b>	<b>Transfers</b>	<b>At Fair Value 30 June 2019</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Land and land improvements	27,648	-	221	4,117	(229)	(157)	-	-	31,600
Building and site improvements	32,198	-	-	(53)	(2,055)	(114)	(2)	4,224	34,197
Plant and equipment	3,177	-	-	-	(798)	(113)	(4)	1,079	3,340
Infrastructure	270,782	-	321	13,816	(5,524)	(600)	-	5,633	284,429
Work in progress	5,475	9,790	-	-	-	-	(56)	(11,244)	3,966
	<b>339,280</b>	<b>9,790</b>	<b>542</b>	<b>17,880</b>	<b>(8,606)</b>	<b>(985)</b>	<b>(62)</b>	<b>(308)</b>	<b>357,532</b>

**Summary of Work in Progress**

	<b>Opening WIP</b>	<b>Additions</b>	<b>Write-off</b>	<b>Transfers</b>	<b>Closing WIP</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
Land and land improvements	593	140	-	-	733
Buildings and site improvements	1,348	3,381	(28)	(4,224)	477
Plant and equipment	77	1,018	-	(1,079)	16
Infrastructure	3,325	4,968	(31)	(5,633)	2,629
Intangibles	132	283	-	(308)	107
Total	<b>5,475</b>	<b>9,790</b>	<b>(59)</b>	<b>(11,244)</b>	<b>3,963</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**6.1 Property, infrastructure, plant and equipment continued****(a) Property**

	Land - specialised	Land - non specialised	Land improvements	Total Land & Land Improvements	Buildings - specialised	Buildings - non specialised	Site improvements	Total Buildings	Work In Progress	Total Property
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
At fair value 1 July 2018	621	22,841	6,588	30,049	42,119	21,960	7,448	71,527	1,941	103,517
Accumulated depreciation at 1 July 2018	-	-	(2,401)	(2,401)	(23,457)	(13,771)	(2,102)	(39,330)	-	(41,731)
	<b>621</b>	<b>22,841</b>	<b>4,187</b>	<b>27,648</b>	<b>18,662</b>	<b>8,189</b>	<b>5,346</b>	<b>32,197</b>	<b>1,941</b>	<b>61,786</b>
<b>Movements in fair value</b>										
Additions	-	-	-	-	-	-	-	-	3,521	3,521
Contributions	35	186	-	221	-	-	-	-	-	221
Revaluation	-	4,117	-	4,117	2,302	(310)	-	1,992	-	6,109
Disposal	-	(157)	-	(157)	(483)	-	(53)	(536)	-	(693)
Write-off	-	-	-	-	(2)	-	-	(2)	-	(2)
Transfers	-	-	-	-	3,375	100	748	4,224	(4,224)	-
	<b>35</b>	<b>4,146</b>	<b>-</b>	<b>4,181</b>	<b>5,192</b>	<b>(210)</b>	<b>696</b>	<b>5,678</b>	<b>(702)</b>	<b>9,157</b>
<b>Movements in accumulated depreciation</b>										
Depreciation and amortisation	-	-	(229)	(229)	(1,787)	-	(268)	(2,055)	-	(2,284)
Accumulated depreciation of disposals	-	-	-	-	398	-	23	421	-	421
Revaluation	-	-	-	-	(2,482)	437	-	(2,045)	-	(2,045)
Transfers	-	-	-	-	4	-	-	4	-	4
	<b>-</b>	<b>-</b>	<b>(229)</b>	<b>(229)</b>	<b>(3,867)</b>	<b>437</b>	<b>(245)</b>	<b>(3,675)</b>	<b>-</b>	<b>(3,904)</b>
At fair value 30 June 2019	656	26,987	6,588	34,230	47,311	21,750	8,144	77,205	1,239	112,674
Accumulated depreciation at 30 June 2019	-	-	(2,630)	(2,630)	(27,324)	(13,334)	(2,347)	(43,005)	-	(45,635)
	<b>656</b>	<b>26,987</b>	<b>3,958</b>	<b>31,600</b>	<b>19,987</b>	<b>8,416</b>	<b>5,797</b>	<b>34,200</b>	<b>1,239</b>	<b>67,039</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**6.1 Property, infrastructure, plant and equipment continued**

**(b) Plant and Equipment**

	Plant machinery and equipment	Fixtures fittings, furniture and IT	Work in Progress	Total plant and equipment
	\$'000	\$'000	\$'000	\$'000
At fair value 1 July 2018	5,681	1,755	77	7,514
Accumulated depreciation at 1 July 2018	(2,883)	(1,377)	-	(4,260)
	<b>2,798</b>	<b>378</b>	<b>77</b>	<b>3,254</b>
<b>Movements in fair value</b>				
Additions	-	-	1,018	1,018
Contributions	-	-	-	-
Revaluation	-	-	-	-
Disposal	(342)	(564)	-	(906)
Write-off	-	-	-	-
Transfers	953	126	(1,079)	-
Impairment losses recognised in operating result	-	-	-	-
	<b>611</b>	<b>(438)</b>	<b>(61)</b>	<b>113</b>
<b>Movements in accumulated depreciation</b>				
Depreciation and amortisation	(622)	(176)	-	(798)
Accumulated depreciation of disposals	244	549	-	792
Impairment losses recognised in operating result	-	-	-	-
Write-off	(5)	(1)	-	(6)
Transfers	-	-	-	-
	<b>(383)</b>	<b>371</b>	<b>-</b>	<b>(12)</b>
At fair value 30 June 2019	6,292	1,318	16	7,627
Accumulated depreciation at 30 June 2019	(3,266)	(1,006)	-	(4,272)
	<b>3,026</b>	<b>312</b>	<b>16</b>	<b>3,355</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**6.1 Property, infrastructure, plant and equipment continued**

**(c) Infrastructure**

	<b>Roads</b>	<b>Bridges</b>	<b>Footpaths and cycleways</b>	<b>Drainage</b>	<b>Kerb</b>	<b>Waste Management</b>	<b>Work In Progress</b>	<b>Total Infrastructure</b>
	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>	<b>\$'000</b>
At fair value 1 July 2018	203,134	68,368	7,628	42,252	9,693	5,747	3,325	340,148
Accumulated depreciation at 1 July 2018	(27,593)	(13,463)	(2,188)	(12,753)	(5,437)	(4,604)	-	(66,040)
	<b>175,541</b>	<b>54,905</b>	<b>5,440</b>	<b>29,499</b>	<b>4,256</b>	<b>1,143</b>	<b>3,325</b>	<b>274,107</b>
<b>Movements in fair value</b>								
Additions	-	-	-	-	-	-	4,968	4,968
Contributions	130	-	108	10	-	-	-	248
Found	30	-	50	-	-	-	-	80
Revaluation	7,490	-	376	1,724	1,194	-	-	10,784
Disposal	(487)	(374)	(71)	-	(10)	-	-	(941)
Write-off	-	-	-	-	-	-	(32)	(32)
Transfers	2,519	980	1,122	815	197	-	(5,633)	-
Impairment losses recognised in operating result	-	-	-	-	-	-	-	-
	<b>9,682</b>	<b>606</b>	<b>1,585</b>	<b>2,549</b>	<b>1,382</b>	<b>-</b>	<b>(697)</b>	<b>15,107</b>
<b>Movements in accumulated depreciation</b>								
Depreciation and amortisation	(3,600)	(621)	(267)	(339)	(183)	(513)	-	(5,524)
Found	-	-	(4)	-	-	-	-	(4)
Revaluation	(857)	-	(147)	3,955	81	-	-	3,032
Accumulated depreciation of disposals	214	87	34	-	6	-	-	341
Impairment losses recognised in operating result	-	-	-	-	-	-	-	-
Transfers	-	-	-	-	-	-	-	-
	<b>(4,242)</b>	<b>(534)</b>	<b>(384)</b>	<b>3,616</b>	<b>(97)</b>	<b>(513)</b>	<b>-</b>	<b>(2,155)</b>
At fair value 30 June 2019	212,816	68,974	9,213	44,801	11,075	5,747	2,628	355,255
Accumulated depreciation at 30 June 2019	(31,836)	(13,998)	(2,573)	(9,138)	(5,534)	(5,117)	-	(68,195)
	<b>180,981</b>	<b>54,976</b>	<b>6,641</b>	<b>35,663</b>	<b>5,540</b>	<b>630</b>	<b>2,628</b>	<b>287,059</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

*Acquisition*

The purchase method of accounting is used for all acquisitions of assets, being the fair value of assets provided as consideration at the date of acquisition plus any incidental costs attributable to the acquisition. Fair value is the price that would be received to sell an asset (or paid to transfer a liability) in an orderly transaction between market participants at the measurement date.

Where assets are constructed by Council, cost includes all materials used in construction, direct labour, borrowing costs incurred during construction, and an appropriate share of directly attributable variable and fixed overheads.

In accordance with Council's policy, the threshold limits have applied when recognising assets within an applicable asset class and unless otherwise stated are consistent with the prior year.

<i>Asset recognition thresholds and depreciation periods</i>	<b>Depreciation Period</b>	<b>Threshold Limit \$'000</b>
Property		
land improvements	10-100 years	15
Buildings		
buildings	20-100 years	15
building improvements	20-100 years	15
Plant and Equipment		
plant, machinery and equipment	3-10 years	7
fixtures, fittings and furniture	3-5 years	7
computers and telecommunications	2-10 years	7
Infrastructure		
road pavements and seals	65 years	15
road sealed surfaces	12-25 years	15
road unsealed pavements	16-20 years	15
road formation and earthworks	200 years	15
road kerb, channel and minor culverts	25-100 years	15
bridges deck	80 years	15
bridges substructure	80-150 years	15
footpaths and cycleways	30-80 years	15
drainage pits	80 years	15
drainage pipes	80-200 years	15
waste management	2-5 years	15
Intangible assets		
software	5-10 years	25

*Land under roads*

Council recognises land under roads it controls at fair value.

*Depreciation and amortisation*

Buildings, land improvements, plant and equipment, infrastructure, and other assets having limited useful lives are systematically depreciated over their useful lives to the Council in a manner which reflects consumption of the service potential embodied in those assets. Estimates of remaining useful lives and residual values are made on a regular basis with major asset classes reassessed annually. Depreciation rates and methods are reviewed annually.

Where assets have separate identifiable components that are subject to regular replacement, these components are assigned distinct useful lives and residual values and a separate depreciation rate is determined for each component.

Road earthworks are not depreciated on the basis that they are assessed as not having a limited useful life.

Straight line depreciation is charged based on the residual useful life as determined each year.

Depreciation periods used are listed above and are consistent with the prior year unless otherwise stated.

*Repairs and maintenance*

Where the repair relates to the replacement of a component of an asset and the cost exceeds the capitalisation threshold the cost is capitalised and depreciated. The carrying value of the replaced asset is expensed.



**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**Valuation of land and buildings**

Valuation of land and buildings were undertaken by a qualified independent valuer Chris Barrett (API Member No. 63083) of VRC Property Pty Ltd. The valuation of land and buildings is at fair value, being market value based on highest and best use permitted by relevant land planning provisions. Where land use is restricted through existing planning provisions the valuation is reduced to reflect this limitation. This adjustment is an unobservable input in the valuation. The adjustment has no impact on the comprehensive income statement.

Specialised land is valued at fair value using site values adjusted for englobo (undeveloped and/or unserviced) characteristics, access rights and private interests of other parties and entitlements of infrastructure assets and services. This adjustment is an unobservable input in the valuation. The adjustment has no impact on the comprehensive income statement.

Any significant movements in the unobservable inputs for land and land under roads will have a significant impact on the fair value of these assets.

The date of the current valuation is detailed in the following table.

Details of the Council's land and buildings and information about the fair value hierarchy as at 30 June 2019 are as follows:

	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Date of Valuation</b>
Land	-	8,746	18,241	30/06/2019
Specialised land	-	-	656	30/06/2019
Land improvements	-	-	6,588	30/06/2017
Buildings - specialised	-	-	47,311	30/06/2019
Buildings - non specialised	-	14,707	7,044	30/06/2019
Site improvements	-	-	8,144	30/06/2017
<b>Total</b>	<b>-</b>	<b>23,453</b>	<b>87,983</b>	

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**Valuation of infrastructure**

Valuation of infrastructure assets has been determined in accordance with both an internal valuation by a Council officer and an independent valuation.

The date of the current valuations are detailed in the following table.

The valuation is at fair value based on replacement cost less accumulated depreciation as at the date of valuation.

Details of the Council's infrastructure and information about the fair value hierarchy as at 30 June 2019 are as follows:

	Level 1	Level 2	Level 3	Date of Valuation
Roads	-	-	212,816	30/06/2016
Bridges	-	-	68,974	30/06/2018
Footpaths and cycleways	-	-	9,213	30/06/2017
Drainage	-	-	44,801	30/06/2019
Kerb and channel	-	-	11,075	30/06/2011
Waste management	-	-	5,747	30/06/2019
<b>Total</b>	-	-	<b>352,626</b>	

**Description of significant unobservable inputs into level 3 valuations**

**Specialised land and land under roads** is valued using a market based direct comparison technique. Significant unobservable inputs include the extent and impact of restriction of use and the market cost of land per square metre. The extent and impact of restrictions on use varies and results in a reduction to surrounding land values of 85%. The market value of land varies significantly depending on the location of the land and the current market conditions. Currently land values range between \$1 and \$860 per square metre.

**Specialised buildings** are valued using a depreciated replacement cost technique. Significant unobservable inputs include the current replacement cost and remaining useful lives of buildings. Current replacement costs is calculated on a square metre basis and ranges from \$300 to \$7000 per square metre. The remaining useful lives of buildings are determined on the basis of the current condition of buildings and vary from 2 years to 56 years. Replacement cost is sensitive to changes in market conditions, with any increase or decrease in cost flowing through to the valuation. Useful lives of buildings are sensitive to changes in expectations or requirements that could either shorten or extend the useful lives of buildings.

**Infrastructure assets** are valued based on the depreciated replacement cost. Significant unobservable inputs include the current replacement cost and remaining useful lives of infrastructure. The remaining useful lives of infrastructure assets are determined on the basis of the current condition of the asset and vary from 12 years to 200 years. Replacement cost is sensitive to changes in market conditions, with any increase or decrease in cost flowing through to the valuation. Useful lives of infrastructure are sensitive to changes in use, expectations or requirements that could either shorten or extend the useful lives of infrastructure assets.

	2019	2018
	\$'000	\$'000
<b>Reconciliation of specialised land</b>		
Land under roads	656	621
<b>Total specialised land</b>	<b>656</b>	<b>621</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

	<b>2019</b>	<b>2018</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>6.2 Investments in associates, joint arrangements and subsidiaries</b>		
<b>(a) Investments in associates</b>		
Investments in associates accounted for by the equity method are:		
- Goldfields Regional Library Corporation	584	646
<b>Goldfields Regional Library Corporation</b>		
<i>Council is a member of the Goldfields Regional Library Corporation which provides library services to the municipalities of City of Greater Bendigo, Macedon Ranges, Loddon and Mount Alexander Shires. Council's share of the net assets of the Corporation as at 30 June 2019 was 10.92% (2018, 12.19%).</i>		
<b>Fair value of Council's investment in Goldfields Regional Library Corporation</b>	<b>584</b>	<b>646</b>
<b>Council's share of accumulated surplus/(deficit)</b>		
Council's share of accumulated surplus/(deficit) at start of year	180	172
Reported surplus/(deficit) for year	3	7
Transfers (to)/from reserves	1	1
Council's share of accumulated surplus/(deficit) at end of year	<b>184</b>	<b>180</b>
<b>Council's share of reserves</b>		
Council's share of reserves at start of year	137	137
Transfers (to)/from reserves	-	-
Council's share of reserves at end of year	<b>137</b>	<b>137</b>
<b>Movement in carrying value of specific investment</b>		
Carrying value of investment at start of year	646	581
Share of surplus/(deficit) for year	(62)	65
Share of asset revaluation	-	-
Carrying value of investment at end of year	<b>584</b>	<b>646</b>
<b>Council's share of expenditure commitments</b>		
Operating commitments	10	21
Capital commitments	-	-
Council's share of expenditure commitments	<b>10</b>	<b>21</b>

Associates are all entities over which Council has significant influence but not control or joint control. Investments in associates are accounted for using the equity method of accounting, after initially being recognised at cost.

**Committees of management**

All entities controlled by Council that have material revenues, expenses, assets or liabilities, such as committees of management, have been included in this financial report. Any transactions between these entities and Council have been eliminated in full.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

	2019	2018
	No.	No.
<b>Note 7 People and relationships</b>		
<b>7.1 Council and key management remuneration</b>		
<b>(a) Related Parties</b>		
Mount Alexander Shire Council is the parent entity.		
<b>(b) Key Management Personnel</b>		
Details of persons holding the position of Councillor or other members of key management personnel at any time during the year are:		
<b>Councillors</b>		
Councillor Bronwen Machin (elected 13/10/2014, Mayor 17/10/2017 until current)		
Councillor Christine Henderson (elected 01/12/2008)		
Councillor Anthony Cordy (elected 20/05/2014)		
Councillor John Nieman (elected 08/11/2016)		
Councillor Dave Petrusma (elected 22/11/2017)		
Councillor Max Lesser (elected 08/03/2018)		
Councillor Stephen Gardner (elected 26/02/2018)		
<b>Total Number of Councillors</b>	7	10
<b>Key Management Personnel</b>		
Darren Fuzzard (Chief Executive Officer)		
Lisa Knight (Director Corporate and Community Services)		
Phil Josipovic (Director Infrastructure and Development from 29/10/2018)		
Ben Grounds (Acting Director Sustainable Development from 07/05/2018 to 28/10/2018)		
<b>Total of Chief Executive Officer and other Key Management Personnel</b>	4	5
<b>Total Number of Key Management Personnel</b>	11	15
<b>(c) Remuneration of Key Management Personnel</b>		
Total remuneration of key management personnel was as follows:		
Short-term benefits	1,022	1,096
Termination benefits	-	182
<b>Total</b>	<b>1,022</b>	<b>1,278</b>
The numbers of key management personnel whose total remuneration from Council and any related entities, fall within the following bands:		
\$1 - \$9,999	-	3
\$10,000 - \$19,999	-	3
\$20,000 - \$29,999	6	3
\$50,000 - \$59,999	-	1
\$60,000 - \$69,999	-	-
\$80,000 - \$89,999	1	-
\$130,000 - \$139,999	1	-
\$140,000 - \$149,999	1	-
\$180,000 - \$189,999	-	1
\$190,000 - \$199,999	-	1
\$210,000 - \$219,999	1	1
\$220,000 - \$229,999	-	1
\$270,000 - \$279,999	-	1
\$280,000 - \$289,999	-	-
\$310,000 - \$319,999	1	-
	11	15

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**(d) Senior Officer Remuneration**

A Senior Officer is an officer of Council, other than Key Management Personnel, who:

- a) has management responsibilities and reports directly to the Chief Executive; or
- b) whose total annual remuneration exceeds \$148,000

The number of Senior Officers are shown below in their relevant income bands:

Income Range:	2019 No.	2018 No.
\$100,000 - \$109,999	-	1
\$140,000 - \$149,999	1	1
\$150,000 - \$159,999	1	1
	2	3

	2019 \$'000	2018 \$'000
Total Remuneration for the reporting year for Senior Officers included above, amounted to	302	390

7.2 Related party disclosure	2019 \$'000	2018 \$'000
<b>(a) Transactions with related parties</b>		
During the period Council did not enter into transactions with related parties.	-	-
<b>(b) Outstanding balances with related parties</b>		
There are no outstanding balances with related parties.	-	-
<b>(c) Loans to/from related parties</b>		
There are no loans to or from related parties.	-	-
<b>(d) Commitments to/from related parties</b>		
There are no commitments to or from related parties.	-	-

*Include aggregated details of commitments to or from related parties.*

## Notes to the Financial Report For the Year Ended 30 June 2019

### Note 8 Managing uncertainties

#### 8.1 Contingent assets and liabilities

##### (a) Contingent assets

There are no contingent assets as at reporting date.

##### *Operating lease receivables*

The Council has entered into commercial property leases on surplus property. These properties held under operating leases have remaining non-cancellable lease terms of between 1 and 20 years.

Future minimum rentals receivable under non-cancellable operating leases are as follows:

	2019	2018
	\$'000	\$'000
Not later than one year	106	97
Later than one year and not later than five years	562	551
Later than five years	1,637	1,754
	<b>2,305</b>	<b>2,402</b>

##### (b) Contingent liabilities

###### Superannuation

Council has obligations under a defined benefit superannuation scheme that may result in the need to make additional contributions to the scheme, matters relating to this potential obligation are outlined below. As a result of the volatility in financial markets the likelihood of making such contributions in future periods exists.

###### *Future superannuation contributions*

In addition to the disclosed contributions, Mount Alexander Shire Council has paid unfunded liability payments to Vision Super totalling \$0 in the 2018/19 year (2017/18 \$0). There were no contributions outstanding and no loans issued from or to the above schemes as at 30 June 2019. The expected contributions to be paid to the Defined Benefit category of Vision Super for the year ending 30 June 2020 are \$60,000

###### Castlemaine Rifle Range

A potential liability exists for costs associated with de-contaminating waste sand dumped at the Castlemaine Rifle Range, if the polluter defaults on the requirements that may be imposed by the EPA. The extent of the financial liability to decontaminate the site and any associated legal costs is unable to be determined at balance date.

###### Tarilta gravel pit

A rehabilitation bond has been issued for the restoration of the Tarilta gravel pit. The bank guarantee is for \$23,500 to the Minister of Agriculture and Resources.

###### Aged and disability services

Council has a number of funding arrangements with State and Federal Government to deliver aged and disability services. Repayment of funding may be required if service targets are not met. Council is currently unable to estimate the likelihood and level of repayment required.

###### Depot

A potential liability exists for costs associated with remediating the Castlemaine Depot site. The extent of the financial liability to remediate the site and any associated legal costs is unable to be determined at balance date.

Contingent assets and contingent liabilities are not recognised in the Balance Sheet, but are disclosed and if quantifiable, are measured at nominal value. Contingent assets and liabilities are presented inclusive of GST receivable or payable, respectively.

#### 8.2 Change in accounting standards

The following new AAS's have been issued that are not mandatory for the 30 June 2019 reporting period. Council has assessed these pending standards and has identified the following potential impacts will flow from the application of these standards in future reporting periods.

##### *Revenue from contracts with customers (AASB 15) (applies 2019/20 for LG sector)*

The standard shifts the focus from the transaction-level to a contract-based approach. Recognition is determined based on what the customer expects to be entitled to (rights and obligations), while measurement encompasses estimation by the entity of the amount expected to be entitled for performing under the contract. The full impact of this standard is not known however it is most likely to impact where contracts extend over time, where there are rights and obligations that may vary the timing or amount of the consideration, or where there are multiple performance elements. This has the potential to impact on the recognition of certain grant income.

## Notes to the Financial Report For the Year Ended 30 June 2019

### Note 8 Managing uncertainties

#### 8.2 Change in accounting standards continued

*Amendments to Australian Accounting Standards – Deferral of AASB 15 for Not-for-Profit Entities (AASB 2016-7) (applies 2019/20)*

This Standard defers the mandatory effective date of AASB 15 for not-for-profit entities from 1 January 2018 to 1 January 2019.

*Leases (AASB 16) (applies 2019/20)*

The classification of leases as either finance leases or operating leases is eliminated for lessees. Leases will be recognised in the Balance Sheet by capitalising the present value of the minimum lease payments and showing a 'right-of-use' asset, while future lease payments will be recognised as a financial liability. The nature of the expense recognised in the profit or loss will change. Rather than being shown as rent, or as leasing costs, it will be recognised as depreciation on the 'right-of-use' asset, and an interest charge on the lease liability. The interest charge will be calculated using the effective interest method, which will result in a gradual reduction of interest expense over the lease term.

Council has elected to adopt the modified retrospective approach to the transition to the new lease standard. This will mean that only existing operating leases for non low value assets, with remaining terms greater than 12 months, will be recognised on transition (1 July 2019). Based on our current lease commitments and an assumption of a continuation of the current leasing arrangements Council expects that the transition to the new standard will see the initial recognition of \$0 in lease related assets and an equivalent liability

*Income of Not-for-Profit Entities (AASB 1058) (applies 2019/20)*

This standard is expected to apply to certain transactions currently accounted for under AASB 1004 Contributions and establishes revenue recognition principles for transactions where the consideration to acquire an asset is significantly less than fair value to enable a not-for-profit entity to further its objectives.

#### 8.3 Financial instruments

##### (a) Objectives and policies

The Council's principal financial instruments comprise cash assets, term deposits, receivables (excluding statutory receivables), payables (excluding statutory payables) and bank borrowings. Details of the significant accounting policies and methods adopted, including the criteria for recognition, the basis of measurement and the basis on which income and expenses are recognised, in respect of each class of financial asset, financial liability and equity instrument is disclosed in the notes of the financial statements. Risk management is carried out by senior management under policies approved by the Council. These policies include identification and analysis of the risk exposure to Council and appropriate procedures, controls and risk minimisation.

##### (b) Market risk

Market risk is the risk that the fair value or future cash flows of council financial instruments will fluctuate because of changes in market prices. The Council's exposure to market risk is primarily through interest rate risk with only insignificant exposure to other price risks and no exposure to foreign currency risk.

##### *Interest rate risk*

Interest rate risk refers to the risk that the value of a financial instrument or cash flows associated with the instrument will fluctuate due to changes in market interest rates. Council's interest rate liability risk arises primarily from long term loans and borrowings at fixed rates which exposes council to fair value interest rate risk. Cash flow interest rate risk is the risk that the future cash flows of a financial instrument will fluctuate because of changes in market interest rates. Council has minimal exposure to cash flow interest rate risk through its cash and deposits that are at floating rates.

Investment of surplus funds is made with approved financial institutions under the *Local Government Act 1989*. Council manages interest rate risk by adopting an investment policy that ensures:

- diversification of investment product;
- monitoring of return on investment; and
- benchmarking of returns and comparison with budget.

There has been no significant change in the Council's exposure, or its objectives, policies and processes for managing interest rate risk or the methods used to measure this risk from the previous reporting period.

Interest rate movements have not been sufficiently significant during the year to have an impact on the Council's year end result.

##### (c) Credit risk

Credit risk is the risk that a contracting entity will not complete its obligations under a financial instrument and cause Council to make a financial loss. Council have exposure to credit risk on some financial assets included in the balance sheet. Particularly significant areas of credit risk exist in relation to outstanding fees and fines as well as loans and receivables from sporting clubs and associations. To help manage this risk:

- council have a policy for establishing credit limits for the entities council deal with;
- council may require collateral where appropriate; and
- council only invest surplus funds with financial institutions which have a recognised credit rating specified in council's investment policy.

Receivables consist of a large number of customers, spread across the ratepayer, business and government sectors. Credit risk associated with the council's financial assets is minimal because the main debtor is secured by a charge over the rateable property.

There are no material financial assets which are individually determined to be impaired.

Council may also be subject to credit risk for transactions which are not included in the balance sheet, such as when council provide a guarantee for another party. Details of our contingent liabilities are disclosed in Note 8.1(b).

The maximum exposure to credit risk at the reporting date to recognised financial assets is the carrying amount, net of any provisions for impairment of those assets, as disclosed in the balance sheet and notes to the financial statements. Council does not hold any collateral.

## Notes to the Financial Report For the Year Ended 30 June 2019

### 8.3 Financial instruments continued

#### (d) Liquidity risk

Liquidity risk includes the risk that, as a result of council's operational liquidity requirements it will not have sufficient funds to settle a transaction when required or will be forced to sell a financial asset at below value or may be unable to settle or recover a financial asset.

To help reduce these risks Council:

- have a liquidity policy which targets a minimum and average level of cash and cash equivalents to be maintained;
- have readily accessible standby facilities and other funding arrangements in place;
- have a liquidity portfolio structure that requires surplus funds to be invested within various bands of liquid instruments;
- monitor budget to actual performance on a regular basis; and
- set limits on borrowings relating to the percentage of loans to rate revenue and percentage of loan principal repayments to rate revenue.

The Council's maximum exposure to liquidity risk is the carrying amounts of financial liabilities as disclosed on the face of the balance sheet and the amounts related to financial guarantees disclosed in Note 8.1(c), and is deemed insignificant based on prior periods' data and current assessment of risk.

There has been no significant change in Council's exposure, or its objectives, policies and processes for managing liquidity risk or the methods used to measure this risk from the previous reporting period.

With the exception of borrowings, all financial liabilities are expected to be settled within normal terms of trade. Details of the maturity profile for borrowings are disclosed at Note 5.4.

Unless otherwise stated, the carrying amounts of financial instruments reflect their fair value.

#### (e) Sensitivity disclosure analysis

Taking into account past performance, future expectations, economic forecasts, and management's knowledge and experience of the financial markets, Council believes the following movements are 'reasonably possible' over the next 12 months:

- A parallel shift of +1% and -1% in market interest rates (AUD) from year-end rates of 1.92%.

These movements will not have a material impact on the valuation of Council's financial assets and liabilities, nor will they have a material impact on the results of Council's operations.

### 8.4 Fair value measurement

#### *Fair value hierarchy*

Council's financial assets and liabilities are not valued in accordance with the fair value hierarchy, Council's financial assets and liabilities are measured at amortised cost.

Council measures certain assets and liabilities at fair value where required or permitted by Australian Accounting Standards. AASB 13 Fair value measurement, aims to improve consistency and reduce complexity by providing a definition of fair value and a single source of fair value measurement and disclosure requirements for use across Australian Accounting Standards.

AASB 13 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value under AASB 13 is an exit price regardless of whether that price is directly observable or estimated using another valuation technique.

All assets and liabilities for which fair value is measured or disclosed in the financial statements are categorised within a fair value hierarchy, described as follows, based on the lowest level input that is significant to the fair value measurement as a whole:

Level 1 — Quoted (unadjusted) market prices in active markets for identical assets or liabilities;

Level 2 — Valuation techniques for which the lowest level input that is significant to the fair value measurement is directly or indirectly observable; and

Level 3 — Valuation techniques for which the lowest level input that is significant to the fair value measurement is unobservable.

For the purpose of fair value disclosures, Council has determined classes of assets and liabilities on the basis of the nature, characteristics and risks of the asset or liability and the level of the fair value hierarchy as explained above.

In addition, Council determines whether transfers have occurred between levels in the hierarchy by re-assessing categorisation (based on the lowest level input that is significant to the fair value measurement as a whole) at the end of each reporting period.

#### *Revaluation*

Subsequent to the initial recognition of assets, non-current physical assets, other than plant and equipment, are measured at their fair value, being the price that would be received to sell an asset (or paid to transfer a liability) in an orderly transaction between market participants at the measurement date. At balance date, the Council reviewed the carrying value of the individual classes of assets measured at fair value to ensure that each asset materially approximated its fair value. Where the carrying value materially differed from the fair value at balance date, the class of asset was revalued.

Fair value valuations are determined in accordance with a valuation hierarchy. Changes to the valuation hierarchy will only occur if an external change in the restrictions or limitations of use of an asset result in changes to the permissible or practical highest and best use of the asset. In addition, Council undertakes a formal revaluation of land, buildings, and infrastructure assets on a regular basis ranging from 2 to 6 years. The valuation is performed either by experienced council officers or independent experts.

Where the assets are revalued, the revaluation increments are credited directly to the asset revaluation reserve except to the extent that an increment reverses a prior year decrement for that class of asset that had been recognised as an expense in which case the increment is recognised as revenue up to the amount of the expense. Revaluation decrements are recognised as an expense except where prior increments are included in the asset revaluation reserve for that class of asset in which case the decrement is taken to the reserve to the extent of the remaining increments. Within the same class of assets, revaluation increments and decrements within the year are offset.



**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**8.4 Fair value measurement continued***Impairment of assets*

At each reporting date, the Council reviews the carrying value of its assets to determine whether there is any indication that these assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs of disposal and value in use, is compared to the assets carrying value. Any excess of the assets carrying value over its recoverable amount is expensed to the comprehensive income statement, unless the asset is carried at the revalued amount in which case, the impairment loss is recognised directly against the revaluation surplus in respect of the same class of asset to the extent that the impairment loss does not exceed the amount in the revaluation surplus for that same class of asset.

**8.5 Events occurring after balance date**

No matters have occurred after balance date that require disclosure in the financial report.

**Note 9 Other matters**

	Balance at beginning of reporting period	Increment (decrement)	Balance at end of reporting period
	\$'000	\$'000	\$'000
<b>9.1 Reserves</b>			
<b>(a) Asset revaluation reserves</b>			
<b>2019</b>			
<b>Property</b>			
Land and land improvements	14,916	4,117	19,033
Buildings	16,053	(53)	16,000
	30,969	4,063	35,032
<b>Infrastructure</b>			
Infrastructure	194,840	13,816	208,657
	194,840	13,816	208,657
<b>Total asset revaluation reserves</b>	<b>225,809</b>	<b>17,880</b>	<b>243,689</b>
<b>2018</b>			
<b>Property</b>			
Land and land improvements	14,916	-	14,916
Buildings	16,053	-	16,053
	30,969	-	30,969
<b>Infrastructure</b>			
Infrastructure	163,480	31,360	194,840
	163,480	31,360	194,840
<b>Total asset revaluation reserves</b>	<b>194,449</b>	<b>31,360</b>	<b>225,809</b>

The asset revaluation reserve is used to record the increased (net) value of Council's assets over time.

	Balance at beginning of reporting period	Transfer from accumulated surplus	Transfer to accumulated surplus	Balance at end of reporting period
	\$'000	\$'000	\$'000	\$'000
<b>(b) Other reserves</b>				
<b>2019</b>				
Development contribution reserve*	78	-	-	78
Energy/water saving reserve	61	(28)	20	53
Gravel pit rehabilitation service	39	-	-	39
Parkland/open space reserve*	863	-	217	1,080
Swimming pool reserve	3,091	-	-	3,091
Uncompleted works reserve	6,542	(6,542)	2,882	2,882
Unspent grants reserve	2,442	(2,442)	2,594	2,594
Waste reserve	5,007	(56)	1,471	6,421
<b>Total other reserves</b>	<b>18,122</b>	<b>(9,068)</b>	<b>7,185</b>	<b>16,238</b>

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

**9.1 Reserves continued**

	Balance at beginning of reporting period \$'000	Transfer from accumulated surplus \$'000	Transfer to accumulated surplus \$'000	Balance at end of reporting period \$'000
<b>2018</b>				
Development contribution reserve*	72	-	6	78
Energy/water saving reserve	93	(54)	23	61
Gravel pit rehabilitation service	39	-	-	39
Motor vehicles reserve	280	(350)	70	-
Parkland/open space reserve*	781	-	83	864
Plant replacement reserve	85	(564)	479	-
Swimming pool reserve	3,091	(1)	-	3,090
Uncompleted works reserve	593	(593)	6,542	6,542
Unspent grants reserve	2,315	(2,315)	2,441	2,441
Waste reserve	3,913	(151)	1,244	5,006
<b>Total other reserves</b>	<b>11,262</b>	<b>(4,029)</b>	<b>10,888</b>	<b>18,122</b>

\* Notes a statutory reserve held for restricted use

The purposes of these reserves are as follows:

**Energy/water saving reserve**

Funds set aside for the undertaking of works on Council property which reduces future energy or water usage.

**General reserve**

Funds set aside for the future provision of Council purchases or construction of assets.

**Gravel pit rehabilitation reserve**

Funds set aside for the future rehabilitation works at Council's gravel pit.

**Motor vehicle reserve**

Funds set aside for future changeover of motor vehicles.

**Waste reserve**

Funds set aside to provide for the capital improvements and rehabilitation at the Castlemaine landfill.

**Unspent grants reserve**

Grant fund provided to Council with conditions on how they are spent that remain unspent at end of year.

**Development contribution reserve**

Funds community infrastructure through contributions from owners who subdivide or develop their land.

**Parkland/open spaces reserve**

Funds to provide for future recreational infrastructure within the Shire.

**Plant replacement reserve**

To provide funds for the future purchase of plant and equipment.

**Swimming pool reserve**

Funds set aside for future capital works on swimming pools.

**Uncompleted works reserve**

Funds set aside at year-end to allow projects to be carried forward.

**Notes to the Financial Report  
For the Year Ended 30 June 2019**

	2019	2018
	\$'000	\$'000
<b>9.2 Reconciliation of cash flows from operating activities to surplus/(deficit)</b>		
Surplus/(deficit) for the year	2,535	3,022
Depreciation/amortisation	8,772	8,343
Profit/(loss) on disposal of property, infrastructure, plant and equipment	715	415
Contributions - Non-monetary assets	(247)	(292)
Found assets	(111)	(192)
Borrowing costs	193	224
Share of net (profit) / losses of associates	62	(65)
Prior year WIP expensed	62	31
<i>Change in assets and liabilities:</i>		
(Increase)/decrease in trade and other receivables	(1,666)	(135)
Increase/(decrease) in trade and other payables	(548)	(172)
Increase/(decrease) in trust funds	(120)	261
(Increase)/decrease in other assets	80	(101)
(Increase)/decrease in inventories	(16)	16
Increase/(decrease) in provisions	758	61
Net cash provided by/(used in) operating activities	<b>10,469</b>	<b>11,417</b>

**9.3 Superannuation**

Council makes all of its employer superannuation contributions in respect of its employees to the Local Authorities Superannuation Fund (the Fund). This Fund has two categories of membership, accumulation and defined benefit, each of which is funded differently.

**Accumulation**

The Fund's accumulation categories receive both employer and employee contributions on a progressive basis. Employer contributions are normally based on a fixed percentage of employee earnings (for the year ended 30 June 2019, this was 9.5% as required under Superannuation Guarantee legislation).

**Defined Benefit**

Council does not use defined benefit accounting for its defined benefit obligations under the Fund's Defined Benefit category. This is because the Fund's Defined Benefit category is a pooled multi-employer sponsored plan. Council makes employer contributions to the Defined Benefit category of the Fund at rates determined by the Trustee on the advice of the Fund Actuary. For the year ended 30 June 2019, this rate was 9.5% of members' salaries (9.5% in 2017/2018).

As at 30 June 2017, a full triennial actuarial investigation was completed. The vested benefit index (VBI) of the Defined Benefit category of which Council is a contributing employer was 103.1%. To determine the VBI, the Fund Actuary used the following long-term assumptions:

Net investment returns 6.0% pa

Price inflation (CPI) 2.0% pa.

Salary information 3.5% pa

Vision Super has advised that the estimated VBI at June 2019 was 107.1%.

The VBI is to be used as the primary funding indicator. Because the VBI was above 100%, the 30 June 2017 actuarial investigation determined the Defined Benefit category was in a satisfactory financial position and that no change was necessary to the Defined Benefit category's funding arrangements from prior years.

**Defined benefit 2017 triennial actuarial investigation surplus amounts**

The Fund's triennial investigation as at 30 June 2017 identified the following in the defined benefit category of which Council is a contributing employer:

A VBI surplus of \$69.8 million

A total service liability surplus of \$193.5 million

A discounted accrued benefits surplus of \$228.8 million

The VBI surplus means that the market value of the fund's assets supporting the defined benefit obligations exceed the vested benefits that the defined benefit members would have been entitled to if they had all exited on 30 June 2017. Council was notified of the 30 June 2017 VBI during August 2017.

An interim actuarial investigation will be conducted for the Fund's position as at 30 June 2019. It is anticipated that this actuarial investigation will be completed in December 2019.

# **Mount Alexander Shire Council Performance Statement**

**For the Year Ended 30 June 2019**

**PERFORMANCE STATEMENT**  
For the year ended 30 June 2019

Indicator / Measure	Results 2016	Results 2017	Results 2018	Results 2019	Material Variations and Comments
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**Sustainable Capacity Indicators**

<b>Population</b>					
<i>Expenses per head of municipal population</i> [Total expenses / Municipal population]	\$1,865.64	\$1,742.12	\$1,844.97	\$1,893.46	
<i>Infrastructure per head of municipal population</i> [Value of infrastructure / Municipal population]	\$15,417.54	\$15,015.72	\$16,316.88	\$16,770.17	
<i>Population density per length of road</i> [Municipal population / Kilometres of local roads]	12.69	13.14	13.43	13.61	
<b>Own-source revenue</b>					
<i>Own-source revenue per head of municipal population</i> [Own-source revenue / Municipal population]	\$1,296.41	\$1,369.28	\$1,352.25	\$1,412.01	
<b>Recurrent grants</b>					
<i>Recurrent grants per head of municipal population</i> [Recurrent grants / Municipal population]	\$293.38	\$527.42	\$460.03	\$450.60	
<b>Disadvantage</b>					
<i>Relative Socio-Economic Disadvantage</i> [Index of Relative Socio-Economic Disadvantage by decile]	4.00	4.00	6.00	6.00	

**Definitions**

"adjusted underlying revenue" means total income other than:

- non-recurrent capital grants used to fund capital expenditure; and
- non-monetary asset contributions; and
- contributions to fund capital expenditure from sources other than those referred to above.

"infrastructure" means non-current property, plant and equipment excluding land.

"local road" means a sealed or unsealed road for which the council is the responsible road authority under the *Road Management Act 2004*. It includes right-of-ways and laneways.

"population" means the resident population estimated by council.

"own-source revenue" means adjusted underlying revenue excluding revenue that is not under the control of council (including government grants).

"relative socio-economic disadvantage", in relation to a municipality, means the relative socio-economic disadvantage, expressed as a decile for the relevant financial year, of the area in which the municipality is located according to the Index of Relative Socio-Economic Disadvantage (Catalogue Number 2033.0.55.001) of SEIFA.

"SEIFA" means the Socio-Economic Indexes for Areas published from time to time by the Australian Bureau of Statistics on its Internet website.

"unrestricted cash" means all cash and cash equivalents other than restricted cash.

## PERFORMANCE STATEMENT

### For the year ended 30 June 2019

Indicator / Measure	Results 2016	Results 2017	Results 2018	Results 2019	Material Variations and Comments
---------------------	--------------	--------------	--------------	--------------	----------------------------------

#### Service Performance Indicators

<b>Aquatic Facilities</b> <b>Utilisation</b> <i>Utilisation of aquatic facilities</i> [Number of visits to aquatic facilities / Municipal population]	1.40	1.27	1.53	1.58	Utilisation has increased on the previous year. This was the beginning of a new operation and management contract for the seasonal pools which saw better programming opportunities for the community and new point of sale system. The summer season also experienced higher than average temperatures than have been seen in previous years.
<b>Animal Management</b> <b>Health and safety</b> <i>Animal management prosecutions</i> [Number of successful animal management prosecutions]	3.00	2.00	0.00	0.00	All prosecutions related to unpaid infringements.
<b>Food Safety</b> <b>Health and safety</b> <i>Critical and major non-compliance outcome notifications</i> [Number of critical non-compliance outcome notifications and major non-compliance notifications about a food premises followed up / Number of critical non-compliance outcome notifications and major non-compliance notifications about a food premises] x100	94.74%	73.33%	100.00%	96.97%	Compared to the previous year 33 non-compliance notifications were received with 32 being followed up, whilst one premises was closed by the proprietor.
<b>Governance</b> <b>Satisfaction</b> <i>Satisfaction with council decisions</i> [Community satisfaction rating out of 100 with how council has performed in making decisions in the interest of the community]	44.00	52.00	45.00	52.00	Council has endeavoured to raise public awareness of its decisions and activities through media releases, more transparent council meetings by live feed to the internet and actively encouraging community involvement in projects.

#### Service Performance Indicators

<b>Libraries</b> <b>Participation</b> <i>Active library members</i> [Number of active library members / Municipal population] x100	28.98%	26.42%	25.81%	24.88%	
<b>Maternal and Child Health (MCH)</b> <b>Participation</b> <i>Participation in the MCH service</i> [Number of children who attend the MCH service at least once (in the year) / Number of children enrolled in the MCH service] x100	N/A	81.15%	79.11%	80.40%	In 2016 there was an initiative to transition the majority of Victorian councils offering Maternal and Child Health services to a new database. The database was not expected to provide reliable information until the end of September 2016. Therefore, Council was unable to report this data for the 2015/2016 financial year. We have seen a consistent participation rate since then.

## PERFORMANCE STATEMENT

### For the year ended 30 June 2019

Indicator / Measure	Results 2016	Results 2017	Results 2018	Results 2019	Material Variations and Comments
<b>Maternal and Child Health (MCH)</b> <b>Participation</b> <i>Participation in the MCH service by Aboriginal children</i> <i>[Number of Aboriginal children who attend the MCH service at least once (in the year) / Number of Aboriginal children enrolled in the MCH service] x100</i>	N/A	63.64%	61.90%	77.78%	In 2016 there was an initiative to transition the majority of Victorian councils offering Maternal and Child Health services to a new database. The database was not expected to provide reliable information until the end of September 2016. Therefore, Council was unable to report this data for the 2015-2016 financial year. Low figures of Aboriginal children (13 in 2018/2019, 11 in 2017/2018) can skew the percentage change between years.
<b>Roads</b> <b>Satisfaction</b> <i>Satisfaction with sealed local roads</i> <i>[Community satisfaction rating out of 100 with how council has performed on the condition of sealed local roads]</i>	52.00	53.00	49.00	56.00	Councils Works Department implemented a proactive grading schedule, and an increased focus on achieving better quality outcomes, early in 2018/2019 and it is therefore likely that this has had a positive impact on the community satisfaction related to local roads.
<b>Statutory Planning</b> <b>Decision making</b> <i>Council planning decisions upheld at VCAT</i> <i>[Number of VCAT decisions that did not set aside council's decision in relation to a planning application / Number of VCAT decisions in relation to planning applications] x100</i>	25.00%	80.00%	100.00%	50.00%	Two Council decisions were upheld at VCAT. Low number of appeals were made to VCAT with only 4 in 2018/2019.
<b>Waste Collection</b> <b>Waste diversion</b> <i>Kerbside collection waste diverted from landfill</i> <i>[Weight of recyclables and green organics collected from kerbside bins / Weight of garbage, recyclables and green organics collected from kerbside bins] x100</i>	30.77%	34.77%	36.04%	35.64%	

## PERFORMANCE STATEMENT

### For the year ended 30 June 2019

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#### Definitions

"Aboriginal Child" means a child that is an Aboriginal Person.

"Aboriginal Person" has the same meaning as in the *Aboriginal Heritage Act 2006*.

"active library member" means a member of a library (including residents and non-residents) who has borrowed a library collection item from the library within the reporting period.

"annual report" means an annual report prepared by a council under sections 131, 132 and 133 of the Act.

"class 1 food premises" means food premises, within the meaning of the *Food Act 1984*, that have been declared as class 1 food premises under section 19C of that Act.

"class 2 food premises" means food premises, within the meaning of the *Food Act 1984*, that have been declared as class 2 food premises under section 19C of that Act.

"critical non-compliance outcome notification" means a notification received by council under section 19N(3) or (4) of the *Food Act 1984*, or advice given to council by an authorised officer under that Act, of a deficiency that poses an immediate serious threat to public health and must be followed up by the Council.

"food premises" has the same meaning as in the *Food Act 1984*.

"local road" means a sealed or unsealed road for which the council is the responsible road authority under the *Road Management Act 2004*. It includes right-of-ways and laneways.

"major non-compliance outcome notification" means a notification received by a council under section 19N(3) or (4) of the *Food Act 1984*, or advice given to council by an authorised officer under that Act, of a deficiency that does not pose an immediate serious threat to public health but may do so if no remedial action is taken and must be followed up by the Council.

"MCH" means the Maternal and Child Health Service provided by a council to support the health and development of children within the municipality from birth until school age.

"population" means the resident population estimated by council.

"WorkSafe reportable aquatic facility safety incident" means an incident relating to a council aquatic facility that is required to be notified to the Victorian WorkCover Authority under Part 5 of the *Occupational Health and Safety Act 2004*.



**PERFORMANCE STATEMENT**  
**For the year ended 30 June 2019**

**Financial Performance Indicators**

Dimension/indicator /measure	Results	Results	Results	Results	Forecasts				Material Variations
	2016	2017	2018	2019	2020	2021	2022	2023	
<b>Efficiency</b>									
<i>Revenue level</i>									
Average residential rate per residential property assessment [Residential rate revenue / Number of residential property assessments]	\$1,773	\$1,833	\$1,942	\$1,954	\$2,108	\$2,132	\$2,156	\$2,180	
<i>Expenditure level</i>									
Expenses per property assessment [Total expenses / Number of property assessments]	\$2,808	\$2,830	\$3,061	\$3,142	\$3,077	\$3,141	\$3,175	\$3,223	
<i>Workforce turnover</i>									
Resignations and terminations compared to average staff [Number of permanent staff resignations and terminations / Average number of permanent staff for the financial year] x100	17.26%	11.15%	21.89%	16.48%	8.03%	8.03%	8.03%	8.03%	In prior year we reported average staff as full time equivalent (FTE) while resignations were based on actual staff numbers and as we have a high percentage of part-time staff this has not represented an accurate result. 2017/2018 result should have been 16.16%.
<b>Liquidity</b>									
<i>Working capital</i>									
Current assets compared to current liabilities [Current assets / Current liabilities] x100	159.17%	193.87%	223.43%	368.47%	138.15%	180.80%	243.87%	319.92%	The Federal Government announced, and paid, 50% of the 2019/2020 Financial Assistance Grants early (in June 2019) – \$2.594M. This increased current assets at year end. The ratio decreases in forecast years to reflect the reduction in cash to fund capital works and impact of reduced revenue due to rate capping.
<i>Unrestricted cash</i>									
Unrestricted cash compared to current liabilities [Unrestricted cash / Current liabilities] x100	64.17%	114.84%	77.32%	-38.92%	75.02%	121.31%	145.28%	219.33%	At 30 June 2019 cash holdings that have not been allocated to a future purpose increased, due to the majority of expenditure for landfill cell capping works being rescheduled into 2020/2021 onwards. Prior years incorrectly included term deposits in unrestricted cash. 2017/2018 result should have been -88.70%.

**PERFORMANCE STATEMENT**  
**For the year ended 30 June 2019**

**Financial Performance Indicators**

Dimension/indicator/measure	Results 2016	Results 2017	Results 2018	Results 2019	Forecasts				Material Variations
					2020	2021	2022	2023	
<b>Obligations</b>									
<i>Asset renewal</i>									
<i>Asset renewal compared to depreciation</i> [Asset renewal expense / Asset depreciation] x100	66.50%	70.65%	90.13%	72.48%	115.39%	64.69%	100.65%	82.68%	Capital works projects of Council are focused predominately on renewal works. The ratio reduces in forecast years due to the forecast construction of a new aquatic centre (new asset).
<i>Loans and borrowings</i>									
<i>Loans and borrowings compared to rates</i> [Interest bearing loans and borrowings / Rate revenue] x100	19.06%	22.53%	19.68%	16.90%	14.39%	27.08%	23.49%	20.66%	No new loans occurred during the year, while principal and interest repayments are made. New loans are forecast to assist funding a new aquatic centre in future years.
<i>Loans and borrowings repayments compared to rates</i> [Interest and principal repayments on interest bearing loans and borrowings / Rate revenue] x100	3.53%	2.44%	2.99%	2.88%	2.70%	1.90%	7.26%	3.20%	
<i>Indebtedness</i>									
<i>Non-current liabilities compared to own source revenue</i> [Non-current liabilities / Own source revenue] x100	25.39%	24.82%	23.06%	32.59%	17.53%	19.69%	20.08%	17.82%	Non-current liabilities increase in 2018/2019 due to the rescheduling of the landfill cell capping works into 2019/2020 and the following two years.
<b>Operating position</b>									
<i>Adjusted underlying result</i>									
<i>Adjusted underlying surplus (or deficit)</i> [Adjusted underlying surplus (deficit)/ Adjusted underlying revenue] x100	-16.63%	9.27%	-0.52%	-0.43%	-5.48%	-5.06%	-4.25%	-3.83%	The Federal Government announced, and paid 50% of the 2019/2020 Financial Assistance Grants early (in June 2019) – \$2.594M. This increased the revenue while rates revenue remained consistent.

**PERFORMANCE STATEMENT**  
**For the year ended 30 June 2019**

**Financial Performance Indicators**

Dimension/indicator/measure	Results 2016	Results 2017	Results 2018	Results 2019	Forecasts				Material Variations
					2020	2021	2022	2023	
<b>Stability</b>									
<i>Rates concentration</i>									
<i>Rates compared to adjusted underlying revenue</i> [Rate revenue / Adjusted underlying revenue] x100	75.57%	59.72%	63.56%	63.13%	69.90%	69.39%	69.42%	69.44%	
<i>Rates effort - Rates compared to property values</i> [Rate revenue / CIV of rateable properties in the municipality] x100	0.53%	0.50%	0.51%	0.48%	0.45%	0.44%	0.43%	0.42%	

## PERFORMANCE STATEMENT

### For the year ended 30 June 2019

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#### Definitions

"adjusted underlying revenue" means total income other than:

- ' - non-recurrent capital grants used to fund capital expenditure; and
- non-monetary asset contributions; and
- ' - contributions to fund capital expenditure from sources other than those referred to above

"adjusted underlying surplus (or deficit)" means adjusted underlying revenue less total expenditure.

"asset renewal expenditure" means expenditure on an existing asset or on replacing an existing asset that returns the service capability of the asset to its original capability.

"current assets" has the same meaning as in the AAS.

"current liabilities" has the same meaning as in the AAS.

"non-current assets" means all assets other than current assets.

"non-current liabilities" means all liabilities other than current liabilities.

"non-recurrent grant" means an operating or capital grant obtained on the condition that it may be expended in a specified manner and is not expected to be received again during the period covered by a council's Strategic Resource Plan.

"own-source revenue" means adjusted underlying revenue excluding revenue that is not under the control of council (including government grants).

"population" means the resident population estimated by council.

"rate revenue" means revenue from general rates, municipal charges, service rates and service charges levied on rateable properties.

"recurrent grant" means an operating or capital grant other than a non-recurrent grant.

"residential rates" means revenue from general rates, municipal charges, service rates and service charges levied on residential properties.

"restricted cash" means cash and cash equivalents and financial assets, within the meaning of the AAS, that are not available for use other than for a purpose for which it is restricted, and includes cash that will be used to fund carry forward capital works from the previous financial year.

"unrestricted cash" means all cash and cash equivalents other than restricted cash.

# PERFORMANCE STATEMENT

## For the year ended 30 June 2019

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### Other Information

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#### 1. Basis of Preparation

Council is required to prepare and include a performance statement within its annual report. The performance statement includes the results of the prescribed sustainable capacity, service performance and financial performance indicators and measures together with a description of the municipal district and an explanation of material variations in the results. This statement has been prepared to meet the requirements of the *Local Government Act 1989* and Local Government (Planning and Reporting) Regulations 2014.

Where applicable the results in the performance statement have been prepared on accounting basis consistent with those reported in the Financial Statements. The other results are based on information drawn from council information systems or from third parties (e.g. Australian Bureau of Statistics).

The performance statement presents the actual results for the current year and for the prescribed financial performance indicators and measures, the results forecast by the council's strategic resource plan. The Local Government (Planning and Reporting) Regulations 2014 requires explanation of any material variations in the results contained in the performance statement. Council has adopted materiality thresholds relevant to each indicator and measure and explanations have not been provided for variations below the materiality thresholds unless the variance is considered to be material because of its nature.

The forecast figures included in the performance statement are those adopted by Council in its strategic resource plan on 12 June 2019 and which forms part of the council plan. The strategic resource plan includes estimates based on key assumptions about the future that were relevant at the time of adoption adjusted to match definition required for performance statement reporting and aimed at achieving sustainability over the long term. Detailed information on the actual financial results is contained in the General Purpose Financial Statements. The strategic resource plan is available on Council's website.

# Certification of the Performance Statement

In my opinion, the accompanying Performance Statement has been prepared in accordance with the *Local Government Act 1989*, the Local Government (Finance and Reporting) Regulations 2014.

*Carolyn Ross, Certified Practising Accountant (CPA)*

**Principal Accounting Officer**

XX September 2019

In our opinion the accompanying Performance Statement of the Mount Alexander Shire Council for the year ended 30 June 2019 presents fairly in accordance with *the Local Government Act 1989* and the Local Government (Planning and Reporting) Regulations 2014.

The performance statement contains the relevant performance indicators, measures and results in relation to service performance, financial performance and sustainable capacity.

As at the time of signing, we are not aware of any circumstance which would render any particulars in the performance statement to be misleading or inaccurate.

We have been authorised by the Council and by the Local Government (Planning and Reporting) Regulations 2014 to certify this performance statement in its final form.

*Councillor Bronwen Machin*

**Councillor**

XX September 2019

*Councillor Max Lesser*

**Councillor**

XX September 2019

Darren Fuzzard

**Chief Executive Officer**

XX September 2019

## REQUEST FOR CARRY FORWARD - SUMMARY

2018/2019 into 2019/2020

<u>Project Name</u>	<u>Directorate</u>	<u>2018/2019</u> <u>Current Budget</u>	<u>2018/2019</u> <u>Additional</u> <u>Grant</u> <u>Funding</u>	<u>2018/2019</u> <u>Actuals</u>	<u>Carry Forward</u>	<u>Comment</u>	<u>Budget Type</u>
Taradale Mineral Spring Masterplan	CEO	\$ 10,841	\$ -	\$ 1,000	\$ 9,841	Grant funded project.	Special
Aged Care Service Review	DCCS	\$ 35,000	\$ -	\$ -	\$ 35,000	Further understanding of the proposed government reforms to the aged care sector is required before progressing this project further.	Special
Municipal Emergency Resourcing Program 2016-2020	DCCS	\$ 120,000	\$ -	\$ 104,831	\$ 15,169	Grant funded project.	Special
Local Government Planning - Kindergarten Survey	DCCS	\$ -	\$ 15,000	\$ -	\$ 15,000	Grant received June 2019. Project to commence in 2019/2020.	Special
Asset Management - Data Collection of Tree Assets	DID	\$ 120,000	\$ -	\$ 20,252	\$ 99,748	Project commenced and due for completion June 2020.	Special
Social Housing Feasibility Study and Business Case	DID	\$ -	\$ 111,520	\$ 28,191	\$ 83,329	Contract in place with works commenced; draft report completed which is being reviewed internally.	Special
Castlemaine Rifle Range Health & Environment Risk Assessment	DID	\$ 49,337	\$ -	\$ -	\$ 49,337	Legislative requirement to complete works; contract in place.	Special
Harcourt Developer Contributions Plan	DID	\$ 40,000	\$ -	\$ -	\$ 40,000	Project to commence by end 2019, following adoption of Plan Harcourt.	Special
Water for now and into the future in Castlemaine (IWM)	DID	\$ -	\$ 40,000	\$ -	\$ 40,000	Grant received June 2019. Project to commence in 2019/2020.	Special
Harcourt Framework Plan	DID	\$ 42,166	\$ -	\$ 13,119	\$ 29,047	Project has commenced with internal resourcing.	Special
Highball Stadium Facility Feasibility Study	DID	\$ -	\$ 27,000	\$ -	\$ 27,000	Grant received in 2019. Project to commence in 2019/2020.	Special
Barkers Creek Pavilion Upgrade	DID	\$ 76,730	\$ -	\$ 52,045	\$ 24,685	Council is auspicing this project on behalf of the Barkers Creek Hall CofM.	Special
Depots Feasibility Study	DID	\$ 21,360	\$ -	\$ -	\$ 21,360	Preliminary site assessment commenced; completion expected in 2019/2020.	Special
Review of Unsealed Road Maintenance and Construction Methodology	DID	\$ -	\$ 16,500	\$ -	\$ 16,500	Trial of eight treatment types has commenced; review to be conducted at end of trial period (possibly 12 months).	Special
Vic Health Walk to School Project	DID	\$ -	\$ 15,000	\$ 734	\$ 14,266	Grant received 2019. Project to commence in 2019/2020.	Special
Fruit Fly Emergency Outbreak Plan	DID	\$ -	\$ 9,100	\$ -	\$ 9,100	Grant received June 2019. Project to commence in 2019/2020.	Special
Chewton Community Centre Disposal	DID	\$ 38,717	\$ -	\$ 30,636	\$ 8,081	Property subdivision expected to be complete by end 2019; report to Council on proposed sale process to follow.	Special
Waterways Project	DID	\$ 32,720	\$ -	\$ 26,573	\$ 6,147	Grant funded; works commenced.	Special
Supported Playgroups	DCCS	\$ 86,917	\$ 1,459	\$ 33,298	\$ 55,078	Grant funded.	Operating
Metcalfe Redesdale Road Rehabilitation and Safety Improvement (RTR)	DID	\$ 585,466	\$ -	\$ 29,254	\$ 556,212	Contract awarded and works commenced; anticipated completion October 2019.	Capital
Unsealed Road Rehabilitation-Fixing Country Roads	DID	\$ -	\$ 381,100	\$ 63,280	\$ 317,820	Grant received in 2019. Project to commence in 2019/2020.	Capital

## REQUEST FOR CARRY FORWARD - SUMMARY

2018/2019 into 2019/2020

<u>Project Name</u>	<u>Directorate</u>	<u>2018/2019 Current Budget</u>	<u>2018/2019 Additional Grant Funding</u>	<u>2018/2019 Actuals</u>	<u>Carry Forward</u>	<u>Comment</u>	<u>Budget Type</u>
Healthy Hearts Vic - pedestrian crossing, trails and gardens	DID	\$ -	\$ 300,000	\$ -	\$ 300,000	Grant received in 2019. Project to commence in 2019/2020.	Capital
Harcourt Stanley Park North Play Space Design and Construction	DID	\$ 64,800		\$ 36,104	\$ 28,696	Contract awarded; concept design completed and detailed design underway.	Capital
Town Hall Thermal Comfort	DID	\$ 130,000	\$ -	\$ 4,663	\$ 125,337	Contract awarded; works to be complete by end September 2019.	Capital
Accessible Car Park Upgrades	DID	\$ 85,656	\$ -	\$ 4,352	\$ 81,304	Contract awarded; work completed in August 2019.	Capital
Wesley Hill Recreation Reserve Access and Safety Lighting	DID	\$ 60,000	\$ -	\$ -	\$ 60,000	Funds may be required to complete the sports oval lighting project.	Capital
Off Lead Dog Park Construction	DID	\$ 60,000	\$ -	\$ -	\$ 60,000	Planning and due diligence commenced; construction expected in 2019/2020.	Capital
Drainage Works Lyons St Newstead	DID	\$ 83,762	\$ -	\$ 25,212	\$ 58,550	Contract awarded; work completed in August 2019.	Capital
Civic Centre CSU Improvements	DID	\$ 59,227	\$ -	\$ 3,002	\$ 56,225	Design completed; works expected completion by December 2019.	Capital
Alternate Levee Design Gingell St	DID	\$ 53,830	\$ -	\$ 13,450	\$ 40,380	Feasibility report received and is being reviewed.	Capital
Phee Broadway Theatre Priority Works	DID	\$ 50,000	\$ -	\$ 11,385	\$ 38,615	Contract awarded; works commenced and completion expected by November 2019.	Capital
Phee Broadway Theatre Priority Works	DID				\$ 30,000	An opportunity was available to extend the scope of the above project while planned works were being undertaken.	Capital
Building - Repairs and Maintenance	DID				-\$ 30,000	The buildings maintenance budget is funding the above additional investment.	Operating
Castlemaine Bowling Club Drainage	DID	\$ 39,830	\$ -	\$ 3,637	\$ 36,193	Contract awarded; work completed in August 2019.	Capital
Castlemaine Library Floor Structure Safety Works	DID	\$ -	\$ -	\$ 4,182	\$ 15,968	Contract awarded; works underway; completion expected October 2019.	Capital
Priority upgrades for improving accessibility for community buildings	DID	\$ 72,000	\$ -	\$ 36,800	\$ 35,200	Contract awarded; works underway; completion expected December 2019.	Capital
Elphinstone Town Centre Works	DID	\$ 19,830	\$ 9,250	\$ 301	\$ 28,779	Funding secured from external agencies; approvals to be finalised and works completed by December 2019.	Capital
Maldon Museum - Stage Two	DID	\$ 29,272	\$ -	\$ 516	\$ 28,756	Unable to commence as investigations continue into source of rising damp.	Capital
Bell-mouth Sealing Program for Gravel Roads	DID	\$ 95,830	\$ -	\$ 78,612	\$ 17,218	Contract awarded; work to be completed by September 2019.	Capital
Victory Park Playspace Construction	DID	\$ 331,503	\$ -	\$ 73,840	\$ 25,605	Contract awarded; work to be completed by October 2019.	Capital
Taradale Mineral Spring Fence	DID	\$ 20,000	\$ -	\$ 7,290	\$ 12,710	Contract awarded; works substantially complete.	Capital
Wesley Hill Doug Powell Oval Lights	DID	\$ 357,586	\$ -	\$ 318,462	\$ 20,508	Funds may be required to complete the sports oval lighting project.	Capital
Maldon Streetscape Works	CEO	\$ 195,000	\$ 10,000	\$ 40,519	\$ 19,481	Underestimation on adoption of 2019/2020 budget. This amount is to be added to the 2019/2020 budget.	Capital



## REQUEST FOR CARRY FORWARD - SUMMARY

2018/2019 into 2019/2020

<u>Project Name</u>	<u>Directorate</u>	<u>2018/2019 Current Budget</u>	<u>2018/2019 Additional Grant Funding</u>	<u>2018/2019 Actuals</u>	<u>Carry Forward</u>	<u>Comment</u>	<u>Budget Type</u>
Integrated Corporate Platform (iMASC)	DCCS	\$ 488,077	\$ -	\$ 288,244	\$ 79,708	Implementation scheduled to be completed by June 2020. Underestimation on adoption of 2019/2020 budget. This amount is to be added to the 2019/2020 budget.	Capital
Streetscape Planning and Design	DID	\$ 181,191	\$ -	\$ 27,399	\$ 5,381	Underestimation on adoption of 2019/2020 budget. This amount is to be added to the 2019/2020 budget.	Capital
Major Reserves Master Plan Review - Camp Reserve and Campbells Creek	DID	\$ 27,399	\$ -	\$ 19,978	-\$ 7,079	Overestimation on adoption of 2019/2020 budget. This amount is to be deducted from the 2019/2020 budget.	Capital
Campbells Creek Fryers Road Bridge Construction	DID	\$ 788,014	\$ -	\$ 16,312	-\$ 16,312	Overestimation on adoption of 2019/2020 budget. This amount is to be deducted from the 2019/2020 budget.	Capital
Cnr Hargraves St and Forest St Drainage	DID				-\$ 107,115	Overestimation on adoption of 2019/2020 budget. This amount is to be deducted from the 2019/2020 budget.	Capital
Saint St Drainage Works Stage 2	DID				-\$ 36,839	Overestimation on adoption of 2019/2020 budget. This amount is to be deducted from the 2019/2020 budget.	Capital
Maldon e-waste infrastructure project	DID				-\$ 13,000	Overestimation on adoption of 2019/2020 budget. This amount is to be deducted from the 2019/2020 budget.	Capital
Market Building Conservation Works	DID				-\$ 52,267	Overestimation on adoption of 2019/2020 budget. This amount is to be deducted from the 2019/2020 budget.	Capital
<b>Total</b>					<b>\$ 2,414,722</b>		
					<b>Operating</b>	\$ 25,078	
					<b>Special</b>	\$ 543,610	
					<b>Capital</b>	\$ 1,846,034	
					<b>Total</b>	<b>\$ 2,414,722</b>	