



Agenda

Special Meeting of Council
Tuesday 13 August 2013

To be held at
Council Chambers,
1 Merrijig Drive, Torquay
Commencing at 6:00pm

Council:

Cr Libby Coker (Mayor)
Cr David Bell
Cr Eve Fisher
Cr Clive Goldsworthy
Cr Rose Hodge
Cr Brian McKiterick
Cr Rod Nockles
Cr Margot Smith
Cr Heather Wellington

AGENDA FOR THE SPECIAL MEETING OF SURF COAST SHIRE COUNCIL
TO BE HELD AT COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY
ON TUESDAY 13 AUGUST 2013 COMMENCING AT 6:00PM

PRESENT:

OPENING:

Council acknowledge the traditional owners of the land where we meet today and pay respect to their elders and Council acknowledges the citizens of the Surf Coast Shire.

PRAYER:

Almighty god, under whose providence we hold responsibility for this Surf Coast Shire, grant us wisdom to understand its present needs, foresight to anticipate its future growth, and grace to serve our fellow citizens with integrity and selflessness.

APOLOGIES:

CONFLICTS OF INTEREST:

BUSINESS:

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1.1	<i>Amendment C66 Panel Hearing.....</i>	<i>4</i>
1.2	<i>Eastern Reserve S86 Committee - Instrument of Delegation</i>	<i>30</i>

1. Development and Environment

1.1 Amendment C66 Panel Hearing

EMT Report

Council Briefing

Council Report

Meeting Date:

Tuesday, 13 August 2013

Council Meeting Adoption Date:

Tuesday, 13 August 2013

Authors Title: Manager Planning and
Development

Director: Dennis Barker

Department: Planning and Development

File No: F12/381

Directorate: Sustainable Communities

Trim No: D13/128968

Appendix:

1. Summary of zoning options
2. VPP Practice Note Urban Growth Zone and VPP Urban Growth Zone

Officer Direct or Indirect Conflict of Interest:

In accordance with Local Government Act 1989 –
Section 80C:

Status:

Information classified confidential under Section 77
of the Local Government Act:

Yes

No

Yes

No

Reason: Select Conflict of Interest

Reason: Select relevant section S89 (2)

Purpose

To consider a progress report in relation to the Amendment C66 Panel Hearing, and seek Council's instructions in relation to the following:

1. Does Council intend to make a submission to the Panel in respect of the appropriate zoning for the 1km west land?
2. If so, what does Council say is the appropriate zoning?

Summary

Amendment C66, which seeks to implement a number of strategic planning studies that affect the future growth and development of Torquay-Jan Juc, was exhibited from 17 January 2013 to 8 March 2013. A total of 538 submissions were received and considered by Council at its meeting of 23 April 2013. Council resolved to refer all submissions to an independent Panel.

The Panel hearing commenced on 1 July 2013 and is scheduled to continue to 15 August 2013, hearing submissions from various parties.

To date, the key submissions have been in relation to the extent of development (if any at all) in the Spring Creek area. A recurring theme from the evidence presented by submitters witnesses, and the questions from the Panel of these witnesses, relate to what (if any) recommendations should be made by the Panel in respect of the future zoning of the land known as the 1km west of Duffields Road land if the Panel wished to recommend development in that area.

Best Hooper Lawyers, representing Council at the Panel hearing, advise that in their view, the Panel is interested in understanding what the most appropriate zoning tool would be if it were of the mind to recommend development in the Spring Ck area. Further, the Panel will ask the Council what is its view in relation to the most appropriate zoning tool if development was recommended in 1km west land.

Instructions are sought from Council in relation to the following:

1. Does Council intend to make a submission to the Panel in respect of the appropriate zoning for the 1km west land?
2. If so, what does Council say is the appropriate zoning?

It is noted that Council resolved at its meeting of 27 July 2011 to adopt the Sustainable Futures Torquay/Jan Juc 2040 plan with the exception of the Spring Creek corridor west of Duffields Road.

Council has an opportunity to express its view to the Panel as to the appropriate future zoning of the 1km west land, without prejudice, while also restating Council's position of 27 July 2011.

This would demonstrate to the Panel that Council is aware of the Panel's deliberations and has sought to respond to them in a constructive manner whilst still maintaining a view that no development should occur in the area. Alternatively, not making a submission could be considered unfavourably by the Panel.

Recommendation

1. That Council instructs Best Hooper Lawyers to convey to the C66 Panel members:
 - 1.1. That it does intend to make a submission to the Panel in the matter of Amendment C66 in respect of the appropriate future zoning for the land known as 1km west of Duffields Road.
 - 1.2. To advise the Panel, without prejudice, in the matter of Amendment C66 and the appropriate future zoning for the land known as 1km west of Duffields Road:
 - 1.2.1. Council confirms its resolution of 27 July 2011 in adopting the Sustainable Futures Torquay/Jan Juc 2040 plan that it does not support rezoning of the land from Farming Zone.
 - 1.2.2. In the event the Panel considers it appropriate to make recommendations regarding rezoning the land from Farming Zone, Council provides the following comments:
 - 1.2.2.1 Council considers the application of the Residential 1 Zone (or its equivalent) with a development plan overlay is not appropriate as:
 - limited, or no, analysis has been undertaken of issues such as appropriate dwelling densities, and subsequent requirements shops, community facilities or schools; in addition to environmental, topographical, infrastructure and access constraints.
 - applications for subdivision could be submitted on an ad hoc basis, without the benefit of the above information, resulting in potentially inefficient and inappropriate use of the land.
 - the residential zone would have to be changed if other uses such as retail were needed.
 - 1.2.2.2 Council considers the application of the Comprehensive Development Zone is not appropriate as:
 - limited, or no, analysis has been undertaken of issues such as appropriate dwelling densities, and subsequent requirements shops, community facilities or schools; in addition to environmental, topographical, infrastructure and access constraints.
 - 1.2.2.3 Council considers that the application of the Urban Growth Zone, with a precinct structure plan, is appropriate as it:
 - manages the transition of non-urban land into urban land
 - can establish a clear vision for how the land is to be developed
 - encourages flexibility and the development of well-planned and well-serviced new urban communities in accordance with an overall vision/plan
 - reduces the number of development approvals needed in areas where an agreed precinct plan is in place.

Amendment C66 Panel Hearing

Report

Background

Amendment C66, which seeks to implement a number of strategic planning studies that affect the future growth and development of Torquay-Jan Juc, was exhibited from 17 January 2013 to 8 March 2013. A total of 538 submissions were received and considered by Council at its meeting of 23 April 2013. Council resolved to refer all submissions to an independent Panel.

The Panel hearing commenced on 1 July 2013 and is scheduled to continue to 15 August 2013, hearing submissions from various parties.

To date, the key submissions have been in relation to the extent of development (if any at all) in the Spring Creek area. A recurring theme from the evidence presented by submitters witnesses, and the questions from the Panel of these witnesses, relates to what (if any) recommendations should be made by the Panel in respect of the future zoning of the land known as the 1km west of Duffields Road land.

The Panel has had information presented to it about appropriate zoning for the land if development were recommended. It is anticipated from Council's legal representatives that the Panel will in due course, ask the Council what its view in relation to the zoning of the 1km west land is. This is because the process requires that natural justice and procedural fairness be afforded to the Council and given that the matter has been the subject of questions by the Panel, it is fair to seek the Council's view and is afforded an opportunity to respond in that respect.

It is noted that Council resolved at its meeting of 27 July 2011 to adopt the Sustainable Futures Torquay/Jan Juc 2040 plan with the exception of the Spring Creek corridor west of Duffields Road.

Discussion

It is considered that Council has an opportunity to express its view to the Panel as to the appropriate future zoning of the 1km west land, without prejudice, while also restating Council's position of 27 July 2011.

This would demonstrate to the Panel that Council is aware of the Panel's deliberations and has sought to respond to them in a constructive manner. Alternatively, not making a submission could be considered unfavourably by the Panel.

Best Hooper Lawyers advise that the developers submissions have concentrated on either a Residential 1 Zone (R1Z) (or its eventual replacement with the new zones) or an Urban Growth Zone (UGZ). Whilst there may be many ways to approach this issue the following could be recommended by the Panel:

- UGZ – allowing for a Precinct Structure Planning phase;
- R1Z or its equivalent with a development plan overlay (such as is the case in Torquay North development areas); or
- Comprehensive Development Zone (CDZ) as previously contemplated in the abandoned Ministerial amendment in 2011.

Given many of the developers submissions have concentrated on UGZ, it is likely that this will be the ultimate recommendation as to zoning from the Panel if it wishes to support growth in the Spring Creek corridor.

A summary of the merits of each option is provided in Appendix 1.

Use of the UGZ is the recommended option. A copy of the Victoria Planning Provisions (VPP) Practice Note Urban Growth Zone and VPP Urban Growth Zone are contained in Appendix 2.

It is important to note that should the Panel recommend zoning options then such may or may not be supported by Council in determining the Panel report at a subsequent Council meeting when Council decides whether or not to adopt the amendment.

Zoning recommendations may also complicate the Christian College proposal; however it is important to note that the Urban Growth Zone allows for schools to apply for a permit in the zone if they do not prejudice a precinct structure plan. In addition the Special Use Zone site specific rezoning the Christian College have proposed at this stage may also remain an option whether development is recommended or not in the Spring

Amendment C66 Panel Hearing

Creek valley. These options still allow the Christian College to test a school proposal in the event the Panel make recommendations about zones subject to Council consent to processes.

Financial Implications

There are no financial impacts of providing a response on this issue to the Panel.

Council Plan/Policy/Legal Implications

The Panel process allows for inputs from all parties and opportunity to comment on possible zoning tools for Spring Creek (if development was to be supported there) and will be offered to Council.

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflicts of interest.

Risk Assessment

Whilst providing a response to the issues of zoning tools in Spring Creek can be viewed as compromising Council's original position, it is done on a without prejudice basis to provide information to the Panel in the event Council's current position is not supported. It allows Council to be constructive towards alternative outcomes whilst still maintaining its original position.

Social Considerations

N/A

Community Engagement

Panel recommendations will be made public and Council will be able to debate the Panel's positions before deciding to support them or not at a subsequent Council meeting.

Environmental Implications

Environmental issues will be captured in any zoning tools in the future in the event growth is supported in Spring Creek.

Communication

The Panel has discussed the issue of zoning openly in the hearing with other parties and it is anticipated that Council will be asked its view.

Conclusion

It is considered that Council has an opportunity to express its view to the Panel as to the appropriate future zoning of the 1km west land, without prejudice, while also restating Council's position of 27 July 2011.

This would demonstrate to the Panel that Council is aware of the Panel's deliberations and has sought to respond to them in a constructive manner whilst maintaining its original position. Alternatively, not making a submission could be considered unfavourably by the Panel.

It is considered that the application of the Urban Growth Zone, with a precinct structure plan, would provide suitable flexibility to enable a range of densities and land uses to manage the transition of non-urban land into urban land and reflect appropriate criteria for any development in Spring Creek in the event that was recommended.

APPENDIX 1: SUMMARY OF ZONING OPTIONS

Option	Comment	Recommendation
<p>Residential 1 Zone Development Plan Overlay</p>	<p>The Residential 1 Zone is the main zone applied in serviced residential areas. It provides for a range of dwelling types and dwelling densities and for a limited range of other uses commonly found in residential areas. A schedule to the zone can be used to change the permit requirement for a dwelling, based on lot size, and certain siting requirements.</p> <p>This approach has traditionally been used by Council in areas located within township settlement boundaries where standard residential outcomes are preferred, together with a Development Plan Overlay to guide the form and development of land consistent with an existing growth management plan.</p> <p>This approach is not recommended on land 1km west of Duffields Road as:</p> <ul style="list-style-type: none"> • limited, or no, analysis has been undertaken of issues such as appropriate dwelling densities, and subsequent requirements shops, community facilities or schools; in addition to environmental, topographical, infrastructure and access constraints. • applications for subdivision could be submitted on an ad hoc basis, without the benefit of the above information, resulting in potentially inefficient and inappropriate use of the land. • the residential zone would have to be changed if other uses such as retail were needed. 	<p>This option is <u>not</u> recommended.</p>
<p>Comprehensive Development Zone Development Plan Overlay</p>	<p>The Comprehensive Development Zone (CDZ) is designed to allow more complex developments in accordance with a comprehensive development plan incorporated in the scheme. Generally, only large or complex developments would warrant the use of this zone e.g. The Sands, Torquay.</p> <p>Prior to the 27 July 2011 Council meeting, Council worked in partnership with DPCD to prepare a growth management plan and accompanying policy, comprising the CDZ and DPO, for the 1km west of Duffields Road land, based on a limited brief from the Minister for Planning and in response to the community for residential development at lower densities, landscaped buffers, and larger lots transitioning to the surrounding rural land. This was a unique and unusual circumstance that was based on clear assumptions that the current Panel may or may not rely on.</p> <p>This approach is not recommended on land 1km west of Duffields Road as:</p> <ul style="list-style-type: none"> • limited, or no, analysis has been undertaken of issues such as appropriate dwelling densities, and subsequent requirements shops, community facilities or schools; in addition to environmental, topographical, infrastructure and access constraints. 	<p>This option is <u>not</u> recommended.</p>
<p>Urban Growth Zone Precinct Structure Plan</p>	<p>The Urban Growth Zone (UGZ) applies to land that has been identified for future urban development.</p> <p>Historically the UGZ has been applied to land in a Farming Zone within the Urban Growth Boundary in Melbourne's designated growth areas. However, the zone may also be applied to land adjacent to regional cities and towns where a strategy has been prepared that clearly identifies that the land is suitable for future urban development.</p>	<p>This option <u>is</u> recommended.</p>

Option	Comment	Recommendation
	<p>The application of the UGZ does not, by itself, allow urban use and development to proceed. A precinct structure plan must be prepared and applied to the land before this can occur.</p> <p>A precinct structure plan has a defined role in the UGZ. It is the key document that:</p> <ul style="list-style-type: none">- allows the conversion of non-urban land to urban land to start- sets out the vision for how land should be developed and the desired outcomes to be achieved- determines the overall layout of future land use and development- details the form and conditions that must be met by future land use and development- determines the use and development controls that will apply in the schedule to the zone- determines what permits may be granted under the zone. <p>This approach is recommended on land 1km west of Duffields Road as it:</p> <ul style="list-style-type: none">• manages the transition of non-urban land into urban land• can establish a clear vision for how the land is to be developed• encourages flexibility and the development of well-planned and well-serviced new urban communities in accordance with an overall vision/plan• reduces the number of development approvals needed in areas where an agreed plan is in place.	

APPENDIX 2: VPP PRACTICE NOTE URBAN GROWTH ZONE AND VPP URBAN GROWTH ZONE



Urban Growth Zone

The purpose of this Practice Note is to:

- ▶ explain the purpose and provisions of the Urban Growth Zone (UGZ)
- ▶ explain the role of precinct structure plans in the UGZ.

What is the Urban Growth Zone?

The Urban Growth Zone (UGZ) applies to land that has been identified for future urban development.

The UGZ has four purposes:

- ▶ to manage the transition of non-urban land into urban land
- ▶ to encourage the development of well-planned and well-serviced new urban communities in accordance with an overall plan
- ▶ to reduce the number of development approvals needed in areas where an agreed plan is in place
- ▶ to safeguard non-urban land from use and development that could prejudice its future urban development.

Applying the UGZ

Initially the UGZ will be applied to land in a Farming Zone within the Urban Growth Boundary in Melbourne's designated growth areas. However, the zone may also be applied to land adjacent to regional cities and towns where a strategy has been prepared that clearly identifies that the land is suitable for future urban development.

Precinct structure plans and the UGZ

In the UGZ, the **precinct structure plan** is the key document that triggers the conversion of non-urban land into urban land.

A precinct structure plan is a long-term strategic plan that describes how a precinct or a series of sites will be developed. It is designed to:

- ▶ ensure that the key strategic planning issues in a precinct are considered when planning ahead for urban development
- ▶ ensure communities in new urban areas have good access to services, transport, jobs, shops, open space and recreation facilities
- ▶ identify and address any opportunities and constraints that will affect future urban development
- ▶ give developers, investors and local communities greater certainty and confidence about future development in growth areas.

A precinct structure plan has a defined role in the UGZ. It is the key document that:

- ▶ allows the conversion of non-urban land to urban land to start
- ▶ sets out the vision for how land should be developed and the desired outcomes to be achieved
- ▶ determines the overall layout of future land use and development
- ▶ details the form and conditions that must be met by future land use and development
- ▶ determines the use and development controls that will apply in the schedule to the zone
- ▶ determines what permits may be granted under the zone.



The application of the UGZ does not, by itself, allow urban use and development to proceed. A precinct structure plan must be prepared and applied to the land before this can occur.

Before a precinct structure plan is in place, the UGZ applies provisions that are designed to safeguard the land from use or development that could prejudice its long term urban development potential. Land may be used and developed for farming and rural-related activities, however urban subdivision cannot occur. Once a precinct structure plan is in place, the zone applies provisions to facilitate urban development in conformity with the plan. The zone provisions can be tailored to minimise the number of approvals required over the life of the project.

The UGZ is specifically designed to implement a precinct structure plan; however a plan may be prepared for land in any zone. If a precinct structure plan is prepared for land in another zone, the planning authority will need to decide what planning tools are required to implement the plan. There are a range of tools available, including the Municipal Strategic Statement, local planning policy, and overlays and their associated schedules.

Preparing and implementing a precinct structure plan

The following information is relevant to preparing and implementing a precinct structure plan in the UGZ.

Preparing a precinct structure plan

New guidelines for the preparation of precinct structure plans are being prepared. They will provide guidance to councils, state agencies, developers, service providers and other affected parties on how to prepare a plan.

These guidelines will replace the *Precinct Structure Plan Guidelines* published by the Department of Sustainability and Environment in 2006.

The new guidelines are based on the objectives and directions of *Melbourne 2030 – A plan for sustainable growth*. They will require new precinct structure plans to implement the relevant objectives for residential subdivision in Clause 56 of planning schemes. They will also set out a process for precinct structure planning, a standard format for precinct structure plans, and advice about the key strategic issues to be addressed.

The new guidelines will contain advice relating specifically to the preparation of precinct structure

plans for land in Melbourne's growth areas.

However, the precinct planning process and format outlined in the guidelines is relevant to all precinct structure plans.

The new [Minister's Direction No. 12 – Urban Growth Areas](#) requires precinct structure plans prepared for land in the UGZ to be in accordance with the applicable guidelines approved by the Minister for Planning.

An important part of the precinct planning process is developing an 'action plan' for implementing the precinct structure plan in the planning scheme. The new guidelines will require a precinct structure plan to include a chapter setting out "implementation provisions". These are the specific provisions required to implement the plan in the planning scheme. In the case of the UGZ, these provisions will provide the basis for drafting the detailed use and development provisions to be included in the zone schedule.

The implementation provisions will typically set out:

- ▶ use and development provisions to be included in the schedule to the UGZ (including permit requirements, permit exemptions, conditions and requirements for granting permits, advertising sign requirements, and decision guidelines)
- ▶ requirements for public open space contributions to be included in the schedule to Clause 52.01 of the planning scheme
- ▶ requirements to implement a Native Vegetation Precinct Plan
- ▶ requirements to manage places of Aboriginal cultural heritage significance.

If there is native vegetation within the precinct, a **native vegetation precinct plan** will need to be prepared. A native vegetation precinct plan sets out requirements for the protection and removal of native vegetation for a precinct. A native vegetation precinct plan:

- ▶ allows all the native vegetation issues in a precinct to be considered when planning ahead for new development
- ▶ helps guide the form of future development in a precinct by identifying the native vegetation to be retained and removed
- ▶ gives greater certainty to the council, service agencies, developers and the community about the future form of development and native vegetation management



- ▶ allows planning objectives for native vegetation to be integrated with recreation, urban design, and open space objectives, leading to more sustainable biodiversity and urban development outcomes
- ▶ streamlines the approval of appropriate native vegetation removal.

A native vegetation precinct plan must meet the content requirements set out in Clause 52.17 and be approved by the Department of Sustainability and Environment. It must also be incorporated into the planning scheme, which means that the plan can only be changed by a planning scheme amendment.

The VPP Practice Note [Preparing a Native Vegetation Precinct Plan](#) provides guidance on preparing these plans.

Implementing a precinct structure plan in the planning scheme

The UGZ requires a precinct structure plan to be incorporated in the planning scheme before urban development in accordance with the plan can start. The detailed use and development provisions required to implement the precinct structure plan must also be set out in the schedule to the zone.

It may also be appropriate for parts of the precinct structure plan to be included in the scheme as objectives or strategies in the Municipal Strategic Statement, local planning policy, or decision guidelines.

Remember that an incorporated document must be listed in the schedule to Clause 81. Also, if a precinct structure plan includes a native vegetation precinct plan, the native vegetation precinct plan must be listed in the schedule to Clause 52.17.

These actions require a planning scheme amendment, and the exhibition, submission, adoption and approval requirements of the *Planning and Environment Act 1987* will apply.

Preparing an amendment

[Minister's Direction No. 12](#) applies to planning scheme amendments to apply the UGZ, introduce or change a provision in the schedule to the zone, or incorporate or change a precinct structure plan. Specifically, it applies to any amendment to:

- ▶ rezone land to the UGZ
- ▶ incorporate a precinct structure plan, or change an incorporated plan, applying to land in the UGZ

- ▶ introduce or change a provision in a schedule to the UGZ.

The Direction does not apply to an amendment to make corrections.

The Direction requires a planning authority to evaluate and include in the explanatory report a discussion about how the amendment implements any Growth Area Framework Plan applying to the land. If the amendment proposes to incorporate or change a precinct structure plan, the planning authority must also demonstrate that the plan or any changes to it are in accordance with any applicable precinct structure plan guidelines approved by the Minister for Planning. If the amendment proposes to introduce or change provisions in a schedule to the zone, the planning authority must show in the explanatory report:

- ▶ how the provisions give effect to the intended outcomes of the precinct structure plan
- ▶ how a translation of the provisions can be achieved, once development anticipated by the precinct structure plan is substantially complete.

Any other Minister's Directions applying to the amendment must also be met.

Several publications provide guidance relevant to preparing a precinct structure plan or a planning scheme amendment. These are listed on page 8 and should be considered where relevant.

How does the Urban Growth Zone operate?

The UGZ applies different use and development provisions to land depending on whether a precinct structure plan applies.

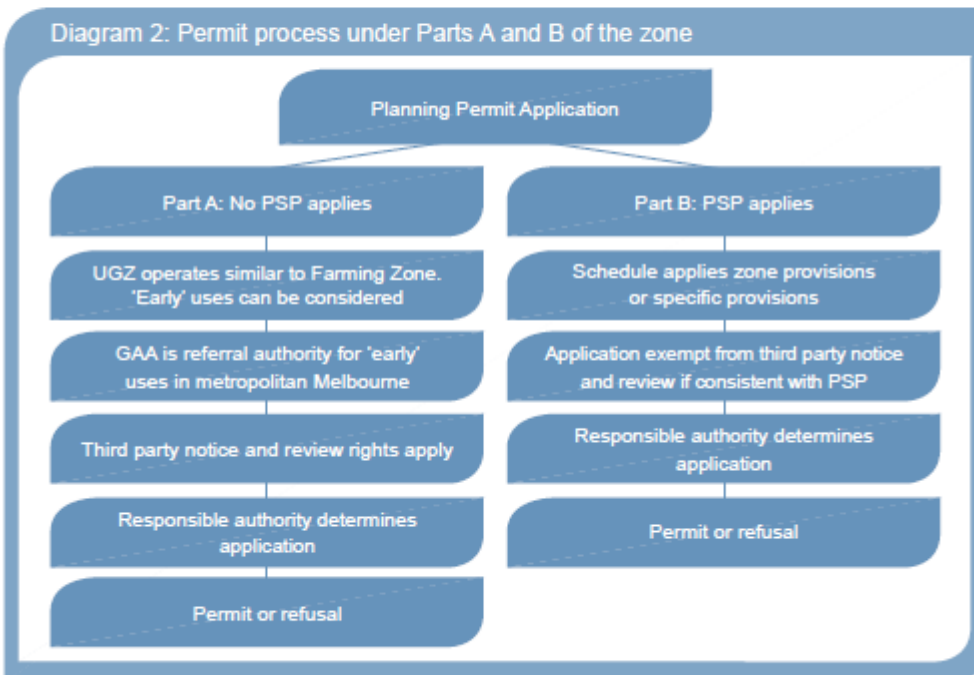
Part A of the zone applies when no precinct structure plan applies to the land.

Part B of the zone applies when a precinct structure plan applies to the land.

A precinct structure plan applies to land when it is incorporated in the planning scheme.

Diagram 1 illustrates how the UGZ operates at different phases in the precinct structure planning process.

Diagram 2 shows the different zone provisions that apply to a planning permit application depending on whether or not a precinct structure plan applies.





Part A – No precinct structure plan applies

Land in this situation is predominantly being used for farming and other rural activities. Planning for its conversion to urban development may have commenced, but a precinct structure plan does not yet apply. The controls that apply in this case are set out in Clauses 37.07-1 to 37.07-8 and they have the following purpose:

- ▶ to safeguard the land from use and development that could frustrate the planning authority's long-term plans for the area
- ▶ to allow the land to be used for farming and rural-related activities until the precinct structure plan and planning scheme amendment processes are complete.

Use of land

The zone allows existing farming and other rural activities to continue, and new farming uses to establish, other than new saleyards and intensive animal industries.

The zone also provides for permit applications for certain 'early' urban uses to be considered before a precinct structure plan is incorporated into the planning scheme. This is to facilitate the early provision of essential facilities and services to new residents in the precinct (for example, schools and health services), and developments essential to the marketing and construction of new urban areas (such as display homes and land sales offices).

The appropriateness of these uses should be carefully considered to ensure that future plans for the land are not compromised. Before granting a permit, a responsible authority should consider:

- ▶ whether the preparation of a precinct structure plan for the land is sufficiently advanced
- ▶ the extent to which the precinct structure plan could change, and how this might impact on the proposal
- ▶ the amount of public scrutiny the precinct structure plan has been subject to
- ▶ whether it is satisfied that any conditions and requirements that would apply to the proposal once the plan applies can be met
- ▶ the infrastructure needs of the proposal, and how this infrastructure would be delivered and funded
- ▶ whether the proposal will produce acceptable outcomes in terms of the State Planning

Policy Framework, the Local Planning Policy Framework, the purpose and decision guidelines of the zone, and any other decision guidelines in Clause 65 of the planning scheme.

Development

A permit is required to subdivide land, and a minimum lot size of 40 hectares applies. Similar to the rural zones, a permit may also be granted to create smaller lots if specific requirements are met. One of these requirements is that a section 173 agreement be entered into to constrain the further subdivision of the land. Given that the long term purpose of the UGZ is to facilitate urban development, the responsible authority should ensure that the agreement does not restrict development necessary to implement a precinct structure plan at a later date. One option is to include a provision in the agreement for its termination once a precinct structure plan applies to the land.

Buildings and works controls similar to those in the Farming Zone apply.

Notice and review

Standard notice and review provisions apply.

Referral requirement

To safeguard against the granting of permits that could compromise the future urban development of Melbourne's growth areas, the following permit applications must be referred to the GAA under section 55 of the *Planning and Environment Act 1987*:

- ▶ an application to use or develop land for any of the following:
 - display home
 - education centre
 - hospital
 - medical centre
 - nursing home
 - place of worship
 - real estate agency
- ▶ an application to subdivide land to create a lot smaller than 40 hectares in area.

These referral requirements only apply if the land is within the UGZ in metropolitan Melbourne. If the zone is to be applied to land outside metropolitan Melbourne, the planning authority should contact



the Department of Planning and Community Development to discuss whether a Section 55 referral requirement is needed.

The General Practice Note [Managing Referrals and Notice Requirements](#) provides guidance on introducing new referral requirements in schemes.

Advertising signs

Category 4 of the advertising sign controls in Clause 52.05 applies. However, a permit may be granted, for a period of not more than 5 years, to display an advertising sign that promotes the sale of land or dwellings.

Part B – A precinct structure plan applies

Once a precinct structure plan applies to the land, different zone provisions apply. These are set out in Clauses 37.07-9 to 37.07-16 and they are designed to:

- ▶ provide certainty about the nature of future development
- ▶ reduce the number of development approvals needed once a precinct structure plan applies
- ▶ remove notice requirements and third party review rights from planning permit applications for proposals that generally conform to the plan
- ▶ ensure that permits granted for urban development generally conform to the plan.

This part of the zone provides flexibility. The detailed requirements are specified in a schedule to the zone, allowing the zone to be tailored to suit the precinct structure plan.

A schedule is required for each precinct structure plan. If there is more than one schedule, each schedule must be given a number.

Drafting the zone schedule

Before drafting the schedule to the zone, it is important that a planning authority understands the requirements that can be specified in the schedule. These are determined by the 'parent provisions' of the UGZ. The schedule can provide for the following:

- ▶ requirements for land use. These can be the requirements of a zone, specific requirements, or both
- ▶ requirements for buildings and works. These can be the requirements of a zone, specific requirements, or both

- ▶ application requirements
- ▶ conditions and requirements that must be applied to all permits or defined classes of permit
- ▶ adjustments to the exemption from notice and review
- ▶ decision guidelines
- ▶ advertising sign requirements.

Schedule examples

Example 1 on page 9 provides advice on how to draft a schedule. Example 2 on page 11 shows how a schedule can be drafted.

In drafting a schedule, it is important that:

- ▶ only the implementation provisions relevant to the UGZ are included in the schedule to the zone
- ▶ the provisions in the schedule are consistent with the implementation provisions of the precinct structure plan
- ▶ the schedule is clear about where different provisions apply, and in what circumstances. A map should be included in the schedule that shows where particular zones or provisions apply
- ▶ the principles of writing plain English are used when drafting provisions
- ▶ the land use terms and nesting concepts in Clauses 74 and 75 of the planning scheme are used
- ▶ the requirements of the [Ministerial Direction on the Form and Content of Planning Schemes](#) are met.

Applying use and development controls

A precinct can consist of a mix of land uses, for example, housing, industry and open space. Different controls may need to apply to different parts of the precinct. This can be dealt with in three ways:

- Option 1 The schedule can apply zones to the land, such as the Residential 1 Zone or Industrial 1 Zone.
- Option 2 The schedule can apply specific provisions to the land.
- Option 3 The schedule can apply zones to the land, as well as specific provisions.



Option 1 – Apply zones

This option involves ascribing zones to specific parts of the precinct. Land must be used and developed in accordance with the provisions of the zone applying to it. This approach is preferred because:

- ▶ planning scheme users are familiar with the requirements of the zones
- ▶ it promotes consistency in the way that planning authorities deal with particular land use issues
- ▶ the zones include provisions that implement State planning policy. For example, the Residential 1 Zone ensures that maximum use is made of Clause 58 to plan residential subdivisions
- ▶ the zones include provisions necessary to manage potentially conflicting land uses. For example, the Industrial 1 Zone contains specific provisions to control industrial development close to housing, schools, hospitals and other sensitive uses
- ▶ once development is underway, it is a straightforward task to translate the UGZ.

Remember, all of the zones to be applied must be included in the scheme.

Option 2 – Apply specific provisions

This option may be necessary where the desired outcomes will not be achieved by applying a zone.

If this approach is used, a table of uses will need to be constructed. The VPP Practice Note [Writing Schedules](#) provides advice on constructing a table of uses and deciding when a use should be made 'as of right', require a permit, or be prohibited.

It should be remembered that the UGZ will eventually need to be translated to 'standard' zones. If the schedule contains complex or unusual specific provisions, this will make the translation task more difficult.

Specific provisions will usually not be needed once development anticipated by the precinct structure plan is substantially complete. However, if this is not the case, the planning authority needs to consider how it will translate these provisions at the time it is drafting the zone schedule.

Option 3 – Apply zones with specific provisions

This option may be necessary where additional provisions are needed to ensure that development conforms to the precinct structure plan.

Providing flexibility in the PSP and UGZ schedule

The precinct structure plan and UGZ schedule should be written in a way that gives the responsible authority the flexibility to consider proposals that achieve the outcomes sought by the plan without being vague or ambiguous. The UGZ schedule should also be clear about how any doubts relating to the application of provisions will be resolved. One option is to include a specific provision in the schedule that allows the responsible authority to resolve these issues through the consideration of a planning permit application. An example of this is provided in Example 2.

Subdivision

A permit is required to subdivide land. A permit granted must be generally in accordance with the precinct structure plan. The schedule can specify requirements that a subdivision must meet.

Notice and review

Applications are exempt from most notice requirements and third-party review rights if in general conformity with the precinct structure plan. The schedule to the UGZ can be drafted to remove such exemptions, if the circumstances require.

Application requirements

The schedule can include requirements for use and development applications.

Conditions and requirements for permits

The schedule can include conditions or requirements that a permit granted must include.

Decision guidelines

The schedule can include decision guidelines that require the responsible authority to give specific consideration to a particular issue or fact, in addition to any relevant decision guidelines in Clause 37.07-14 of the zone.

Translation to Standard Zones

Once development in a precinct is underway, the UGZ will need to be translated into an appropriate standard zone.

For some precincts, the certification of a subdivision for an area may be an appropriate time to carry out the zone translation. Other precincts may require further development to proceed before a translation



occurs. The appropriate time for zone translation should be discussed with the Department of Planning and Community Development.

Planning Publications

The following publications provide best practice guidance on planning for new urban communities, statutory planning processes and drafting statutory documents (as relevant).

Planning for new urban communities

[Growth Area Framework Plans](#) (Department of Sustainability and Environment 2006)

[Activity Centres and Principal Public Transport Network Plan](#) (2003)

[Melbourne 2030 – Planning for Sustainable Growth](#) (Department of Infrastructure 2002)

[A Strategic Framework for Creating Liveable New Communities](#) (Growth Areas Authority 2008)

[Precinct Structure Plan Guidelines](#) (Department of Sustainability and Environment 2006)

[Victorian Coastal Strategy](#) (Victorian Coastal Council 2002)

[Victoria's Native Vegetation Management – A Framework for Action](#) (Department of Natural Resources and Environment 2002)

[The residential subdivision provisions of Clause 56 of planning schemes](#)

[Activity Centre Design Guidelines](#) (Department of Sustainability and Environment 2005)

[Structure Planning for Activity Centres](#) (Department of Sustainability and Environment 2003)

[Development Contribution Guidelines](#) (Department of Sustainability and Environment 2007)

[Guidelines for Higher Density Residential Development](#) (Department of Sustainability and Environment 2004)

[Safer Design Guidelines](#) (Department of Sustainability and Environment 2005)

Statutory planning processes

[Using Victoria's Planning System](#) (Department of Planning and Community Development)

[Strategic Assessment Guidelines](#) (Department of Planning and Community Development 2008)

Using VPP tools and statutory drafting

[Writing Schedules](#) VPP Practice Note (Department of Infrastructure 2000)

[Incorporated and Reference Documents](#) VPP Practice Note (Department of Infrastructure 2000)

[Managing Native Vegetation in the Planning System](#) VPP Practice Note (Department of Sustainability and Environment 2006)

[Preparing a Native Vegetation Precinct Plan](#) VPP Practice Note (Department of Sustainability and Environment 2006)

[Using the residential subdivision provisions Clause 56 – Residential Subdivision](#) VPP Practice Note (Department of Sustainability and Environment 2006)

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www.dpcd.vic.gov.au/planning



Example 1: Tips for completing schedule

[NAME] PLANNING SCHEME

SCHEDULE NUMBER TO THE URBAN GROWTH ZONE

Shown on the planning scheme map as **UGZ(number)**.

A number can, and should, be inserted if more than one schedule is included in the zone. If used, convert to plain text. If not used, delete.

NAME OF PRECINCT STRUCTURE PLAN

Inserting the name of the precinct structure plan is helpful for defining the scope of the schedule. The name must be in plain, bold text.

The precinct structure plan is an incorporated document, therefore include reference to the plan in the schedule to Clause 81.

1.0 The Plan

Although the precinct structure plan will be an incorporated document in the scheme, a plan showing the future overall layout of land use and development should also be inserted in the schedule.

This plan should be clearly labelled and a statement about the plan should be inserted here eg. "Plan 1 shows the future urban structure proposed in the [insert Name] Precinct Structure Plan."

2.0 Use and development

2.1 The Land

The schedule must clearly state where the use and development provisions apply. A map should be used to identify this.

The map should be clearly labelled and a brief statement about the map should be inserted here eg. "The use and development provisions specified in this schedule apply to land as shown in Map 1."

2.2 Applied zone provisions

The zone requires the schedule to specify requirements for land use and buildings and works. If a planning authority applies the provisions of zones this must be specified here.

Clause 2.2 in Example 2 provides an example of how this can be presented.

If no zones are to be applied, delete this heading and the table.

2.3 Specific provisions – Use of land

If a planning authority decides not to apply the use provisions of a zone, but apply specific requirements instead, the specific requirements should be presented in a table of uses. The table of uses must meet the requirements of the Ministerial Direction on the Form and Content of Planning Schemes and should follow the drafting conventions set out in the VPP Practice Note Writing Schedules.

URBAN GROWTH ZONE - SCHEDULE [NUMBER] PAGE 1 OF 2



[NAME] PLANNING SCHEME

The table of uses can specify conditions that an 'as of right' use or 'permit required' use must comply with. If the planning authority requires uses to be generally in accordance with the precinct structure plan, a condition to that effect will need to be included in the table (opposite the relevant uses).

If a planning authority decides to apply the use provisions of a zone, but needs to specify additional use requirements, these requirements could also be presented in a table. Clause 2.3 in Example 2 provides an example.

If no specific provisions are to be specified, delete this heading.

2.4 Specific provisions – Subdivision

A permit is required to subdivide land under the 'parent provisions' of the zone. The schedule cannot alter this. However, the schedule can specify requirements that a subdivision must meet.

If no specific provisions are to be specified, delete this heading.

2.5 Specific provisions – Buildings and works

The zone requires any requirements for buildings and works to be specified in the schedule. The schedule may specify that a permit is not required to construct a building or construct or carry out works (subject to any conditions), or that a permit is required.

If no specific provisions are to be specified, delete this heading.

3.0 Application requirements

If the planning authority has specific requirements for applications, these should be set out here. If the requirements relate only to certain classes of applications, the schedule should be drafted to make this clear. Otherwise, the information may have to be provided with every application.

4.0 Conditions and requirements for permits

The zone enables the schedule to specify conditions or requirements that a permit granted must include. If these are needed they can be included here in plain text. If not, delete this heading.

Care is required with specifying conditions and requirements in the schedule because once any are specified they can only be changed by a planning scheme amendment.

If the conditions or requirements relate only to a certain part of the precinct or a certain type of use, building or works, the schedule should be drafted to make it clear that they must only be included on permits granted for that specific area, use or development. Otherwise, the conditions or requirements may have to be included on every permit granted.

5.0 Decision guidelines

The zone enables the schedule to introduce additional decision guidelines. If these are needed they can be included here in plain text. If not, delete this heading. Any decision guidelines specified here should not duplicate the decision guidelines in Clause 37.07-14.

6.0 Advertising signs

The schedule can vary the advertising sign requirements in Clause 37.07-16. If no variation is to be specified, delete this heading.



Example 2: A completed schedule

GUMNUT PLANNING SCHEME

SCHEDULE 1 TO THE URBAN GROWTH ZONE

Shown on the planning scheme map as UGZ1

GUMNUT VALLEY PRECINCT STRUCTURE PLAN

1.0 The Plan

Plan 1 shows the future urban structure proposed in the Gumnut Valley Precinct Structure Plan.

2.0 Use and development

2.1 The Land

The use and development provisions specified in this schedule apply to land as shown in Map 1 of this schedule.

2.2 Applied zone provisions

The provisions of the following zones in this scheme apply to the use and subdivision of land, construction of a building, and construction and carrying out of works, by reference to Map 1 of this schedule.

Table 1: Applied zone provisions

LAND SHOWN ON MAP 1 OF THIS SCHEDULE	APPLIED ZONE PROVISIONS
Residential	Clause 32.01 – Residential 1 Zone
Mixed use	Clause 32.04 – Mixed Use Zone
Industrial	Clause 33.01 – Industrial 1 Zone
Business 1	Clause 34.01 – Business 1 Zone
Business 2	Clause 34.02 – Business 2 Zone

URBAN GROWTH ZONE - SCHEDULE 1 PAGE 1 OF 2



GUMNUT PLANNING SCHEME

2.3 Specific provisions – Use of land

The following provisions apply to the use of land.

Table 2: Use

USE	REQUIREMENT
Shop (other than an Adult sex bookshop)	If the land is shown as Business 1 on Map 1 of this schedule, a permit is required to use land for a Shop if the combined leasable floor area for all shops exceeds 20,000 square metres.

2.4 Specific provisions - Buildings and works

The following provisions apply to the construction of a building and the construction and carrying out of works.

Table 3: Buildings and works

BUILDINGS	REQUIREMENT
Buildings on land shown as Business 1 on Map 1 of this schedule	Buildings and works must not exceed 25 metres in height

2.5 Specific provision – Resolution of doubt

If any doubt arises as to whether a provision specified in this schedule applies to land, a permit may be granted for any use or development if the responsible authority is satisfied that the use or development is in accordance with the incorporated Gumnut Valley Precinct Structure Plan.

3.0 Conditions and requirements for permits

All permits to construct a building or construct or carry out works on land adjacent to Gumnut Road must provide for a setback of 20 metres from the front boundary of the lot to enable the future widening of Gumnut Road.

4.0 Advertising signs

All land shown on Map 1 is in Category 2.

37.07 URBAN GROWTH ZONE

08/08/2012
 VC87

Shown on the planning scheme map as **UGZ** with a number.

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To manage the transition of non-urban land into urban land in accordance with a precinct structure plan.

To provide for a range of uses and the development of land in accordance with a precinct structure plan.

To contain urban use and development to areas identified for urban development in a precinct structure plan.

To provide for the continued non-urban use of the land until urban development in accordance with a precinct structure plan occurs.

To ensure that, before a precinct structure plan is applied, the use and development of land does not prejudice the future urban use and development of the land.

Application of provisions

Part A – No precinct structure plan applies

The provisions of clauses 37.07-1 to 37.07-8 apply if no precinct structure plan applies to the land.

Part B – Precinct structure plan applies

The provisions of clauses 37.07-9 to 37.07-16 apply if a precinct structure plan applies to the land.

Precinct structure plan provisions

A precinct structure plan applies to land when the precinct structure plan is incorporated in this scheme.

PART A - PROVISIONS FOR LAND WHERE NO PRECINCT STRUCTURE PLAN APPLIES

37.07-1 Table of uses

08/08/2012
 VC87

Section 1 – Permit not required

Use	Condition
Agriculture (other than Animal keeping, Apiculture, Intensive animal husbandry, Rice growing and Timber production)	
Bed and breakfast	No more than 6 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.
Dependent person's unit	Must be the only dependent person's unit on the lot. Must meet the requirements of Clause 37.07-2.

Use	Condition
Dwelling (other than Bed and breakfast)	Must be the only dwelling on the lot. The lot must be at least 40 hectares. Must meet the requirements of Clause 37.07-2.
Home occupation Informal outdoor recreation Minor utility installation Railway Tramway	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01
Section 2 – Permit required	
Use	Condition
Animal boarding	
Animal keeping (other than Animal boarding)	Must be no more than 5 animals.
Car park	Must be used in conjunction with another use in Section 1 or 2.
Cemetery Community market Crematorium	
Dependent person's unit – if the Section 1 condition is not met	Must meet the requirements of Clause 37.07-2.
Display home	
Dwelling (other than Bed and breakfast) – if the Section 1 conditions are not met	Must be no more than two dwellings on the lot. Must meet the requirements of Clause 37.07-2.
Education centre Emergency services facility	
Freeway service centre	Must meet the requirements of Clause 52.30.
Freezing and cool storage	
Group accommodation	Must be used in conjunction with Agriculture, Outdoor recreation facility, Rural industry, or Winery. Must be no more than 6 dwellings.
Hospital Host farm Interpretation centre Leisure and recreation (other than Informal outdoor recreation and Motor racing track) Manufacturing sales Medical centre Nursing home	
Place of assembly (other than Carnival, Circus, and Place of worship)	Must not be used for more than 10 days in a calendar year.
Place of worship Primary produce sales Real estate agency	

Use	Condition
Residential hotel Restaurant	Must be used in conjunction with Agriculture, Outdoor recreation facility, Rural industry, or Winery.
Rice growing Rural industry Rural store	
Store (other than Freezing and cool storage and Rural store)	Must be in a building, not a dwelling, and used to store equipment, goods, or motor vehicles used in conjunction with the occupation of a resident of a dwelling on the lot.
Utility installation (other than Minor utility installation and Telecommunications facility) Veterinary centre Winery	
Any use listed in Clause 62.01 if any requirement is not met	

Section 3 - Prohibited

Use
Accommodation (other than Dependent person's unit, Dwelling, Group accommodation, Host farm, Nursing home, and Residential hotel) Industry (other than Rural industry) Intensive animal husbandry Motor racing track Office (other than Medical centre and Real estate agency) Retail premises (other than Community market, Manufacturing sales, Primary produce sales and Restaurant) Saleyard Warehouse (other than Store) Wind energy facility Any other use not in Section 1 or 2

37.07-2
 10/06/2008
 VC48

Use of land for a dwelling

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

These requirements also apply to a dependent person's unit.

37.07-3
 10/06/2008
 VC48

Subdivision of land

A permit is required to subdivide land.

Each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if any of the following apply:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision. An agreement under section 173 of the Act must be entered into with the owner of each lot created which ensures that the land may not be further subdivided so as to create a smaller lot for an existing dwelling. The agreement must be registered on title.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased. An agreement under section 173 of the Act must be entered into with the owner of each lot created which ensures that the land may not be further subdivided so as to increase the number of lots. The agreement must be registered on title.
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.

37.07-4

10/06/2008
VC48

Buildings and works

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2 of Clause 37.07-1. This does not apply to:
 - An alteration or extension to an existing dwelling provided the floor area of the alteration or extension is no more than 50 square metres.
 - An alteration or extension to an existing building used for agriculture provided the floor area of the alteration or extension is no more than 100 square metres. The building must not be used to keep, board, breed or train animals.
- Earthworks which change the rate of flow or the discharge point of water across a property boundary.
- Earthworks which increase the discharge of saline water.
- A building which is within any of the following setbacks:
 - 100 metres from a Road Zone Category 1 or land in a Public Acquisition Overlay to be acquired for a road, Category 1.
 - 40 metres from a Road Zone Category 2 or land in a Public Acquisition Overlay to be acquired for a road, Category 2.
 - 20 metres from any other road.
 - 5 metres from any other boundary.
 - 100 metres from a dwelling not in the same ownership.
 - 100 metres from a waterway, wetlands or designated flood plain.

37.07-5

10/06/2008
VC48

Referral of applications

An application of the kind listed below must be referred in accordance with section 55 of the Act to the referral authority specified in Clause 66.03.

- An application to use or develop land for any of the following:
 - Display home
 - Education centre
 - Hospital
 - Medical centre
 - Nursing home
 - Place of worship
 - Real estate agency.
- An application to subdivide land to create a lot smaller than 40 hectares in area.

37.07-6
10/06/2008
VC48

Environmental audit

Before a nursing home, pre-school centre or primary school commences on potentially contaminated land, or before the construction or carrying out of buildings and works in association with a nursing home, pre-school centre or primary school commences on potentially contaminated land, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
- An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

In this clause, "potentially contaminated land" means land used or known to have been used for industry, mining, or the storage of chemicals, gas, wastes or liquid fuel (if not ancillary to another use of the land).

37.07-7
10/06/2008
VC48

Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The effect on the future urban development and use of the land, and adjacent or nearby land, having regard to:
 - Any relevant Growth Area Framework Plan.
 - Any precinct structure plan being prepared for the area.
 - Any comments or directions of the referral authority.
- Whether the proposal will prejudice the logical, efficient and orderly future urban development of the land, including the development of roads, public transport and other infrastructure.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development.
- The impact of the siting, design, height, bulk, colours and materials to be used on the natural environment, major roads, vistas and water features, future urban use of the land, and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, public transport, walking and cycling networks, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require new or upgraded infrastructure, including traffic management measures.

37.07-8
21/09/2009
VC80

Advertising signs

Advertising sign requirements are at Clause 52.05. The zone is in Category 3.

Despite the provisions of Clause 52.05-9, a permit may be granted, for a period of not more than 5 years, to display an advertising sign that promotes the sale of land or dwellings.

PART B - PROVISIONS FOR LAND WHERE A PRECINCT STRUCTURE PLAN APPLIES

37.07-9
 23/09/2011
 VC77

Use of land

Any requirement in the Table of uses and any requirement specified in the schedule to this zone must be met.

A permit granted must be generally in accordance with the precinct structure plan applying to the land.

Table of uses

Section 1 – Permit not required

Use	Condition
Any use in Section 1 of a zone applied by the schedule to this zone	Must comply with any condition opposite the use in Section 1 of the applied zone Must comply with any condition or requirement specified in the schedule to this zone or in the precinct structure plan
Any use specified in the schedule to this zone as a use for which a permit is not required	Must comply with any condition or requirement specified in the schedule to this zone or in the precinct structure plan

Section 2 – Permit required

Use	Condition
Any use in Section 2 of a zone applied by the schedule to this zone	Must comply with any condition opposite the use in Section 2 of the applied zone Must comply with any condition or requirement specified in the schedule to this zone or in the precinct structure plan
Any use specified in the schedule to this zone as a use for which a permit is required	Must comply with any condition or requirement specified in the schedule to this zone or in the precinct structure plan
Any other use not in Section 1 or 3	

Section 3 - Prohibited

Use
Any use in Section 3 of a zone applied by the schedule to this zone Any use specified in the schedule to this zone

37.07-10
 23/09/2011
 VC77

Subdivision of land

A permit is required to subdivide land. Any requirement in the schedule to this zone or the precinct structure plan must be met.

A permit granted must:

- Be generally in accordance with the precinct structure plan applying to the land.
- Include any conditions or requirements specified in the schedule to this zone or the precinct structure plan.

37.07-11
 23/09/2011
 VC77

Buildings and works

If the schedule to this zone specifies:

- That the provisions of a zone apply to the development of land, the provisions of the zone apply to land in the circumstances specified in the schedule.
- Provisions relating to the development of land, those provisions apply to land in the circumstances specified in the schedule.

If the schedule to this zone specifies that a permit is required to construct a building or construct or carry out works, a permit granted must:

- Be generally in accordance with the precinct structure plan applying to the land.
- Include any conditions or requirements specified in the schedule to this zone or the precinct structure plan.

37.07-12 Application requirements

10/09/2008
VC48

An application to use or subdivide land, construct a building or construct or carry out works, must be accompanied by any information specified in the schedule to this zone.

37.07-13 Exemption from notice and review

23/09/2011
VC77

An application under clause any provision of this scheme which is generally in accordance with the precinct structure plan applying to the land is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act., unless the schedule to this zone specifies otherwise.

37.07-14 Decision guidelines

10/09/2008
VC48

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any relevant Growth Area Framework Plan.
- The precinct structure plan applying to the land, including the vision and objectives of the precinct structure plan.
- Any guidelines in the schedule to this zone.

37.07-15 Inconsistencies between specific and applied zone provisions

10/09/2008
VC48

If there is an inconsistency between the specific provisions specified in the schedule to this zone and the provisions of a zone applied by the schedule to this zone, the specific provisions prevail to the extent of any inconsistency.

37.07-16 Advertising signs

10/09/2008
VC48

Advertising sign requirements are at Clause 52.05. This zone is in the category specified in the schedule to this zone or, if no category is specified, Category 3.

Notes: Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.

Check whether an overlay also applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.

1.2 Eastern Reserve S86 Committee - Instrument of Delegation

EMT Report

Council Briefing

Council Report

Meeting Date:

Tuesday, 13 August 2013

Council Meeting Adoption Date:

[Click here to enter a date.](#)

Authors Title: Manager Community Development

Department: Community Development

Directorate: Sustainable Communities

Director: Dennis Barker

File No: F11/1010

Trim No: D13/129188

Appendix:

1. Instrument of Delegation August 2013

Officer Direct or Indirect Conflict of Interest:

In accordance with Local Government Act 1989 –
Section 80C:

Yes

No

Status:

Information classified confidential under Section 77
of the Local Government Act:

Yes

No

Reason: Select Conflict of Interest

Reason: Select relevant section S89 (2)

Purpose

To provide an Instrument of Delegation for the Eastern Reserve S86 Committee of Management for Council adoption.

Summary

At its February 2013 Council meeting, Council resolved:

- That the S86 Committee of Management of Eastern Reserve and Council to operate a collaborative management model, with their respective responsibilities defined in the Instrument of Delegation.
- That the Instrument of Delegation is varied to reflect the recent assumption by Council of responsibility for actively marketing the facility, scheduling events and invoicing users.
- That Council officers consult with the Committee of Management

A number of further discussions with members of the S86 Committee have been held including the Winchelsea Ward Councillors and Council Officers attending an Eastern Reserve Committee meeting to run through the draft Instrument of Delegation and answer questions. The Instrument of Delegation is presented for consideration.

Recommendation

That Council adopt the Instrument of Delegation dated August 2013, found at Appendix 1.

Eastern Reserve S86 Committee - Instrument of Delegation

Report

Background

The Eastern Reserve Committee of Management (Committee of Management) is a Special Committee of the Surf Coast Shire Council, established under Section 86 (s.86) of the Local Government Act 1989. Its members currently include nominees of resident sporting clubs and members of the broader community.

Since the re-development of the Eastern Reserve Community Centre, the operating costs of the Eastern Reserve Community Hub are much higher than the costs formerly incurred managing the limited sporting facilities. In the short term, the Committee of Management requires assistance to establish sustainable operations. At its February 2013 meeting, Council resolved:

- That the S86 Committee of Management of Eastern Reserve and Council to operate a collaborative management model, with their respective responsibilities defined in the Instrument of Delegation.
- That the Instrument of Delegation is varied to reflect the recent assumption by Council of responsibility for actively marketing the facility, scheduling events and invoicing users.
- That Council officers consult with the Committee of Management

Resulting from the Council resolution, a revised Instrument of Delegation has been drafted that reflects discussions with the current Committee members.

Discussion

Issues

1. The costs of operating the large community precinct at Eastern Reserve are much higher than the costs formerly incurred managing the limited sporting facilities. Although it is expected that in the longer term income will meet or exceed expenses and surpluses will be available for re-investment in the precinct, there is a 'start up' phase in which the income from the new facilities does not meet the costs of running them.
2. In the short term, the Committee of Management requires assistance to establish sustainable operations. In the longer term, the objective is:
 - (a) maintenance of community contribution and engagement; and
 - (b) effective community management.
3. The instrument of delegation is designed to appropriately allocate responsibilities between Council and the Committee of Management.
4. The Committee of Management needs assistance with 'start up' tasks to establish a sustainable management system for the redeveloped precinct.
5. Committee of Management members are willing to continue to provide a reasonable level of volunteer labour to support the facility's operations under an agreed management system.
6. Access rights and associated fees for all resident sporting clubs have been agreed by the clubs, Council Officers and the Committee of Management. These matters should form the basis for both a business plan and contractual agreements with the clubs.

A revised Instrument of Delegation is presented that reflects the discussions held with Committee members and to provide a scenario for future financial and operational sustainability. For clarity, Clauses 5.1.5, 6.9, 7.2 and Appendix 1 – Maintenance Responsibilities have been amended following 6 August 2013 Councillors Briefing.

Financial Implications

The revised Instrument of Delegation provides that Council will fund the utility expenses associated with running the Centre and the maintenance of the reserve facilities. Included in the 2013-2014 Budget is \$49,000 for cleaning, maintenance, power and water. The revenue generated through booking the facility and the annual agreements with sporting clubs could potentially deliver around \$30,000 per annum, which is transferred to the Committee of Management. To ensure a sustainable operating community involved model, the Committee will receive this revenue, in order to build up working capital with the aim for the committee to

Eastern Reserve S86 Committee - Instrument of Delegation

become self-sufficient in three years.

The revised Instrument of Delegation provides for the Committee to develop a business plan and a review of Council's ongoing financial support in three (3) years by 30 June 2016.

Council Plan/Policy/Legal Implications

The Council plan has one of its themes listed as Communities, outlining that Council will actively engage with our diverse and growing communities to establish quality services, healthy and safe environments and long term community partnerships.

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflicts of interest.

Risk Assessment

The provision of a defined financial delegation risks Councils exposure financially and places upon the Committee a more robust governance model.

Social Considerations

The current Section 86 Committee is an active part of the Winchelsea community. Their vision and determination enabled the Eastern Reserve Community Centre to be implemented and realised. However, the operations of the Centre have changed and it has become a major facility to manage and operate. The Committee have asked for Council support and the current plan is to provide the support needed for bookings along with a direct financial contribution to the operating costs of the community centre. The Section 86 members are keen to continue involvement in managing the recreation reserve and providing advice on implementation of the Council endorsed master plan.

Community Engagement

The current Committee have been actively engaged in reviewing the revised Draft Instrument of Delegation

Environmental Implications

There are no known environmental risks associated with the management and operations of the Eastern Reserve Community Centre.

Communication

The Committee will be informed by letter and provided with a signed copy of the Instrument.

Conclusion

Councillors and Council Officers have been working with the Eastern Reserve S86 Committee of Management for over 12 months to develop a 3 year transitional model to ensure that the Committee of Management becomes operationally and financially sustainable.

APPENDIX 1: INSTRUMENT OF DELEGATION AUGUST 2013



INSTRUMENT OF DELEGATION

“EASTERN RESERVE COMMITTEE OF MANAGEMENT - August 2013”

1. GENERAL:

1.1 Powers:

In exercise of the power conferred by Section 86(3) of the Local Government Act 1989 (“The Act”), the Council of the Surf Coast Shire Council delegates to the Special Committee (known as the Eastern Reserve Committee of Management) established by resolution of the Council, the powers, duties and functions set out in this Instrument of Delegation and declares that:

- 1.1.1 this Instrument of Delegation is authorised by a resolution of Council, passed on 23 July 2013; and
- 1.1.2 the delegation
 - 1.1.2.1 comes into force immediately the Chief Executive Officer signs and executes this Instrument of Delegation;
 - 1.1.2.2 remains in force until Council resolves to vary or revoke it;
 - 1.1.2.3 is subject to any conditions and limitations set out herein; and
 - 1.1.2.4 is to be exercised in accordance with any guidelines or policies, which Council from time to time adopts.

1.2 Aims

- 1.2.1 The aim of the Instrument of Delegation is to provide a three (3) year period for the Special Committee to build up working capital so as to achieve financial self-sufficiency by 30 June 2016. Any new instrument of delegation will only come into force after that date with the approval of Council.
- 1.2.2 The Special Committee must develop a Business Plan by 31 December 2013 which must be submitted to Council for its consideration and must not be implemented without Council’s approval.

2. DEFINITIONS:

- 2.1 “The Special Committee” shall mean the ‘Eastern Reserve Committee of Management’ appointed pursuant to the provisions of Section 86 of the Local Government Act 1989.
- 2.2 “Council” shall mean the Council of the Municipality of the Surf Coast Shire.
- 2.3 “Councillor” shall mean a person currently elected to serve on the Council pursuant to the provisions of the Local Government Act 1989 and the Constitution Act 1975.
- 2.4 “Facility” shall mean the reserve known as Eastern Reserve, the building known as Eastern Reserve Community Centre and other Council-owned buildings on the Eastern Reserve site.

3. OBJECTIVES OF THE SPECIAL COMMITTEE:

The objectives of the Special Committee shall be to control, promote and manage the Facility, to advise Council on policy development and planning for the Facility and in particular to:

- 3.1 effectively manage and operate the Facility in the best interests of the community;
- 3.2 ensure the effective financial control of the Facility to meet the Council's and Special Committee's objectives;
- 3.3 act as an advisory and liaison body between the Council and those who use the Facility;
- 3.4 encourage public interest and maximise involvement and participation of the community in the development of the Facility;
- 3.5 facilitate the availability of a wide range of community, cultural and entertainment programs to give residents a choice of leisure-time activities; and
- 3.6 make representation to Council on behalf of other organisations relating to the Facility.

4. POWERS / FUNCTIONS / DUTIES OF THE SPECIAL COMMITTEE:

In furtherance of its objectives, the Special Committee shall have, by this instrument of delegation from the Council, the following powers, responsibilities and functions:

- 4.1 In accordance with Council policy develop, approve, repeal and make alteration to policies, procedures, rules and regulations necessary for the proper management of the Facility, having regard to the objectives of the Special Committee and Council policy.
- 4.2 Manage the Facility by:
 - 4.2.1 actively promoting its use;
 - 4.2.2 setting fees and charges for permanent and occasional users;
 - 4.2.3 entering into contracts with permanent and occasional users;
 - 4.2.4 assisting the community and user groups to access the facilities;
 - 4.2.5 ensuring users maintain the facilities in accordance with their user agreements;
 - 4.2.6 monitoring the physical condition of the Facility, ensuring it is generally maintained in a safe condition and is fit for purpose;
 - 4.2.7 working with council officers on asset maintenance and development plans;
 - 4.2.8 implementing and maintaining a simple technology-based financial management system;
 - 4.2.9 raising funds and soliciting and receiving donations; and
 - 4.2.10 arranging and paying for contents insurance.
- 4.3 Make recommendations to Council on the development of future capital works and the provision of future facilities and amenities at the Facility.
- 4.4 Seek advice, assistance and expertise as is necessary for the proper and efficient management of the Facility within the constraints of the budget, including where necessary inviting persons to the meetings of the Special Committee as observers or advisers. (*Note: Special Committee meetings must be open to the public*).
- 4.5 Provide a written report to Council on the operation of the Facility on an annual basis which shall be deemed the Annual Report.
- 4.6 Resolve conflicts where these occur in the requirements of the community using the Facility.
- 4.7 Convene or cause to be convened such meeting, forums, seminars or other activities as may be deemed of value by the Special Committee to meet or assist in meeting its objectives.

- 4.8 Liaise with Council and its staff to ensure continuing co-operation and co-ordination of the Facility.
- 4.9 Ensure the safety requirements and acts and regulations appropriate to the management of the Facility are adhered to.
- 4.10 Do not commit, or permit to be carried out, any act which will render the operation of Council's insurance policies invalid.
- 4.11 Require all users to agree to abide by the conditions of use or any rules made by Special Committee and to advise Council in respect of and give effect to any regulation made by the Council applicable to the Facility.
- 4.12 Be responsible for ensuring that conditions of use imposed by Council Local Laws and policies and State and Federal Laws are enforced and report to the Council any breaches which occur.
- 4.13 Ensure that the Facility is kept in a clean condition at all times and is used in a reasonable and lawful manner.
- 4.14 Promptly report to the Council's Infrastructure Unit any breakages or damage relating to the Facility or malfunction or any mechanical hazard deemed to be a risk management issue or any abnormal damage to playing surfaces or surrounds or any other equipment concerning the Facility.
- 4.15 Arrange for maintenance, via Council in respect of the Facility.

5. COUNCIL SUPPORT

- 5.1 Council will support the Special Committee by:
 - 5.1.1 actively promoting the Facility;
 - 5.1.2 establishing and managing a web-based booking system;
 - 5.1.3 developing template contracts for user clubs and occasional users;
 - 5.1.4 ensuring occasional users enter user agreements;
 - 5.1.5 providing details of users' bookings to the Special Committee monthly;
 - 5.1.6 arranging and funding cleaning of the entire Facility (inside and out) on a programmed basis;
 - 5.1.7 undertaking or arranging capital works and maintenance as required;
 - 5.1.8 providing support to the Special Committee to develop and implement a simple technology-based financial management system; and
 - 5.1.9 paying for utilities (gas, electricity, water).
- 5.2 Council will maintain property insurance.
- 5.3 Council will periodically review the membership of the Special Committee to ensure it reflects an appropriate balance of user groups and individuals with strong community links and the specific skills necessary to operate a community Facility of this type.
- 5.4 The Instrument of Delegation and the need for ongoing financial support by Council will be reviewed in three years (by 30 June 2016).

Further information on the role and responsibility of Council and the Special Committee is contained in **Appendix 1**.

6. FINANCE

The Special Committee shall manage its finances as follows:

- 6.1 Ensure the effective financial control of the Special Committee including the submission of an annual budget to Council for consideration and approval by 31 October in each year.
- 6.2 Set such fees and charges necessary for the effective management of the Facility in accordance with the budget and consistent with Council policy.
- 6.3 Open a bank account in the name of the Special Committee to exercise the powers and functions delegated by this instrument.

- 6.4 Retain all monies received from hire fees, rental and charges associated with the management of the Facility and apply them as and when appropriate to improvements of the Facility, as approved by Surf Coast Shire, and to any other expenses which may be incurred by the Special Committee in its management of the Facility.
- 6.5 The financial year shall be from 1 July to 30 June and all accounting functions shall conform to the requirements of Australian Accounting Standards, the Local Government Act 1989 and relevant regulations.
- 6.6 The Special Committee member elected as Treasurer shall prepare an operating statement and statements of financial position at the conclusion of each financial year for presentation to the designated meeting of the Special Committee.
- 6.7 The Special Committee may enter into contracts, leases or rental agreements associated with the management of the Facility with the consent of Council. Specific contracts shall not exceed \$5,000.
- 6.8 The Special Committee shall have the power to raise funds and solicit and receive donations, in accordance with the objectives of the Special Committee, policies of Council and the budget.
- 6.9 All income from Optus relating to the telecommunications tower rental shall be received by the Special Committee for the duration of this agreement.
- 6.10 The Special Committee shall have the power to hold or sponsor functions, stalls and other fundraising events within the constraints of the budget to enhance the objectives of the Special Committee, in accordance with Council policy.
- 6.11 All monies received by the Special Committee shall be paid promptly into a bank account in the Special Committee's name within fourteen (14) days of receipt, and amounts shall only be drawn from that account on the signature of any two of the following office bearers:
 - i) chairperson
 - ii) secretary
 - iii) treasurer.
- 6.12 The Special Committee shall forward to Council an Annual Report including the Annual Statement of Accounts for audit purposes bearing the Auditor's Certificates. The chairperson shall be responsible for ensuring that the report is lodged with Council by 31 October each year prior to the Special Committee's Annual General Meeting.

7. MEMBERSHIP

- 7.1 The Special Committee shall comprise up to (7) members, appointed by Council resolution in the following manner and for the term indicated:
 - 7.1.1 One representative appointed by Surf Coast Shire Council, being a Council Officer with no voting rights.
 - 7.1.2 Up to six (6) independent community members who must be residents of Winchelsea Ward (unless otherwise approved by Council) or a number determined by Council.
- 7.2 The independent community members shall be selected by calling for expressions of interest from the community by way of a notice in the Public Notice Advertisement Section of a local newspaper. The Council shall select the independent community representatives based on a documented selection process, with reference to the position description and any other relevant criteria as determined by Council and shall determine the final membership of the Special Committee.
- 7.3 Each independent community member of the Special Committee should possess at least one of the following skills to a high degree:
 - 7.3.1 accounting
 - 7.3.2 governance
 - 7.3.3 auditing

- 7.3.4 finance
 - 7.3.5 government relations
 - 7.3.6 business
 - 7.3.7 community engagement
 - 7.3.8 advocacy
 - 7.3.9 legal
 - 7.3.10 media
 - 7.3.11 ethics
 - 7.3.12 fundraising
 - 7.3.13 administration/management.
- 7.4 Members will be appointed for a period as designated in the terms of appointment and will be eligible for re-nomination at the expiration of the period of office. Council shall designate terms of appointment so that there is an appropriate balance between continuity of membership and renewal.
- 7.5 Council shall appoint a chairperson. The term of the chairperson shall be up to three years, at the discretion of Council. A chairperson is eligible for reappointment.
- 7.6 The Special Committee shall appoint a secretary and a treasurer with appropriate skills.
- 7.7 Notwithstanding anything contained herein, a Special Committee member who is absent from three (3) consecutive committee meetings without approval by the Special; Committee shall forfeit their membership.
- 7.8 Any vacancy on the Special Committee shall only be filled by Council.
- 7.9 Any vacancy caused by the resignation of the Community representative, shall only be filled by Council via an expression of interest process.

8. MEETINGS

8.1 General meetings

- 8.1.1 The Special Committee shall hold at least eight (8) meetings during the year on such dates as the chairperson appoints.
- 8.1.2 The Secretary shall give reasonable notice of all meetings by distributing a notice of the meeting to all members at least seven (7) clear days prior to the meeting.
- 8.1.3 At the Committee annual general meeting, office bearers will be elected to the positions of secretary and treasurer and other positions determined by the Special Committee as being necessary for the efficient functioning of the Special Committee. At this meeting the Special Committee will also receive the annual report, receive a report on the programme of activities proposed for the ensuing year, and receive and adopt the annual financial statements.

8.2 Special meetings

- 8.2.1 The chairperson may call a special meeting by giving notice to all Special Committee members in the manner prescribed hereunder or shall call a special meeting forthwith upon receiving from any three members of the Special Committee a written request that such a meeting be so called. The notice by the chairperson or the request by the three Special Committee members shall contain a statement of the purpose of the meeting. The meeting will be held on such dates and at such time as fixed by the chairperson.
- 8.2.2 In cases where the chairperson calls a meeting in response to a request, the meeting shall be held within 21 days of receiving such request. The chairperson shall arrange for notice of the meeting to be given to all Special Committee members. No other business shall be transacted at that meeting except that specified in the notice.

- 8.2.3 Council must be informed of any Special Meetings.
- 8.2.4 Minutes must be distributed within 7 days and must be formally endorsed at the next committee meeting.

8.3 Meetings with user groups

- 8.3.1 The Special Committee must meet regularly with representatives of major user groups.
- 8.3.2 The Special Committee must develop and document principles around how decisions are made that affect the major reserve users (football, cricket, netball clubs) and submit them to Council for approval within 3 months of Council approval of the Instrument of Delegation.

8.4 Meeting procedures

- 8.4.1 All requirement of the Local Government Act 1989 must be adhered to (Conflict of Interest provisions etc).
- 8.4.2 The quorum at any Special Committee meeting shall be a majority of members of the Special Committee.
- 8.4.3 Members, including the chairperson, present at a meeting of the Special Committee shall have one vote on each matter before the Special Committee. In the event that voting on any matter is equal, the chairperson shall have a casting vote.
- 8.4.4 The chairperson shall take the chair at all meetings at which they are present. If the chairperson is absent the members present may appoint one of their numbers to chair the meeting.
- 8.4.5 Minutes shall be kept of the proceedings at all meetings and after confirmation shall be signed by the chairperson of the meeting at which they are confirmed. Copies of minutes will be circulated and forwarded to Council within fourteen (14) days of the meeting.
- 8.4.6 If a member of the Special Committee has a conflict of interest in any matter in which the Special Committee is concerned, the member must disclose the nature of that interest at the meeting at which the matter is discussed. The member must not remain in the room in which the meeting is being held during discussion or voting on the matter.
- 8.4.7 Any meeting or special meeting of the Special Committee must be open to members of the public.
- 8.4.8 The Special Committee may resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:
 - 8.4.8.1 Contractual matters
 - 8.4.8.2 Proposed development
 - 8.4.8.3 Legal advice
 - 8.4.8.4 Matters affecting the security of Council policy
 - 8.4.8.5 Any other matters which the Special Committee considers would prejudice the Council or any person
 - 8.4.8.6 A resolution to close the meeting to members of the public.
- 8.4.9 If the Special Committee resolves to close the meeting to the public, the reason must be recorded in the minutes of the meeting.
- 8.4.10 A motion before a meeting of the Committee is to be determined as follows:
 - 8.4.10.1 Each member of the Special Committee who is entitled to vote is entitled to one vote.
 - 8.4.10.2 Unless otherwise prohibited by the Local Government Act, each member of the Committee present must vote.
 - 8.4.10.3 Unless the procedures of the Special Committee otherwise provide, voting must be by show of hands.
 - 8.4.10.4 The motion is determined by a majority of the vote.
 - 8.4.10.5 If there is an equality of votes the chairperson has a second vote.

- 8.4.11 Any decision of the Special Committee which does not relate to a matter delegated to the Special Committee cannot be actioned until approved by Council.
- 8.4.12 In the event of any unresolved dispute arising, the matter shall be submitted to Council in writing and any decision made thereon by the Council shall be final.
- 8.4.13 The Special Committee may form Sub-Committees from amongst its members for the purpose of recommending on matters pertaining to the provisions of this instrument of delegation, provided that no decision is made.
- 8.4.14 The chairperson shall be an ex-officio member of all Sub-Committees.
- 8.4.15 Such Sub-Committees shall only be established by resolution of the Special Committee and shall only carry out those functions stated in such resolution.

9. OFFICE BEARERS

- 9.1 Chairperson:
 - 9.1.1 Council appoints the chairperson.
- 9.2 The Special Committee shall elect:
 - 9.2.1 a secretary;
 - 9.2.2 a treasurer; and
 - 9.2.3 any other Office Bearer the Committee wishes to appoint.
- 9.3 Office Bearers shall hold office for a period of three (3) years or until they vacate their office, whichever occurs first.

10. INDEMNITY

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

11. POWERS EXCLUDED

- 11.1 The Special Committee is not by this Instrument of Delegation empowered to do any of the following things and must not do those things without the written approval of the Council:
 - 11.1.1 Enter into contracts, exceeding a value of \$5,000 p.a
 - 11.1.2 Borrow money.
 - 11.1.3 Incur any banking overdraft.
 - 11.1.4 Make any alterations or additions to the community centre and reserve without consent of Council.

12. TERMS OF APPOINTMENT

This delegation shall expire on the 30 June 2016, unless otherwise extended or revoked in writing by the Council.

13. COMMUNICATIONS

Surf Coast Shire Council and the Special Committee will work together to develop a harmonious relationship that takes into account the needs and wants of stakeholders. As such **Attachment 2 'Communications Protocol'** will form the basis for communicating between the Committee and the Council.

REVOCATION

This Instrument of Delegation may be revoked at any time by Council, if in the view of Council the Committee is not managing the Facility in the best interest of user groups, the community and Council.

Signed on behalf of the Surf Coast Shire Council)
by the Chief Executive Officer)
pursuant to the instrument of delegation)
dated 23 July 2013 in the presence of:)

Chief Executive Officer

Witness

Appendix 1 - Maintenance Responsibilities

Note that regular and occasional users are all required to enter into a user agreement which details their responsibilities including:

- to use the Facility, and supervise use of the Facility, with an appropriate level of care and responsibility;
- to leave the Facility in a clean and useable condition after use;
- to report any accidental or intentional damage to both Council and the Special Committee;
- to pay for any damage inflicted by their use, other than fair wear and tear;
- for user clubs, to contribute to maintenance and specified costs of their facilities.

In the case of an emergency, when it is impracticable to follow the allocation of responsibilities set out below (e.g. after hours and weekends), the Special Committee may arrange repairs necessary to maintain the safe operations of the premises performed by a Council approved contractor. Any actions taken in an emergency must be reported in writing to Council's Infrastructure Management Facility and Fleet Unit at the commencement of the next business day.

Council will acknowledge receipt of all CRM requests within 24 hours of receipt, and provide an estimated response time.

Council will ensure that the Special Committee's nominated contact person is consulted about major repairs and given reasonable notice whenever it is proposed that a contractor will enter the Facility to undertake work.

Council will provide to the Special Committee, at each meeting, a summary of reports made through CRM relating to the premises, and the current status of Council's response to each report.

Council will provide to the Special Committee its annual maintenance and works plan at the commencement of the financial year and will consult with the Special Committee on implementation and any changes.

ITEM (if applicable)	SPECIAL COMMITTEE RESPONSIBILITY	USER GROUP RESPONSIBILITY	COUNCIL'S RESPONSIBILITY
CRM = Customer Request Management. Council's customer request and fault / incident reporting system			
BUILDING MAINTENANCE			
Air Conditioning and/or Heating and Cooling Systems	<ul style="list-style-type: none"> • Any additional units to the standard provision for community buildings 		<ul style="list-style-type: none"> • Replacement of existing units at the end of their economic life • Service and repair when required of all units.
Appliances - permanent appliances, direct wired to main switchboard or substantial appliances as noted in this appendix or otherwise agreed by Council e.g. Dishwashers, ovens, stoves, exhaust fans, ceiling fans, industrial microwave ovens, combi steamer	<ul style="list-style-type: none"> • Repair and/or replace if damaged through Lessee abuse. • Report faults to Council via CRM • Ensure appliances are switched off prior to vacating premises. 	<ul style="list-style-type: none"> • Cost of repair or replacement if damaged through abuse • Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> • Repair and replace when required, subject to Council assessment. • Additional appliances. Testing and Tagging in accordance with AS 3760
Appliances – not supplied by Council i.e. minor white goods or equipment such as refrigerator, washing machine, clothes dryer, freezer, toasters, urns, microwaves	<ul style="list-style-type: none"> • Service and maintenance costs. • Replacement costs. • Ensure appliances are switched off prior to vacating premises 	<ul style="list-style-type: none"> • Cost of repair or replacement if damaged through abuse <p>Report faults to Special Committee</p>	<ul style="list-style-type: none"> • Testing and Tagging in accordance with AS 3760

ITEM (if applicable)	SPECIAL COMMITTEE RESPONSIBILITY	USER GROUP RESPONSIBILITY	COUNCIL'S RESPONSIBILITY
CRM = Customer Request Management. Council's customer request and fault / incident reporting system			
Bar / Beverage Dispensing Equipment (i.e. beer and post-mix on tap)	<ul style="list-style-type: none"> ▪ Service and maintenance costs 	<ul style="list-style-type: none"> ▪ Maintenance of gas supply to dispenser ▪ Payment of, or contribution to, maintenance and replacement costs in accordance with user agreement 	<ul style="list-style-type: none"> ▪ Initial installation associated with new or redeveloped facilities ▪ Replacement of existing units at the end of its economic life
Building Alterations	<ul style="list-style-type: none"> ▪ Seek Council approval for any alteration to buildings – external and internal ▪ Determine and document any specific requests to Council for building alterations and other capital improvements. ▪ Not to undertake any work unless prior written approval by Council. 	<ul style="list-style-type: none"> ▪ Seek written approval from Special Committee before approaching Council for consideration 	<ul style="list-style-type: none"> ▪ Assess all requests as submitted ▪ If approved, ensure satisfactory completion of works
Building, General	<ul style="list-style-type: none"> ▪ Notify Council of any damage requiring rectification ▪ Assist Council to make insurance claims as appropriate ▪ Promulgate standards of use to user groups, and make reasonable efforts to enforce compliance ▪ undertake Reimburse Council for the cost of repairs resulting from inappropriate activity for which it is directly responsible as reasonably determined by Council ▪ Ensure all internal and external doors and windows are locked before leaving ▪ Ensure all heating, lighting and appliances are switched off when leaving 	<ul style="list-style-type: none"> ▪ Notify Special Committee of any damage requiring rectification. ▪ Repairs resulting from inappropriate activity by the user group as reasonably determined by Council in consultation with Special Committee. ▪ Ensure all internal and external doors and windows are locked before leaving ▪ Report any breakages resulting from user group activities to Council immediately. Club to meet all repair costs. ▪ Ensure all heating, lighting and appliances are switched off when leaving 	<ul style="list-style-type: none"> ▪ Ensure satisfactory completion of approved works. ▪ Undertake works required to ensure the Premises meet appropriate standards or regulations. ▪ Assess all requests submitted. ▪ Remove graffiti from external areas ▪ Arrange any repairs required due to vandalism.
Ceiling	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Major repair and/or replacement due to structural faults/age. ▪ Cost of routine repairs and painting
Cleaning	<ul style="list-style-type: none"> ▪ Ensure Facility is maintained in a clean and hygienic state ▪ Ensure premises are left clean and tidy after use 	<ul style="list-style-type: none"> ▪ Ensure premises are left clean and tidy after use ▪ Clean internal sports rooms including showers and toilets 	<ul style="list-style-type: none"> ▪ Ensure that reasonable standards are maintained. ▪ Undertake regular programmed cleaning of premises, internal and external ▪ Maintain external public toilet in a clean and hygienic state
Club Equipment		<ul style="list-style-type: none"> ▪ Maintenance and replacement 	

ITEM (if applicable)	SPECIAL COMMITTEE RESPONSIBILITY	USER GROUP RESPONSIBILITY	COUNCIL'S RESPONSIBILITY
CRM = Customer Request Management. Council's customer request and fault / incident reporting system			
Contractors	<ul style="list-style-type: none"> ▪ Notify Council for pre-approval before works commence 	<ul style="list-style-type: none"> ▪ Inform Special Committee of any works required 	<ul style="list-style-type: none"> ▪ Supervised by Council Nominated Officer ▪ Notify COM at least 7 days in advance of works commencing unless urgent circumstances apply
Curtains, Drapes and Blinds	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Periodic cleaning ▪ Cost of routine repairs
Electrical Wiring, Fittings and Lights test and tag compliance			<ul style="list-style-type: none"> ▪ Repair or replacement of all electrical components. ▪ Provision of electrical safety switches to switchboards. ▪ Test and Tag compliance ▪ Supply and replacement of light globes
Emergency Exit Plans and Procedures	<ul style="list-style-type: none"> ▪ Ensure Plans and procedures are known to all user groups 		<ul style="list-style-type: none"> ▪ Provide and maintain.
Emergency Lighting	<ul style="list-style-type: none"> ▪ Report to Council if not operational via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Annual replacement of light globes. ▪ Compliance inspections and annual BCA essential safety measures testing ▪ All maintenance and repair as required
Exit Doors	<ul style="list-style-type: none"> ▪ Maintain a clear path of travel ▪ Report faults to Council via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Undertake 3 monthly inspections. (ESM Regulations).
Fire Alarm System	<ul style="list-style-type: none"> ▪ Recovery of any costs associated with abuse by user group ▪ Recovery of any costs of false alarms as a result of action of the user groups. 	<ul style="list-style-type: none"> ▪ Payment of any costs associated with abuse by user group ▪ Payment of any costs of false alarms as a result of action of the user groups. 	<ul style="list-style-type: none"> ▪ Replacement of batteries to stand alone smoke detectors on a 12 monthly basis.
Fire Extinguishers and other fire suppression equipment	<ul style="list-style-type: none"> ▪ Recovery of cost of fill if discharged due to misuse. ▪ Report defects or loss. ▪ Replace if stolen or lost except in the case of burglary of the Premises. ▪ Maintain clear access. 	<ul style="list-style-type: none"> ▪ Payment of cost of fill if discharged due to misuse. 	<ul style="list-style-type: none"> ▪ Additional units if assessed by Council as required. ▪ Replacement on expiry date. ▪ Service inspection and maintenance charge ▪ Undertake 6 monthly inspections. (ESM Regulations).
Floor Surfaces – Carpet and Vinyl	<ul style="list-style-type: none"> ▪ Cleaning of all floor surfaces and coverings 	<ul style="list-style-type: none"> ▪ Cleaning after all functions ▪ Payment of costs of repair and replacement due to negligent damage by the user group 	<ul style="list-style-type: none"> ▪ Provide Contract Cleaners

ITEM (if applicable)	SPECIAL COMMITTEE RESPONSIBILITY	USER GROUP RESPONSIBILITY	COUNCIL'S RESPONSIBILITY
CRM = Customer Request Management. Council's customer request and fault / incident reporting system			
Floor Surfaces - Timber	<ul style="list-style-type: none"> • Cleaning of all floor surfaces and coverings. • Report faults to Council via CRM 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group 	<ul style="list-style-type: none"> • Repair and/or replacement at the end of their economic life. • Sealant of timber floors as per Council's Maintenance schedule
Flyscreens	<ul style="list-style-type: none"> • Recovery of costs of repair and replacement due to negligent damage by the user group • Report faults to Council via CRM 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> • Install fly screens if required under regulation. • All maintenance and repair as required
Food Preparation Areas / Kitchens	<ul style="list-style-type: none"> • Ensure food handling equipment/ area is in a hygienic condition so as to comply with regulations • Report faults to Council via CRM 	<ul style="list-style-type: none"> • Ensure all appropriate food handling licenses are obtained and complied with • Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> • Quarterly Audits and liaise with Special Committee over any issues
General joinery, doors, cupboards etc.	<ul style="list-style-type: none"> • Recovery of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM 	<ul style="list-style-type: none"> • Replacement due to age, structural defect or vandalism, subject to Council assessment. • All maintenance and repair as required.
Glass and Glazing	<ul style="list-style-type: none"> • Recovery of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM • Ensure building is secure • Assist Council to make appropriate insurance claims 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM with copy to Special Committee • Ensure building is secure 	<ul style="list-style-type: none"> • Replacement due to breakage as result of all other actions or events.
Intercom Communication System	<ul style="list-style-type: none"> • Service/maintenance charges. • Up-grade or replacement. • Usage 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM with copy to Special Committee 	
Keys and Locks	<ul style="list-style-type: none"> • Provide Site specific input • Replacement of lock/additional locks if required for security. • Additional keys supplied by Council above agree allocated amount at users cost. • Report to Council if not operational via CRM 	<ul style="list-style-type: none"> • Report faults to Council via CRM with copy to Special Committee • Payment of costs of replacement keys • Payment of cost of repair and replacement of lock if due to user group abuse 	<ul style="list-style-type: none"> • All maintenance and repair as required • Ensure locks are on Council's key system • ensure the Special Committee has access to all areas of the Facility necessary to fulfil its management responsibilities
Notice Boards	<ul style="list-style-type: none"> • Provide and maintain units. • Locate units in locations as approved by Council. 		

ITEM (if applicable)	SPECIAL COMMITTEE RESPONSIBILITY	USER GROUP RESPONSIBILITY	COUNCIL'S RESPONSIBILITY
CRM = Customer Request Management. Council's customer request and fault / incident reporting system			
Painting and Plaster	<ul style="list-style-type: none"> • Costs to re-paint internally if damage result of misuse by user group 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> • Internal and external as per Council cyclic program
Plumbing	<ul style="list-style-type: none"> • Report to Council if not operational via CRM • Cost of Trade trade waste trap cleaning 	<ul style="list-style-type: none"> • Payment of costs of repair and replacement due to negligent damage by the user group. • Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> • Repair and replace when required, subject to Council assessment. • Replacement of tap washers. • Cleaning of blocked toilets and blocked property sewerage pipes • Drainage repairs/works, including broken sewerage pipes, drains and pits. • Stormwater maintenance • Trade Waste Trap cleaning
Roof, Spouting and Downpipes	<ul style="list-style-type: none"> • Report faults to Council via CRM 		<ul style="list-style-type: none"> • Repair and replace when required, subject to Council assessment. • Gutter cleaning program
Security Alarm System	<ul style="list-style-type: none"> • Seek approval in writing from Council prior to installation. • Meet system and operating costs. • Manage usage of the system. • Provide security system details to Council. • Costs of any calls out and service costs where no misuse. 	<ul style="list-style-type: none"> • Costs of any calls out and service costs due to misuse 	<ul style="list-style-type: none"> • Install, maintain and replace systems.
Security Patrol Services (at discretion of Council)	<ul style="list-style-type: none"> • Call out and emergency service costs as a result of misuse 	<ul style="list-style-type: none"> • Call out and emergency service costs as a result of misuse 	<ul style="list-style-type: none"> • Security patrol services
Signage - Advertising	<ul style="list-style-type: none"> • Written approval of sign • Oversee maintenance of advertising signs where written Council approval has been given for erection 	<ul style="list-style-type: none"> • Maintenance of advertising signs where written approval of Council and Special Committee has been given for erection 	<ul style="list-style-type: none"> • Written approval for sign
Signage - Internal	<ul style="list-style-type: none"> • Additional signage as required and as approved by Council, including directional and operational signage 		<ul style="list-style-type: none"> • Ensure that reasonable standards are maintained.
Signage - External	<ul style="list-style-type: none"> • Ensure no signage installed without approval by Council 		<ul style="list-style-type: none"> • Additional signage as required and as approved by Council. • Initial identification signage to be provided by Council. • Replacement or maintenance of initial signage.
Skylights	<ul style="list-style-type: none"> • Report faults to Council via CRM 	<ul style="list-style-type: none"> • Report faults to COM via CRM with copy to Special Committee 	<ul style="list-style-type: none"> • Repairs when required

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Smoke Detectors	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Service inspection and maintenance ▪ Undertake 6 monthly inspections. (ESM Regulations). ▪ Change batteries 12 monthly for portable unit
Telecommunications systems (fax, photocopier, telephones, printers, computers, and modems)	<ul style="list-style-type: none"> ▪ Service and maintenance outgoings. ▪ Replacement costs. 	<ul style="list-style-type: none"> ▪ Payment of costs of repair and replacement due to negligent damage by the user group. 	
Walls - External	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM 		<ul style="list-style-type: none"> ▪ Repair and replace when required, subject to Council assessment. ▪ Cost of routine repairs and painting
Walls - Internal	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Major repair and/or replacement due to structural faults/age. ▪ Cost of routine repairs and painting
Waste Disposal	<ul style="list-style-type: none"> ▪ Additional removal of hard rubbish above standard domestic waste service, ▪ Additional domestic waste handling including events and bulk waste associated with pavilion operations ▪ Recovery of cost for provision of sanitary services 	<ul style="list-style-type: none"> ▪ Includes removal of strapping tape following training and match days ▪ Litter removal from buildings, grounds & surrounds and placement of bins at collection points 	<ul style="list-style-type: none"> ▪ Provide domestic garbage and recycling service, as per standard Council residential waste program ▪ Provision of sanitary services
GROUND MAINTENANCE			
Car Parks	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Repaint existing line markings ▪ Maintain existing surfaces in safety operational condition

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Cricket Wickets	<ul style="list-style-type: none"> ▪ Advise Council of maintenance needs ▪ Cost of repairs and replacement of hard wicket surface (not concrete structure) 	<ul style="list-style-type: none"> ▪ General maintenance as required. ▪ Payment of costs associated with hard wicket covering and uncovering (rubber granule infill or cover) ▪ Payment of costs associated with repair and replacement of covers ▪ Uncover and cover wicket at start and end of season (liaise with opposite season user group) 	<ul style="list-style-type: none"> ▪ Arrange any repairs other than general maintenance, including due to vandalism or unintentional damage ▪ Initial installation ▪ Replace hard wicket concrete structure at end of life ▪ Maintain wicket edges as required
Cricket Practice nets	<ul style="list-style-type: none"> ▪ Advise Council of maintenance needs 	<ul style="list-style-type: none"> ▪ General maintenance as required ▪ Uncover and cover wicket at start and end of season (liaise with opposite season user group) ▪ Cost of repairs and replacement of hard wicket surface (not concrete structure) 	<ul style="list-style-type: none"> ▪ Arrange any repairs required due to vandalism ▪ Initial installation
Coaches boxes	<ul style="list-style-type: none"> ▪ Replacement 	<ul style="list-style-type: none"> ▪ General maintenance including cleaning as required ▪ Cost of repair of negligent or wilful damage 	<ul style="list-style-type: none"> ▪ Arrange repairs due to vandalism and major repairs and maintenance
Fences other than advertising signs			<ul style="list-style-type: none"> ▪ General maintenance & replacement
Goal Posts	<ul style="list-style-type: none"> ▪ General maintenance as required 	<ul style="list-style-type: none"> ▪ Replacement of padding as required 	<ul style="list-style-type: none"> ▪ Replace if breakage occurs from external source (vandalism) ▪ Cost of repairs and replacement
Grounds and Surrounds (horticulture)	<ul style="list-style-type: none"> ▪ Determine and document any specific requests to Council for alterations to shelters / structures and other capital improvements. ▪ Shall not plant or remove trees without Council approval and consultation. 	<ul style="list-style-type: none"> ▪ Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> ▪ Fencing to comply with regulatory requirements ▪ Remove graffiti from external structures. ▪ Undertake general tree maintenance to meet safety regulations ▪ Maintain automatic irrigation system ▪ Define and oversee standards in collaboration with Special Committee ▪ Major pruning (branches greater than 100mm diameter) or any tree removal ▪ Repair and replacement of existing pavements to pathways, driveway etc. ▪ Maintain all grounds associated with building

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Line Markings (e.g. ovals, tennis and netball courts, synthetic turf)	<ul style="list-style-type: none"> General maintenance as required 	<ul style="list-style-type: none"> Line mark oval (football and cricket clubs) Cost of repairs and replacement Ensure line-marking meets regulatory requirements 	
Ovals including Irrigation control	<ul style="list-style-type: none"> Advise Council if maintenance is required via CRM 	<ul style="list-style-type: none"> Report faults to Council via CRM with copy to Special Committee 	<ul style="list-style-type: none"> Fully maintain (i.e. mowing, seeding, fertilising, aerbing) Top dress, fertilise and seed grassed areas as Council deems necessary In collaboration with Special Committee, close grounds if considered unfit for use due to damage or vandalism
Pest Control	<ul style="list-style-type: none"> Maintain a clean and hygienic Facility Advise Council if action is required 		
Resurfacing courts	<ul style="list-style-type: none"> Advise Council of resurfacing needs 		<ul style="list-style-type: none"> Repairs required due to vandalism Cost of repairs and replacement
Scoreboard	<ul style="list-style-type: none"> General maintenance as required 		<ul style="list-style-type: none"> Arrange repairs due to vandalism
Training and Competition Lights	<ul style="list-style-type: none"> Recovery of Utility usage costs and cost of globe replacement via reserve user agreements 	<ul style="list-style-type: none"> Payment of utility usage costs and globe replacement per reserve user agreement 	<ul style="list-style-type: none"> Structural repairs Maintenance Globe replacement including associated fitting costs
OPERATIONAL TASKS			
Facility Bookings			<ul style="list-style-type: none"> Council to receive Facility bookings and send Special Committee updated bookings schedule including details of users for billing purposes
Facility Booking Invoicing	<ul style="list-style-type: none"> Special Committee to invoice debtors 		
Provision of playing fixtures	<ul style="list-style-type: none"> Special Committee to provide Council with playing fixtures for each user group 		
Utility charges including and but not restricted to water rates, sewerage charges, electricity and gas.			<ul style="list-style-type: none"> Council to pay utility costs

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Induct Committee members			• Council to appoint and induct new committee members

Close: There being no further items of business the meeting closed at: