



# **COUNCIL MEETING**

## **AGENDA**

**Wednesday 12 July 2023**

**Commencing at 7:00pm**

**Wycheproof Supper Room**

**367 Broadway, Wycheproof**

**Wayne O'Toole  
Chief Executive Officer  
Buloke Shire Council**

## **ORDER OF BUSINESS**

### **1. COUNCIL WELCOME AND STATEMENT OF ACKNOWLEDGEMENT**

#### **WELCOME**

The Mayor Cr Alan Getley will welcome all in attendance.

#### **STATEMENT OF ACKNOWLEDGEMENT**

The Mayor Cr Alan Getley will acknowledge the traditional owners of the land on which we are meeting and pay our respects to their Elders and to the Elders from other communities who maybe here today.

### **2. RECEIPT OF APOLOGIES**

### **3. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

#### **RECOMMENDATION:**

That Council adopt the Minutes of the Council Meeting held on Wednesday, 14 June 2023 and Council adopt the Minutes of the Council Meeting held on Tuesday, 27 June 2023.

### **4. REQUESTS FOR LEAVE OF ABSENCE**

### **5. DECLARATION OF PECUNIARY AND CONFLICTS OF INTEREST**

In accordance with Section 130 (2) of the Local Government Act 2020 Councillors who have a conflict of interest in respect of a matter being considered at this Meeting, must

- a) Disclose the conflict of interest in the manner required by the Council's Governance Rules 2020; and
- a) Exclude themselves from the decision making process in relation to that matter, including any discussion or vote on the matter at any Council meeting or delegated committee, and any action in relation to the matter.

Disclosure must occur immediately before the matter is considered or discussed.

### **6. QUESTIONS FROM THE PUBLIC**

NIL

### **7. PROCEDURAL ITEMS**

7.1	REPORT OF COUNCILLOR ASSEMBLIES	5
7.2	CORRESPONDENCE INITIATED BY COUNCIL	10
7.3	LETTERS OF CONGRATULATIONS AND RECOGNITION OF ACHIEVEMENT/AWARDS	11
7.4	BUILDING PERMITS - MONTHLY UPDATE	13
7.5	PLANNING APPLICATIONS RECEIVED - MONTHLY UPDATE	14
7.6	STATUS OF ACTION OF PAST COUNCIL MEETING RESOLUTIONS	15

### **8. GENERAL BUSINESS**

8.1	POLICY REPORTS	22
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NIL	
<b>8.2 MANAGEMENT REPORTS</b>	<b>23</b>
8.2.1 INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER	23
8.2.2 CONSIDERATION OF LICENCE FOR COMMUNITY ENGAGEMENT - FAST CITIES AUSTRALIA PTY LTD TRADING AS EVIE NETWORKS - DONALD EV CHARGING STATION	28
8.2.3 PLANNING PERMIT APPLICATION PA23013 - 5 LOT SUBDIVISION OF LAND - 37 HANNON STREET, SEA LAKE	52
8.2.4 PLANNING PERMIT APPLICATION 928/21 – USE AND DEVELOPMENT OF LAND FOR A SERVICE STATION (FUEL CELL) – 2 CAMPBELL STREET, BIRCHIP	66
<b>8.3 FINANCIAL REPORTS</b>	<b>80</b>
NIL	
<b>8.4 ORGANISATIONAL REPORTS</b>	<b>81</b>
8.4.1 COUNCIL PLAN 2021-2025 - YEAR 2 ANNUAL PLAN REVIEW	81
<b>8.5 REPORTS FROM COUNCILLORS</b>	<b>91</b>
NIL	
<b>9. OTHER BUSINESS</b>	
<b>9.1 NOTICES OF MOTION</b>	<b>92</b>
NIL	
<b>9.2 QUESTIONS FROM COUNCILLORS</b>	<b>92</b>
NIL	
<b>9.3 URGENT BUSINESS</b>	<b>92</b>
NIL	
<b>9.4 ANY OTHER BUSINESS</b>	<b>92</b>
<b>9.5 MATTERS WHICH MAY EXCLUDE THE PUBLIC</b>	<b>92</b>
NIL	
<b>10. MEETING CLOSE</b>	

#### NEXT MEETING

THE NEXT MEETING OF COUNCIL WILL BE HELD IN WYCHEPROOF SUPPER ROOM, 367 BROADWAY, WYCHEPROOF ON WEDNESDAY, 9 AUGUST 2023 AT 7:00PM.

**Wayne O'Toole**  
**CHIEF EXECUTIVE OFFICER**

**6. QUESTIONS FROM THE PUBLIC**

Nil



**7. PROCEDURAL ITEMS****7.1 REPORT OF COUNCILLOR ASSEMBLIES**

**Author's Title:** Executive Assistant

**Department:** Office of the CEO

**File No:** GO/05/04

**RECOMMENDATION**

That the Council note the report of Councillor Assembly Meetings held 7 and 21 June 2023.

**Attachments:** 1 [Councillor Briefing Record - 7 June 2023](#)  
2 [Councillor Briefing Record - 21 June 2023](#)

**KEY POINTS/ISSUES**

Transparency is a fundamental principle of democratic governance.

The Local Government Act 2020 (The Act) Section 9 (2) (i) provides that the transparency of Council decisions, actions and information is to be ensured.

In accordance with Section 57 of The Act, Council at its September 2020 Ordinary Meeting, adopted a Public Transparency policy, designed to improve public transparency in Council's decision-making processes and to assist the community in understanding the information that is accessible to them.

As per the Council Meeting Schedule adopted 9 November 2022, Councillor Briefings are held for Councillors to meet to consider matters that are likely to be the subject of a Council decision or for the exercise of delegation.

A record of the Councillor Briefings held on 7 and 21 June 2023 is attached for public information.



## Councillor Briefing Record

*Build a Better Buloke – a healthy, connected, inclusive and prosperous community*

<b>Date:</b>	7 June 2023	<b>Time</b>	5:00pm – 8:00pm
<b>Location:</b>	Birchip District Office – Council Chambers		
<b>Attendees:</b>	Cr Getley, Cr Milne, Cr Warren, Cr Simpson, Cr Pollard, Cr Hogan, Wayne O'Toole, Hannah Yu, Michelle Stedman and Travis Fitzgibbon.		
<b>Apologies:</b>	Cr Stewart		
<b>Acknowledgement of Country:</b>	The Mayor will acknowledge the traditional owners of the land on which we are meeting and pay our respects to their Elders and to the Elders from other communities who maybe here today.		
<b>Conflicts of Interest:</b>	Nil.		

### ITEMS

NO.	MATTER FOR DISCUSSION
1.	<b>Councillor Only Time 5:00pm</b>
2.	<b>Confirmation of Councillor Briefing Minutes – 17 May 2023</b>
3.	<b>Presentations</b>
3.1	Birchip Forum (declined invitation)
3.2	Flood Drainage Works – Birchip – Grant Smith <b>5:30pm</b>
3.3	Buloke Planning Scheme – Rodney Hotker and Dept Energy Environment and Climate Action reps - Kelly Wynne and Kate MacDougall <b>6:00pm</b>
3.4	Planning: Mallee Bunker Café – Roslyn Olle and Rodney Hotker <b>6:30pm</b>
3.5	VNI West – Rosanna Lacordia <b>6:50pm</b>
3.6	Budget Submissions Overview – Nathan Cutting <b>7:20pm</b>
3.7	Home Support Update – Jenna Allan and Travis Fitzgibbon <b>7:40pm</b>
3.8	RMP and TAMIP – Trevor Rumbold, Dan McLoughlan, and Hannah Yu <b>7:55pm</b>
4.	<b>Discussion</b>
5.	<b>Councillor Matters</b>
6.	<b>CEO Updates</b>



6.1	Draft Agenda – Council Meeting 14 June 2023
6.2	VLGA
6.3	Charlton Childcare
6.4	Regional Partnerships Update
6.5	VEC Electoral Review
	<b>NEXT BRIEFING</b> 21 June 2023, Wycheproof Supper Room, 5:00pm



## Councillor Briefing Record

*Build a Better Buloke – a healthy, connected, inclusive and prosperous community*

<b>Date:</b>	21 June 2023	<b>Time</b>	5:00pm – 8:00pm
<b>Location:</b>	Wycheproof Supper Room		
<b>Attendees:</b>	Mayor Getley, Cr Warren, Cr Hogan, Cr Milne, Cr Simpson. Staff; Michelle Stedman, Andrew Rose, Travis Fitzgibbon, Hannah Yu.		
<b>Apologies:</b>	Cr Pollard		
<b>Acknowledgement of Country:</b>	The Mayor acknowledged the traditional owners of the land on which we are meeting and pay our respects to their Elders and to the Elders from other communities who maybe here today.		
<b>Conflicts of Interest:</b>	Cr Simpson declared a Conflict in respect to the Budget bid for Spraying Weeds at Mt Wycheproof and left the room during discussion in respect to this item.		

### ITEMS

NO.	MATTER FOR DISCUSSION
<b>1.</b>	<b>Councillor and CEO Only Time 5:00pm</b>
<b>2.</b>	<b>Confirmation of Councillor Briefing Minutes – 7 June 2023</b>
<b>3.</b>	<b>Presentations</b>
3.1	Engage Youth Program – Libby Thompson <b>5:30pm</b>
3.2	Wyche Alive Inc. <b>5:45pm</b>
3.3	Vic Health – Rory White <b>6:05pm</b>
3.4	Public Budget Submissions Discussion – Nathan Cutting <b>6:25pm</b>
3.5	Monthly Capital Project Update – Trevor Rumbold (see separate attachment) <b>6:55pm</b>
3.6	Container Deposit Scheme – Trevor Rumbold <b>7:10pm</b>
3.7	RMP and TAMP – Dan McLoughlan and Hannah Yu <b>7:15pm</b>
3.8	Annual Plan Year 3 – Travis Fitzgibbon and Michelle Stedman <b>7.45pm</b>
3.9	Community Grants Guidelines – Jenna Allan <b>8:05pm</b>
3.10	Customer Service Charter – Jo Postlethwaite <b>(Item Deferred)</b>
<b>4.</b>	<b>Discussion</b>
<b>5.</b>	<b>Councillor Matters</b>
<b>6.</b>	<b>CEO Updates</b>
6.1	Draft Agenda – Special Meeting 27 June 2023



6.2	ALGA National Assembly - Canberra
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**NEXT BRIEFING**

4 July 2023, Mary MacKillop Room at St Mary's Primary School, Sea Lake 5:00pm

## 7.2 CORRESPONDENCE INITIATED BY COUNCIL

**Author's Title:** Executive Assistant

**Department:** Office of the CEO

**File No:** GO/06/06

### PURPOSE

This report notes and records correspondence initiated by Council and informs the Council of the responses received from this correspondence.

### RECOMMENDATION

That the Council notes the record of correspondence initiated by Council and the responses received.

**Attachments:** Nil

### TABLE OF CORRESPONDENCE

Council Initiative	Sent to	Sent	Response	Purpose of Letter/Response
Concerns over the closure of Bendigo Bank – Sea Lake Branch	Marnie Baker, Chief Exec Officer Head Office Bendigo & Adelaide Bank	18.04.2023		Letter sent to find out what the Bank's intentions are and if they would consider continuing provision of service to the Sea Lake community.
VNI West Proposed Transmission Line	Write to: Minister for Climate Action, Energy and Resources;  State Electricity Commission; and  CEO of Australia Energy Market Operator	12.05.2023		Imploring them to: 1. Consult with the community in a genuine and deliberative manner, ensuring transparency is at the forefront of all consultation; and 2. Listen in a genuine and sympathetic manner to the concerns of the community and relevant subject matter experts and respond in a respectful and considered fashion.
VNI West Project	Write and advocate to the Minister for Energy & Resources Lilly D'Ambrosio	12.05.2023		To suspend the installation of the VNI West Project within the Buloke Shire, and implore her to consult in a genuine and open manner to those to be potentially impacted by the installation of the proposed project.

### 7.3 LETTERS OF CONGRATULATIONS AND RECOGNITION OF ACHIEVEMENT/AWARDS

**Author's Title:** Executive Assistant

**Department:** Office of the CEO

**File No:** CR/13/01

#### PURPOSE

This report acknowledges and congratulates community persons and/or groups for their success in being recognised for a significant achievement or for being a recipient of an honourable award.

The report also informs Council of any letters of congratulations or any recognition of achievement that Council has received or been awarded in the past month.

#### RECOMMENDATION

That the Council acknowledge and congratulate the persons and/or groups mentioned in the report for their achievements.

**Attachments:** Nil

#### RECOGNITION OF ACHIEVEMENT ITEMS

Provider	Recipient	Date	Purpose for Recognition
Buloke Times	Shane O'Shea Donald		For his retirement after providing 51 years of professional, dedicated and extremely loyal service as a journalist and reporter for the Buloke Times.
SuniTAFE Graduation and Awards Ceremony 2023	Blair Hogan Birchip		Following on from 2022, being awarded SuniTAFE's Outstanding Third Year Student in Engineering – Fabrication Trade Blair was then eligible for consideration for Outstanding Apprentice over all trades, at the 2023 Ceremony. It was at this Ceremony he was awarded 3 <sup>rd</sup> year Apprentice of the Year Award as outstanding apprentice over all trades for the third year.
Governor General King's Birthday 2023 Honours List The General Division of the Order of Australia	Dr Andrew Barling OAM Former Birchip resident	11.6.23	For being awarded a Medal from the General Division of the Order of Australia (OAM), for his service to community health and for the establishment of the OTIS foundation. (a charity dedicated to providing retreat accommodation in every state of Australia for patients dealing with breast cancer).

<b>Provider</b>	<b>Recipient</b>	<b>Date</b>	<b>Purpose for Recognition</b>
Royal Australian Air Force Headquarters Air Academy (HQ AirA) Personnel	RAAF Wing Commander (WGCDR) Garry McKee Formally from Charlton	5.5.23	At the Royal Australian Air Force East Sale Circle the (HQ AirA) personnel gathered to celebrate the significant service and diverse career of (WGCDR) Garry McKee for his 45 years milestone of service and receiving his sixth clasp to his Defence Long Service Medal.
Special Olympics World Games in Berlin	Sophie Nichols Watchem	17 to 25.6.23	Having competed and winning her level in October 2022 at the Special Olympics Australia, Sophie subsequently received an offer to join the Australian team for the Special Olympic World Games in Berlin. Competing against 28 other people, awarded the overall gold for her division. Also awarded gold for floor, silver for vault, fourth for beam and fifth for bars – an outstanding effort!



## 7.4 BUILDING PERMITS - MONTHLY UPDATE

**Author's Title:** Statutory Administration Support

**Department:** Community Development

**File No:** DB/14/01

### EXECUTIVE SUMMARY

This report provides information on Building Permits approved by staff from 1 June 2023 to 30 June 2023.

### RECOMMENDATION

That the Council note information contained in the report on Building Permits approved by staff from 1 June 2023 to 30 June 2023.

**Attachments:** Nil

### LIST OF BUILDING PERMITS APPROVED BY COUNCIL SURVEYOR

Council Ref.	Address	Project Description	Date Approved
20230009	Galaquil East Road Wilkur VIC 3393	Replacement of existing pool and safety barrier fencing	26/6/2023
20230011	Armstrong Street Charlton VIC 3525	Demolition of existing dwelling and outbuilding	8/6/2023
20230012	Birchip - Sea Lake Road Marlbed VIC 3483	Demolition of a building	22/6/2023

### LIST OF BUILDING PERMITS APPROVED BY PRIVATE BUILDING SURVEYOR

Council Ref.	Address	Project Description	Date Approved
PBLD23081	Edgecumbe Road Nyarrin VIC 3533	Machinery Shed	1/6/2023
PBLD23082	Calder Highway Sea Lake VIC 3533	Machinery Shed	1/6/2023
PBLD23083	Corack Road Donald VIC 3480	Verandah	8/6/2023
PBLD23086	Taylors Road Kinnabulla VIC 3483	Farm Shed	8/6/2023
PBLD23087	Corack Road Birchip VIC 3483	Construction of a shed	14/6/2023
PBLD23088	Mcgarrys Road Ninda VIC 3593	Shed	19/6/2023
PBLD23091	McPhees Road Watchupga VIC 3485	Farm Shed	23/6/2023
PBLD23092	Abbott Street Birchip VIC 3483	Construction of a dwelling with attached garage	19/6/2023

## 7.5 PLANNING APPLICATIONS RECEIVED - MONTHLY UPDATE

**Author's Title:** Planning Officer

**Department:** Community Development

**File No:** LP/09/01

### PURPOSE

This report provides information on planning applications under consideration by staff and the status of each of these applications.

### RECOMMENDATION

That the Council note information contained in the report on planning applications under consideration by staff and the status of each of these applications.

**Attachments:** Nil

### LIST OF PLANNING APPLICATIONS

Application No	Address	Date Rec	Summary of Proposal	Status
PA23010	Broadway, Wycheproof	16/01/2023	Six-lot subdivision of land and the development of land for six dwellings	Objection
PA23013	Hannon Street, Sea Lake	06/02/2023	Five-lot subdivision of land	Report to Council
PA23019	Borong Highway, Gil Gil	22/03/2023	Place of Assembly (Events Centre)	Request for Further Information
PA23020	Church Street, Culgoa	10/05/2023	Use and development of land for a transfer station (install an RV dump point and septic holding tank)	Referral
PPA928/21	Campbell Street, Birchip	14/02/2023	Development of land for a service station (fuel cell), construct and display a business identification sign and alter access to a Road Zone, Category 1	Report to Council
PA23021	Lalbert Road, Culgoa	08/06/2023	Two-lot subdivision of land (boundary re-alignment)	Notice of Application Referral
PA23022	Blue Allans Road, Sea Lake	21/06/2023	Two-lot subdivision of land (dwelling excision)	Notice of Application Referral

The information published in the list provided, is in accordance with the *Privacy and Data Protection Act 2014* and the *Planning and Environment Act 1987*.

## 7.6 STATUS OF ACTION OF PAST COUNCIL MEETING RESOLUTIONS

**Author's Title:** Executive Assistant

**Department:** Office of the CEO

**File No:** GO/05/04

### PURPOSE

To provide Council with a list of the Status of Action (SOA) of Council Resolutions outstanding for completion of action, and the SOA for the 14 June 2023 Council Meeting and 27 June 2023 Special Meeting Resolutions.

### RECOMMENDATION

Council to note the Status of Action Report for Council resolutions documented on this list.

**Attachments:** 1 [↓](#) Actions Taken on Council Resolutions - On Outstanding items and 14 June 2023 Council Meeting and 27 June 2023 Special Meeting

### KEY POINTS/ISSUES

The Local Government Act 2020 (The Act) Section 9 (2) (i) provides that the transparency of Council decisions, actions and information is to be ensured.

In accordance with the Council's Governance Rules adopted August 2022, Council decisions are to be made and actions taken in accordance with the relevant law.

The transparency of Council decisions, actions and information is to be ensured and is a fundamental principle of democratic governance.

Attached to this report for public information is a list of the SOA of Council Resolutions outstanding for completion of action, and introducing the SOA for the 14 June 2023 Council Meeting and 27 June 2023 Special Meeting Resolutions.

**Summary of Action on Council Resolutions – Outstanding Previous Months Items to 27 June 2023 Council Meeting**

D Comm D Date	Directorate	Item	Resolution/Question	Actioning Officer/s	Status of Action	Complete or Commenced
27062023	Infra and Delivery	4.1.1	That the Council:  1. Proposes to make the Saleyards Precinct Local Law No. 15 2023; and  2. Gives notice of its intention to make the Saleyards Precinct Local Law No. 15 to the community in accordance with the Council's Community Engagement Policy.	D Infra & Del		
27062023	Corp & Org Perf	4.2.1	That Council, having complied with its obligations under the <i>Local Government Act 2020</i> :  <u>Recommendations adopting the budget:</u>  1. Adopts the Buloke Shire Council Annual Budget 2023/24;  2. Includes within the Annual Budget 2023/24 adjustments identified from the Draft Annual Budget to the Income Statement, Balance Sheet, Statement of Human Resources, and User Fees and Charges, as outlined in this Report;  3. Acknowledges the contributions made to the budget planning process by members of the community and thanks them for input;  4. Allocates up to \$15,000 from its 2023/24 Design Support program to support a funding agreement as detailed in this Report with the Birchip Early Centre Parents Advisory Group Committee. This funding will provide for the development of a feasibility study on improvements and service expansion of the Birchip Early Learning Centre;  5. Authorises the Director Corporate and Organisational Performance on behalf of Council to provide a formal response to community members that have provided a submission to the Draft Annual Budget in line with the contents of this Report;			

Tabled 12 July 2023 Council Meeting

**Summary of Action on Council Resolutions – Outstanding Previous Months Items to 27 June 2023 Council Meeting**

		<p><u>Recommendations declaring rates and charges:</u></p> <p>6. Declares an amount of \$14.79M which Council intends to raise by General Rates and Annual Service Charges for the period 1 July 2023 – 30 June 2024 calculated as follows:</p> <p>(a) General Rates (including estimated supplementary rates) \$12.54M;</p> <p>(b) Municipal Charges \$783,000; and</p> <p>(c) Annual Service Charges \$1.48M;</p> <p>(d) With the above including:</p> <p>i. The rate in the dollar for each type of rate to be levied for the period as follows:</p> <table><tr><th>Type of Rate</th><th>Cents in \$ on CIV</th></tr><tr><td>Rateable residential properties</td><td>0.517026</td></tr><tr><td>Rateable commercial and industrial properties</td><td>0.597062</td></tr><tr><td>Rateable farming properties</td><td>0.272224</td></tr></table> <p>ii. A Municipal Charge of \$175.95 for each rateable assessment in respect of which a Municipal Charge may be levied; and</p> <p>iii. An Annual Service Charge of \$422 for kerbside garbage and recycling collection for the period 1 July 2023 to 30 June 2024;</p> <p>7. Levies the general rates and service charges referred to in this resolution by the service notice on each person liable to pay such rate or charge in accordance with section 158 of the <i>Local Government Act 1989</i>.</p>	Type of Rate	Cents in \$ on CIV	Rateable residential properties	0.517026	Rateable commercial and industrial properties	0.597062	Rateable farming properties	0.272224			
Type of Rate	Cents in \$ on CIV												
Rateable residential properties	0.517026												
Rateable commercial and industrial properties	0.597062												
Rateable farming properties	0.272224												

Tabled 12 July 2023 Council Meeting

**Summary of Action on Council Resolutions – Outstanding Previous Months Items to 27 June 2023 Council Meeting**

			<p>8. In accordance with section 167 of the <i>Local Government Act 1989</i>, the rates and charges declared by the Council for the 2023/24 financial year must be paid as follows:</p> <p>(a) By four instalments made on or before the following dates:</p> <ul style="list-style-type: none"> <li>• Instalment 1 – 30 September 2023;</li> <li>• Instalment 2 – 30 November 2023</li> <li>• Instalment 3 – 28 February 2024; and</li> <li>• Instalment 4 – 31 May 2024;</li> </ul> <p>Or;</p> <p>(b) By a lump sum payment made on or before 15 February 2024.</p> <p>9. Authorises the Chief Executive Officer to levy and recover the general rates and annual service charges in accordance with the <i>Local Government Act 1989</i>; and</p> <p>10. Determines that the proposed fees and charges for the 2023/24 financial year be adopted.</p>			
14062023	CEO Office	7.3	Letters of Congratulations and Recognition of Achievement/Awards.	EA	Letters have been drafted for Mayor's review.	
14062023	Comm Dev	8.2.1	<p>That Council:</p> <p>Having caused notice of Planning Application No. PA23012 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of 32.05-2 of the Buloke Planning Scheme in respect of the land known and described as 6 Main Street, Culgoa (Lot 1 TP751938), for the extension of trading hours in accordance with the endorsed plans, with the application dated 1st February 2023, subject to the following conditions:</p> <p>Draft permit conditions:</p> <p>General conditions</p> <p>1. The use of the land must only occur between the hours of:</p> <ul style="list-style-type: none"> <li>• 6.00am – 6.00pm Monday- Thursday</li> <li>• 7.00am – 10.00pm Friday – Sunday</li> </ul>	D Comm D		

Tabled 12 July 2023 Council Meeting

**Summary of Action on Council Resolutions – Outstanding Previous Months Items to 27 June 2023 Council Meeting**

			<p>unless these hours are varied with the written consent of the responsible authority.</p> <p>Amenity</p> <p>2. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:</p> <p>a) Transport of materials, goods or commodities to or from the land</p> <p>b) Appearance of any building, works or materials</p> <p>c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil</p> <p>d) Presence of vermin, or</p> <p>e) in any other way</p> <p>to the satisfaction of the responsible authority.</p> <p>3. The use and development of the land must not interfere with surrounding existing uses, including residential.</p> <p>Permit expiry</p> <p>This permit will expire if:</p> <ul style="list-style-type: none"> <li>The use does not start within two (2) years of the date of this permit; or</li> <li>The use is discontinued for a period of two (2) years.</li> </ul> <p>In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.</p>			
14062023	Corp and Org Perf	8.2.3	<p>That Council receives and notes each public budget submission made in relation to Buloke Shire Council's Draft Annual Budget 2023/24 as endorsed for advertisement on 10 May 2023.</p> <p>Submitters to be responded to.</p>	D Corp and Org Perf	Submitters to be responded to following adoption of Budget 23/24 if not before.	
07062023	Corp and Org Performance	4.1	<p>That Council approve the interstate travel and its associated costs for Cr Getley's attendance to the Australia Local Government Association (ALGA) - National General Assembly of Local Government to be held 13 June 2023 – 16 June 2023 in Canberra.</p>	EA/Dir Corp and Org P	EA - Declaration of Pecuniary Interest Form provided for Cr Getley's signature.	
07062023	Corp and Org Performance	4.1	<p>That Council approve the interstate travel and its associated costs for Cr Getley's attendance to the Australia Local Government Association (ALGA) - National General Assembly of Local Government to be held 13 June 2023 – 16 June 2023 in Canberra.</p>	EA/Dir Corp and Org P	Governance Officer has recorded the Interstate Travel as required.	Complete.
12042023	Infrastructure and Delivery	8.2.4	<p>That the Council:</p>	DID	Application successful	Complete

Tabled 12 July 2023 Council Meeting

**Summary of Action on Council Resolutions – Outstanding Previous Months Items to 27 June 2023 Council Meeting**

			<ol style="list-style-type: none"> <li>1. Approve a financial co-contribution of \$200,000 from the Grant Opportunity Reserve FY23 for the purposes of a funding application towards the Changing Places Funding Round 2023.</li> <li>2. Delegate authority to the Chief Executive Officer to apply for the Changing Places funding round 2023; and</li> <li>3. Authorises the Chief Executive Officer to sign the funding agreement on behalf of the Council should the application be successful.</li> </ol>			
08022023	Infrastructure and Delivery	8.2.1	<p>That Council:</p> <ol style="list-style-type: none"> <li>1. Notes that following the consultation process in accordance with its Community Engagement Policy, one submission was received to the proposed nine-lot subdivision sale of land at 110 Sutcliffe Street, Sea Lake;</li> <li>2. Sells the nine-lot subdivision surplus land at 110 Sutcliff Street, Sea Lake by private treaty or auction in accordance section 114 of the Local Government Act 2020 and Council's Sale of Land Policy; and</li> <li>3. Authorises the Chief Executive Officer to execute the Transfer of Land documents and any other documents required to affect the sale of the land.</li> </ol>	DID	Letters sent. (Amended following resolution of CM 08032023)	Commenced





**8. GENERAL BUSINESS**

**8.1 POLICY REPORTS**

Nil

## 8.2 MANAGEMENT REPORTS

### 8.2.1 INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER

**Author's Title:** Director Corporate and Organisation Performance

**Department:** Corporate and Organisational Performance **File No:** PE/02/01

**Relevance to Council Plan 2021 - 2025**

**Strategic Objective:** Our Council and Community Leadership

#### PURPOSE

To ensure the currency and accuracy of the Instrument of Delegations to the Chief Executive Officer (CEO).

#### SUMMARY

An effective and current system of delegations is crucial to the operations and functions of Council. It is possible that decisions taken under delegation may be reviewed in other spheres, including the judicial system. Therefore, an appropriate record of delegated action must be kept ensuring that decisions or actions are made with support of Council and can be substantiated at a later date.

This report seeks to amend the existing Instrument of Delegation to the CEO by streamlining statutory payments to Government Departments and facilitating timely renewal of annual insurance premiums.

#### RECOMMENDATION

That Council resolve that:

1. There be delegated to the person holding the position, or acting in or performing the duties, of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer*, subject to the conditions and limitations specified in that Instrument;
2. The Instrument comes into force immediately upon this resolution being made and is to be signed by the Council's Chief Executive Officer and the Mayor;
3. On the coming into force of the Instrument, all previous delegations to the Chief Executive Officer are revoked; and
4. The duties and functions set out in the Instrument must be performed, and the powers set out in the Instrument must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

**Attachments:** 1 [Instrument of Delegation to CEO 12 July 2023](#)

#### DISCUSSION

In view of the range of legislative and regulatory responsibilities of Local Government it would not be possible for the sector to function effectively if all decisions were required to be made at Council Meetings. Instead, decision-making power can be delegated to special committees or to members of

Council staff. The nature and extent of these delegations are controlled through formal Instruments of Delegation.

Delegations are different from authorisations. The decision of a delegate of Council is deemed to be a decision by Council. The decision by a person appointed by Council to a statutory position, for example, an Authorised Officer, is not. That person's powers and responsibilities are quite distinct from those of Council.

Most statutes impose limitations on the powers which may be delegated. Usually, one of the powers which may not be delegated is the delegation power itself. However, this limitation does not apply in respect of delegation to the CEO. Under Section 11 of the *Local Government Act 2020*:

*“(1)(b) The instrument of delegation to the chief executive officer may empower the chief executive officer to delegate any power of the Council other than the power, duty or function specified in subsection (2).”*

The Instrument of Delegation to the CEO may therefore empower the CEO to exercise various powers of the Council, subject to limitations and exceptions specified in the instrument, but including the power to delegate powers to Council officers.

In this instance the Instrument of Delegation to the CEO has been updated to include an upper limitation of expenditure for identified purposes, excluding contracts or expenditure which Council is required to make by or under legislation, such as the statutory payment of the Fire Services Levy in accordance with the *Fire Services Property Levy Act 2012*, or for the purposes of necessary insurances. Best practice governance procedures suggest delegations and should be reviewed and adopted on at least an annual basis.

This report sets out the following proposed document Instrument of Delegation to the Chief Executive Officer (S5).

#### **RELEVANT LAW**

Section 11 of the *Local Government Act 2020* provide the Power for Council to delegate a power, duty or function to the CEO, subject to specific limitations specified in this section of the Act.

#### **RELATED COUNCIL DECISIONS**

The Instrument of Delegation to the CEO was previously adopted by Council on 12 October 2022.

#### **OPTIONS**

Council may decide not to adopt the instrument whereby the Instrument of Delegation to the CEO adopted on 12 October 2022 will continue until such time it is revoked by Council resolution.

Council may also decide to include any other exception or limitation to the Instrument of Delegation to the CEO.

Although not recommended by officers, another option available to Council is to decide not to adopt the proposed instrument and revoke the instrument dated 12 October 2022 which would result in the need for every decision to be adopted by Council, except powers, duties, or functions that are invested in CEO by the *Local Government Act 2020*, and any other Act that directly provides these powers to the CEO. This option is not advised as it would prove very difficult to operate the business of Council without the Instrument of Delegation in place.

#### **SUSTAINABILITY IMPLICATIONS**

Not applicable.

**COMMUNITY ENGAGEMENT**

Not applicable.

**INNOVATION AND CONTINUOUS IMPROVEMENT**

Undertaking regular reviews of the Delegations ensures that the Instrument remains current with the inclusion of provisions from new and changed legislation and the removal of provisions relating to changed or revoked legislation.

**COLLABORATION**

Not applicable.

**FINANCIAL VIABILITY**

Not applicable.

**REGIONAL, STATE AND NATIONAL PLANS AND POLICIES**

Not applicable.

**COUNCIL PLANS AND POLICIES**

Not applicable.

**TRANSPARENCY OF COUNCIL DECISIONS**

The Register of Delegations will be made available on Council's website when adopted.

**CONFLICTS OF INTEREST**

There are no conflicts of interest.

**Buloke Shire Council**  
**S5 Instrument of Delegation by Council to The Chief Executive Officer**

In exercise of the power conferred by s 11(1) of the *Local Government Act 2020* (the Act) and all other powers enabling it, the Buloke Shire Council (Council) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on 12 July 2023;
2. the delegation
  - 2.1 comes into force immediately upon signing of this delegation by the CEO and the Mayor in the presence of witnesses;
  - 2.2 is subject to any conditions and limitations set out in the Schedule;
  - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
  - 2.4 remains in force until Council resolves to vary or revoke it.

**Signed** by Wayne O'Toole, the Chief  
Executive Officer of Council

in the presence of: .....

.....

Witness

Date: .....

**Signed** by the Mayor, Cr Alan Getley

in the presence of: .....

.....

Witness

Date: .....

**S5 Instrument of Delegation to The Chief Executive Officer****SCHEDULE****The power to**

1. determine any issue;
  2. take any action; or
  3. do any act or thing
- arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

**Conditions and Limitations**

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

1. if the issue, action, act or thing is an issue, action, act or thing which involves
  - 1.1 entering into a contract exceeding the value of \$250,000;
  - 1.2 making any expenditure that exceeds \$250,000 amount, unless it is expenditure made under a contract already entered into or is expenditure which Council is required, by or under legislation, or for necessary insurances in which case it must not exceed \$1,000,000;
  - 1.3 appointing an Acting Chief Executive Officer for a period exceeding 28 days;
  - 1.4 electing a Mayor or Deputy Mayor;
  - 1.5 granting a reasonable request for leave under s 35 of the Act;
  - 1.6 making any decision in relation to the employment, dismissal or removal of the Chief Executive Officer;
  - 1.7 approving or amending the Council Plan;
  - 1.8 adopting or amending any policy that Council is required to adopt under the Act;
  - 1.9 adopting or amending the Governance Rules;
  - 1.10 appointing the chair or the members to a delegated committee;
  - 1.11 making, amending or revoking a local law;
  - 1.12 approving the Budget or Revised Budget;
  - 1.13 approving the borrowing of money;
  - 1.14 subject to section 181H(1)(b) of the *Local Government Act 1989*, declaring general rates, municipal charges, service rates and charges and specified rates and charges;
2. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution;
3. if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
4. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
  - 4.1 policy; or
  - 4.2 strategyadopted by Council;
5. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of s 11(2)(a)-(n) (inclusive) of the Act or otherwise; or
6. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

## 8.2.2 CONSIDERATION OF LICENCE FOR COMMUNITY ENGAGEMENT - FAST CITIES AUSTRALIA PTY LTD TRADING AS EVIE NETWORKS - DONALD EV CHARGING STATION

**Author's Title:** Capital Projects Officer

**Department:** Infrastructure and Delivery

**File No:** RO/18/10

**Relevance to Council Plan 2021 - 2025**

**Strategic Objective:** Our Built and Natural Environment

### PURPOSE

The purpose of this report is to give public notice of a proposed Licence ahead of consideration to grant a new licence to Fast Cities Australia Pty Ltd trading as Evie Networks (Evie Networks) for part of the land contained in Certificate of Title Lot 1 TP174450 Volume 9363 Folio 257, 68A Woods Street Donald, for the purpose of an electric vehicle charging station.

### SUMMARY

Council released "RFQ262 – Design and Install EV Charger – Donald" on 5 December 2022. No submissions were received against the Request for Quote (RFQ) and the RFQ was not awarded. A Licence option has been proposed by Evie Networks as an alternative for consideration.

A 15-year Licence on a section of 68A Woods Street is proposed for installation of the EV Charger. Its current use is as a public carpark.

Installation of an EV Charger is a deliverable under the Our Region Our Rivers funding agreement.

Under the proposed Licence, Council would receive a licence fee of five per cent of the charging station's Net Operating Income per annum. The EV Charger would be owned, operated and maintained by Evie Networks.

As a precursor to Council formally considering the issuance of any Lease or License not advertised in the Annual Budget, public notice must be provided.

### RECOMMENDATION

That Council:

1. In accordance with Section 115 of the *Local Government Act 2020*, gives public notice of the intention to grant a Licence to Fast Cities Australia Pty Ltd trading as Evie Networks for part of the land being Lot 1 TP174450 contained in Certificate of Title Volume 9363 Folio 257, 68A Woods Street, Donald on the following terms:
  - a. A 15-year Licence commencing 1 September 2023, and
  - b. A Licence fee of five per cent of the charging station's Net Operating Income payable in arrears on each anniversary of the commencement date during the term.
2. Notes that the public notice shall allow persons to make a submission on the proposed licence in accordance with Section 115 of the *Local Government Act 2020* and Council's Community Engagement Policy, and that all written submissions be received by a date that is at least 21 days after the publication of the notice.



3. Authorise the Chief Executive Officer to undertake the administrative procedures necessary to enable Council to fulfill its functions under Section 115 of the *Local Government Act 2020*, and
4. Receives a further report to consider the granting of a Licence for Fast Cities Australia Pty Ltd trading as Evie Networks following the conclusion of the public notice process.

- Attachments:**
- 1 [DM003 Donald - Fast Cities & Buloke Shire Council - DRAFT Licence Agreement](#)
  - 2 [DRAFT Fast Cities - Licence Advertisement](#)

## DISCUSSION

Evie Networks was founded in 2017 to build Australia's largest electric vehicle fast charging network and give electric vehicle owners across the country the freedom to travel anywhere.

Evie Networks is proposing a licence to operate at 68A Woods Street, Donald, being Lot 1 TP174450 contained in Certificate of Title Volume 9363 Folio 257, and are seeking a 15-year Licence on the premises. The new Licence would commence 1 September 2023.

Council's Leasing and Licencing of Council Facilities Policy provides guidance in relation to types of agreements and how Commercial Tenants are considered.

The policy specifies that a Lease relates to an agreement granting exclusive use of a Council facility (land and/or building owned by Council), whereas a Licence relates to an agreement stating non-exclusive use of a Council facility. Given the proposal is based in a public carpark, this constitutes a Licence-type arrangement. Note that for the purposes of the Policy criteria, the term Lease and Licence is used interchangeably unless otherwise stated.

The additional Policy criteria in relation to Commercial Tenants is as follows:

### Commercial Tenants

- Eligibility
  - The proposed use of the Facility provides a community benefit and is aligned with Council's strategic objectives.
  - The proposed Tenant is a register legal entity of good corporate character, is financially viable, holds all lawful qualifications and meets all legislative requirements.
- Term
  - Generally a Lease term will not exceed 5 years, unless exceptional circumstances apply.
  - The term of the Lease with a Commercial Tenant may be negotiated where –
    - a) a demonstrated long term community benefit is evident;
    - b) the commercial tenant has agreed to make a substantial contribution to capital works; or
    - c) Council's commercial return is enhanced by a longer-term tenancy.
  - A one x 5-year option may be offered at Council's discretion.
- Rental
  - To be determined by obtaining a commercial valuation.

Council must undertake community engagement in accordance with its adopted Community Engagement Policy, including receipt and consideration of submissions, prior to making a determination in relation to the proposed Lease.

## RELEVANT LAW

In accordance with Section 115 of the *Local Government Act 2020* Council must include any proposal to lease land in a financial year in the budget where the lease is for:

- the rent (for any period of the lease) is greater than \$100,000, or
- the market value of the land is greater than \$100,000, or
- the lease term is greater than ten years.

If Council proposes to lease land and it was not included in the budget, then Council must undertake a community engagement process in accordance with the Council's Community Engagement Policy.

#### **RELATED COUNCIL DECISIONS**

The installation of an EV Charger in Donald is a deliverable under the Our Regions Our Rivers project as a part of the Commonwealth Government's Regional Growth Fund.

#### **OPTIONS**

Not applicable to this report.

#### **SUSTAINABILITY IMPLICATIONS**

The installation of an EV Charger supports the Climate Change Mitigation and Adaptation Strategy and Plan.

#### **COMMUNITY ENGAGEMENT**

Prior to Council considering entering into a new Licence, it would be required to follow the process in accordance with Section 115 of the *Local Government Act 2020*. This includes commencing community consultation in accordance with Council's Community Engagement Policy.

#### **INNOVATION AND CONTINUOUS IMPROVEMENT**

This Licence will increase Council's charging network to three, located at Sea Lake, Wycheproof and Donald.

#### **COLLABORATION**

Council Officers collaborated with the Donald Streetscape Project Advisory Group to determine that EV chargers were a priority deliverable for the township and gave input to the location of the charger.

#### **FINANCIAL VIABILITY**

The income derived from the leasing or licensing of Council Facilities will be placed into Council's consolidated revenue and allocated in accordance with Council's annual budget.

The licence fee is five per cent of the charging station's Net Operating Income. Net Operating Income is as per the description below:

*Net Operating Income equals the Licensee's gross revenue minus the cost of the onsite energy, billing/transaction fees and bad debts.*

Therefore, if the Net Operating Income is negative in value, Evie Networks will not be required to make any payment to Council.

Council initiated an RFQ process for the installation of an electric charging station however, RFQ262 was not awarded.

RFQ262 was released to three companies including Evie Networks with the desire to find a contractor to install an EV charger that was maintained by the installer but owned and operated by Buloke Shire Council. The RFQ closed with no responses received so the process was extended for a further five weeks. By the closing date, Council had not received any RFQ submissions.

Evie Networks who have previously supplied two EV chargers for Council in Wycheproof and Sea Lake were contacted directly for feedback on the RFQ process. Evie Networks advised their preferred method

of supply was to offer a charger under a Licence Agreement rather than an outright install. Evie Networks were invited to submit a License proposal to Council for consideration.

Under the procurement policy, a purchase in this instance qualifies for an exemption as there was an inability to obtain sufficient quotations through the RFQ process. The procurement is within the project budget and in line with the estimated costs for this item. An exemption may be authorised by the Chief Executive Officer to enable a Purchase Order to be raised to Fast Cities Australia Pty Ltd trading as Evie Networks, once a Licence is considered by Council and subsequently rec.

Should Council resolve at a later stage to grant a Licence after the public notice period is completed, then a contribution would be required towards the construction of the electric vehicle charging station. This contribution would be \$50,000 excluding GST and would be fully funded through the Our Regions Our Rivers project. This contribution amount is in line with the estimated cost for this item in the project budget and the total forecast spend is currently under budget for the overall project.

The proposed Licence would be for ten years, commencing 1 September 2023, with one further term of five years, totalling 15 years.

#### **REGIONAL, STATE AND NATIONAL PLANS AND POLICIES**

Not applicable to this report.

#### **COUNCIL PLANS AND POLICIES**

The Leasing and Licencing of Council Facilities Policy was adopted by Council at its meeting held 14 December 2022.

#### **TRANSPARENCY OF COUNCIL DECISIONS**

Council will give public notice of intention to Licence under Section 115 of the *Local Government Act 2020* as per the attachment "Fast Cities - Licence Advertisement"

#### **CONFLICTS OF INTEREST**

No officer involved in the preparation of this report has a conflict of interest.

# Electric Vehicle Charging Station Licence Agreement

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Buloke Shire Council ABN 89 293 793 980 (**Licensor**)

Fast Cities Australia Pty Limited ACN 613 484 754 (**Licensee**)

## Information table

### Parties

Name	<b>Buloke Shire Council</b>
ABN	89 293 793 980
Short form name	<b>Licensor</b>
Notice details	Postal address: PO Box 1 Wycheproof VIC 3527 Telephone: 1300 520 520 Email: buloke@buloke.vic.gov.au Attention: Trevor Rumbold
Name	<b>Fast Cities Australia Pty Ltd ACN 613 484 754</b>
Short form name	<b>Licensee</b>
Notice details	Postal address: GPO Box 1821, Brisbane QLD 4001 General Email: property@goevie.com.au Accounts Email: accounts@fastcities.com.au Attention: Property Manager
Site code	

### Items

<b>Item 1</b>	<b>Licensed Area</b> (clause 1.1)  That part of the Land shown hatched on the plan in Annexure A being part of the property known as 68A Woods Street, Donald VIC 3480, and where the context requires, includes any areas utilised by the Licensee under clauses 4.2, 4.4 and 8.
<b>Item 2</b>	<b>Commencement Date</b> (clause 1.1)  TBC
<b>Item 3</b>	<b>Expiry Date</b> (clause 1.1)  TBC
<b>Item 4</b>	<b>Term</b> (clause 1.1)  Ten (10) years, having regard to clause 12.4 providing the Licensee a first right of refusal over the Land for a further term of five (5) years.
<b>Item 5</b>	<b>Licence Fee</b> (clause 1.1)  As set out in clause 3.1
<b>Item 6</b>	<b>Nominated Account</b> (clause 3.3)  ~INFORMATION REMOVED FOR PRIVACY PURPOSES~

# Agreed terms

## 1. Defined terms & interpretation

### 1.1 Defined terms

In this Licence:

**Break Date** means each fifth anniversary of the Commencement Date.

**Business Day** means any day in the State which is not a Saturday, Sunday or Public Holiday.

**Commencement Date** means the date stated in Item 2.

**Equipment** means any and all equipment, ancillary installations and necessary or desirable equipment required to operate and maintain an electric vehicle charging station or to carry out the Permitted Use now and in the future, including but not limited to vehicle chargers, charge posts, lighting, switchgear, signage, security, canopies, fencing or other visual barriers, and energy capture and all associated civil works.

**Expiry Date** means the date stated in Item 3.

**Energy** means the power supplied to the Equipment for the Permitted Use.

**Government Agency** means any government or any governmental, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

**GST** means a goods and services tax or like tax payable by the Licensor in respect of a supply under this Licence.

**Information table** means the part of this document described as Information table.

**Item** means an item appearing in the Information table.

**Land** means the whole of the land identified in certificate of title Lot 1 TP174450 Volume 9363 Folio 257.

**Licence** means the agreement that exists between the Licensor and the Licensee in relation to the Licenced Area of whatever nature and whether at law or in equity as evidenced in whole or in part by this document.

**Licence Fee** means the amount stated in Item 5.

**Licensed Area** means the area described in Item 1.

**Licensee** means the licensee described on the front page of this Licence and its successors and assigns or, if the Licensee is a natural person, its executors administrators and assigns and in either case its employees, agents and contractors.

**Licensor** means the licensor described on the front page of this Licence and its successors and assigns or, if the Licensor is a natural person, its executors, administrators and assigns and in either case its employees, agents and contractors.

**Month** means calendar month.

**Permitted Use** means constructing, maintaining and operating an electric vehicle parking and charging station and any incidental or complementary uses including but not limited to installing, storing, operating, repairing, maintaining, altering, and replacing electrical services consistent with the evolving nature of an electric vehicle charging station.

**Related Body Corporate** where the Licensee is a holding company of another body corporate, a subsidiary of another body corporate or a subsidiary of a holding company of another body corporate means that other body corporate.

**State** means the State or Territory of the Commonwealth of Australia in which the Land is situated.

**Statute** means any statute, regulation, proclamation, ordinance or by-law of the Commonwealth of Australia or the State and includes all statutes, regulations, proclamations, ordinances or by-laws varying consolidating or replacing them and all regulations, proclamations, ordinances and by-laws issued under that statute.

**Term** means the term of this Licence set out in Item 4.

## 1.2 Interpretation

In this Licence, unless the context otherwise requires:

- (a) headings and underlinings are for convenience only and do not affect the interpretation of this Licence;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) a reference to any thing includes a part of that thing;
- (f) a reference to a part, clause, party, annexure, exhibit, information table or schedule is a reference to a part and clause of and a party, annexure, exhibit, information table and schedule to this Licence;
- (g) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding day which is a Business Day;
- (h) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Licence or any part of it; and
- (i) a covenant or agreement on the part of two or more persons binds them jointly and severally.

## 2. Term of Licence and holding over

### 2.1 Grant of Licence

The Licensor grants to the Licensee a licence to use the Licensed Area (in common with the Licensor) for the Term. Nothing in this Licence confers on the Licensee any rights as a tenant of the Licensed Area or creates the relationship of landlord and tenant between the parties.

### 2.2 Term of the Licence

The Term commences on the Commencement Date and expires on the Expiry Date, subject to the provisions of this Licence.

### 2.3 Yearly holding over

- (a) If the Licensee occupies the Licensed Area after the Expiry Date (other than pursuant to the grant of a further licence) without demand for possession by the Licensor, the Licensee does so as a yearly licensee for yearly terms thereafter on the same terms and conditions as this Licence as far as they apply to a yearly licence.
- (b) Either the Licensor or the Licensee may terminate the yearly tenancy under clause 2.3(a) by giving the other at least six months' prior written notice.

### 3. Payment

#### 3.1 Licensee's Covenant

The Licensee must pay the Licence Fee to the Licensor during the Term. The Licence Fee is 5% of the Net Operating Income.

Net Operating Income	=	the Licensee's gross revenue minus the cost of the onsite Energy, billing/Transaction Fees and Bad Debts
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If the Net Operating Income is negative in value, the Licensor will not be required to make any payment to the Licensee.

#### 3.2 Payment of Licence Fee

- (a) The Licence Fee is to be calculated by the Licensee on each anniversary of the Commencement Date and paid to the Licensor in arrears.
- (b) Within 30 days following each anniversary of the Commencement Date, the Licensee must give the Licensor a statement of the Licence Fee payable for the previous year. The Licensee must pay the Licensor the Licence Fee within 30 days from receiving an invoice from the Licensor for the Licence Fee payable for the previous year of the term.
- (c) The Licensee must pay the Licence Fee to the Licensor or to any other person the Licensor notifies to the Licensee. Any notification must be at least 30 days prior to the date for payment of Licence Fee.
- (d) The Licensee must keep accurate accounting records of the Licensee's gross revenue (**records**), including the number of transactions, for 24 months after the end of each year of the term.
- (e) The Licensee's gross revenue means the aggregate of any revenue generated from the electric charging site as set out in Annexure A to the Licence.
- (f) The Licensee's gross revenue does not include:
  - (i) any revenue that is generated at any other electric charging site other than that within the Licensed Area.
  - (ii) anything other than what is outlined above in clause 3.2(e).

#### 3.3 EFT payments

The Licensee may pay the Licence Fee by Electronic Funds Transfer (**EFT**) to the account nominated in Item 6. The Licensor may notify another account in Australia to which payments may be made by EFT to replace the account stated in Item 6. The notification must be at least 30 days prior to the date for payment of Licence Fee. Payment by EFT by the Licensee's banker to the relevant nominated account by the due date is a full discharge for the payment.

#### 3.4 Rates, taxes and outgoings

The parties acknowledge and agree that:

- (a) the Licence Fee is a gross amount and the Licensee is not required to pay any rates, taxes, charges, levies or outgoings which are charged to, levied on or relate to the Land (including but not limited to the Licensed Area) except for electricity charges which are payable by the Licensee under clause 8; and
- (b) the Licensor must pay all rates, taxes, charges, levies and outgoings which are charged to, levied on or relate to the Land (including but not limited to the Licensed Area).

#### 3.5 Definitions

In this clause 3.5 and clauses 3.6 to 3.8:



- (a) **ABN** means Australian Business Number being an 11 digit identifying number allocated by the Australian Business Register ([www.abr.business.gov.au](http://www.abr.business.gov.au));
- (b) words or expressions which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning; and
- (c) a reference to the Licensor or Licensee includes their GST group representative member (if applicable).

### 3.6 ABN

- (a) The Licensor warrants that the Licensor:
  - (i) has an ABN; or
  - (ii) does not have an ABN, on the basis it is not entitled to have one under the *A New Tax System (Australian Business Number) Act 1999*; and
  - (iii) if it appoints a third party to manage the leasing/licensing of the Licensed Area on its behalf and the third party's ABN is quoted in any tax invoice, invoice or other document relating to this Licence, the third party does so as agent for the Licensor in accordance with Australian Taxation Office's public ruling GSTR 2000/37: agency relationships and the application of the law.
- (b) If the Licensor does not have an ABN or the Licensor's ABN is cancelled, the Licensor must immediately notify the Licensee and unless the Licensor provides evidence that the Licensor is not entitled to have an ABN under the *A New Tax System (Australian Business Number) Act 1999*, the Licensor acknowledges that the Licensee will be required to deduct from each payment to the Licensor, PAYG withholding tax pursuant to section 12-190 of Schedule 1 to the *Taxation Administration Act 1953*.
- (c) If the Licensor does not comply with its obligations or breaches any warranty under this clause 3.66, the Licensor indemnifies the Licensee for any tax, charge, fine, penalty or other impost which the Licensee incurs or becomes liable to pay as a result of the Licensor's default or breach of warranty.

### 3.7 Licensor registered for GST

The following provisions apply in relation to GST:

- (a) Unless stated to the contrary, all payments to be made by the Licensee under this Licence (including but not limited to Licence Fee) are calculated without regard to GST. If a payment by the Licensee to the Licensor under this Licence is consideration for a supply by the Licensor under this Licence on which the Licensor must pay GST, the Licensee must also pay the Licensor an additional amount equal to the GST payable by the Licensor on that supply.
- (b) The Licensor must issue a tax invoice to the Licensee for any taxable supply made by the Licensor to the Licensee under this Licence before the consideration payable for that supply is due and the Licensee need not pay for a particular taxable supply until such time as the Licensor has issued a tax invoice to the Licensee for that supply.
- (c) If a payment to a party under this Licence is a reimbursement or indemnification calculated by reference to a loss, cost or expense incurred by that party, then the payment must be reduced by the amount of any input tax credit to which that party is entitled for the acquisition to which that loss, cost or expense relates.

### 3.8 Licensor not registered for GST

- (a) The Licensor must notify the Licensee of its GST registration status on or before execution of this Licence and must immediately notify the Licensee if it ceases to be registered for GST at any time during the Term.
- (b) Despite any other clause in this Licence, if the Licensor is not registered for GST or ceases to be registered for GST:

- (i) the Licensee is not required to make a payment under this Licence (including but not limited to Licence Fee) until the Licensor provides the Licensee with an invoice for the payment quoting either the Licensor's ABN or the Licensor's agent's ABN; and
- (ii) if GST is incorrectly charged on any invoice or tax invoice issued by the Licensor or any third party on its behalf, the Licensor:
  - (A) must immediately refund the overcharged GST amount to the Licensee; and
  - (B) indemnifies the Licensee for any interest, fines or penalties imposed on the Licensee as a result of overclaiming any input tax credits.

## **4. Use of Licensed Area**

### **4.1 Permitted use**

- (a) The Licensee will use the Licensed Area for the Permitted Use.
- (b) The Licensor may not unreasonably withhold consent to a request by the Licensee to change the Permitted Use, provided the change is permitted by law.

### **4.2 Temporary Use Area**

- (a) The Licensor grants to the Licensee the right to temporarily use so much of the Land immediately adjoining and adjacent to the Licensed Area or any installation of the Licensee as is reasonably required during installation, erection, construction, dismantling, operation, repair, maintenance, alteration and renewal of the Equipment.
- (b) When exercising its rights pursuant to this clause 4.2 the Licensee must use reasonable endeavours to cause minimal disruption and inconvenience to the Licensor and its occupants as far as is practicable.
- (c) After temporarily using the Land adjoining and adjacent to the Licensed Area or any installation or erection of the Licensee, the Licensee will restore the surface of the Land as so used as near as practicably possible to its state prior to such use by the Licensee to the reasonable satisfaction of the Licensor.
- (d) The provisions of clause 6.2 will apply to the exercise by the Licensee of its rights pursuant to this clause 4.2.

### **4.3 Requirements of Government Agencies**

The Licensee must comply promptly with any Statute in respect of the Licensee's use of the Licensed Area and any requirements, notices or orders of any Government Agency having jurisdiction or authority in respect of the Licensed Area or the use of the Licensed Area. The Licensee is under no liability for structural alterations unless caused or contributed to by the Licensee's particular use or occupation of the Licensed Area.

### **4.4 Cabling**

- (a) For the purpose of the operation of the Licensee's Equipment, the Licensor will permit the Licensee to install, erect, construct, dismantle, store, operate, repair, maintain, alter and renew and use above or below ground cabling, wiring, piping, earthing straps and conduits to and from the Licensed Area (and between them if there are separate leased areas) and where necessary to construct supports for that cabling.
- (b) In exercising its rights under this clause 4.4, the Licensee must:
  - (i) consult with the Licensor as to the proposed location of the cabling;
  - (ii) not cause any lasting material damage to the Land or material interference with the Licensor; and

- (iii) restore the surface of the Land as so used as nearly as practicably possible to its state prior to use by the Licensee to the reasonable satisfaction of the Licensor.
- (c) The provisions of clause 6.2 will apply to the exercise by the Licensee of its rights pursuant to this clause 4.4.

#### **4.5 Consents**

The Licensor irrevocably authorises the Licensee to make at the expense of the Licensee any application for consent or approval to any Government Agency to use or develop the Licensed Area for the use referred to in clause 4.1 and to exercise and procure (at the Licensee's expense) every right of appeal arising from the determination of any such application or the failure to determine the application. The Licensor must sign all documentation and do all such things as the Licensee or any person nominated by the Licensee reasonably requires (at the cost and expense of the Licensee) to authorise or assist in obtaining consent or approval from any Government Agency to use or develop the Licensed Area for the use referred to in clause 4.1.

#### **4.6 Signage**

The Licensee may at the Licensee's cost, install, repair, maintain, alter, replace and renew:

- (a) signage, branding and/or advertising on the Licensed Area; and
- (b) directional and way finding signage on the Land.

#### **4.7 Licensor can propose signage**

- (a) The Licensor may, at any time during the term, propose art works to be displayed on the rear of the electric vehicle chargers.
- (b) The Licensee agrees to act in good faith in agreeing with the Licensor the artwork to be displayed pursuant to clause 4.7(a).

### **5. Access to the Licensed Area and use of services**

- (a) The Licensor consents to the Licensee and persons authorised by the Licensee without the need for prior notice and with or without materials, plant and other apparatus and vehicles entering the Land for the purpose of using the Licensed Area and exercising its rights under this Licence at all times of the day and night during the Term.
- (b) The Licensor consents to the Licensee and persons authorised by the Licensee without the need for prior notice using services provided on the Land which are freely made available for use by the public.
- (c) Except in respect of the Licensee's installation of the Equipment, the Licensor agrees that the Licensor will provide waste collection on the Land at no additional cost to the Licensee.

### **6. Insurance, indemnities and release**

#### **6.1 Obligation to insure**

The Licensee will obtain and hold in place for the Term a public liability insurance policy in order to cover any loss or damage which is commonly covered by public liability insurance in respect of the Licensed Area in the sum of not less than AUD \$20 million. The Licensee will provide the Licensor with its most recent public liability certificate and update this within a reasonable period upon each renewal of this policy.

#### **6.2 Licensee's release and indemnity**

- (a) The Licensee releases the Licensor from liability the Licensor may have to the Licensee arising out of any actions, claims, and demands for compensation in respect of any property damage, death or injury occurring in the Licensed Area caused by the Licensee

in the course of performing the Permitted Use or other activities authorised by this Licence during the Term.

- (b) The Licensee indemnifies the Licensor for the Licensor's liability arising out of any actions, claims, and demands which the Licensor suffers or incurs in respect of injury or death to persons or damage to property caused by the Licensee's negligence, omission, default or wilful act in the course of performing the Permitted Use or other activities authorised by this Licence during the Term.

### **6.3 Negligence or default of Licensor**

The releases and indemnities in clause 6.2 do not apply to any act, matter, thing or consequence to the extent it arises out of the negligence, omission, default or wilful act of the Licensor.

## **7. Installation and maintenance**

### **7.1 Repair and maintenance**

The Licensee must maintain the Equipment and the Licensed Area in good repair, order and condition during the Term, fair wear and tear excepted.

### **7.2 Construction and alterations**

The Licensee may at the Licensee's option and expense after complying with the requirements of any Government Agency to the extent required by law install, erect, construct, dismantle, store, operate, repair, maintain, alter and renew on the Licensed Area any Equipment for the Permitted Use.

## **8. Electricity supply**

- (a) For the purpose of carrying out the Licensee's use of the Licensed Area the Licensor must at the Licensee's cost:
  - (i) permit the Licensee to connect the Licensed Area to an electricity supply (including allowing the Lessee to make provisions for emergency back up power) suitable for the Permitted Use and to install on the Land any necessary or desirable electrical equipment and/or earthing apparatus as is necessary for the safe continuous use of the Licensee's Equipment on the Licensed Area. The supply of this electricity must be made through a dedicated usage meter so that the Licensee is directly accountable to the relevant authority for payment of electricity consumed by it on the Licensed Area.
- (b) Where the Licensee connects the Licensed Area to an electricity supply or maintains or upgrades an electricity connection, then:
  - (i) any other person who wishes to utilise the electricity connection must contribute to the cost of connection, upgrading and maintenance as apportioned by the Licensee; and
  - (ii) the Licensor must not grant or allow to be granted to any third party an interest or a right to use the connection until that party first reaches an agreement with the Licensee as to the terms and amount of the contribution.

## **9. Termination**

### **9.1 Events of termination**

If:

- (a) the Licensed Area is damaged or destroyed or if there is interruption to access to the Licensed Area so as to render the Licensed Area or any part of the Licensed Area wholly

or substantially unfit for the occupation or use of the Licensee or inaccessible by any means of access;

- (b) the Licensee commits a breach of a material obligation and has not remedied that breach within 30 days, or such reasonable time having regard to the nature of the breach. Should the Licensee require a further period of time the Licensee must provide evidence supporting this requirement;
- (c) any application to a Government Agency for a required consent or permit for the installation and use of the Licensed Area for the Permitted Use is granted to the Licensee with conditions unacceptable to it in its absolute and unfettered discretion or is finally rejected or is cancelled, lapses or is otherwise terminated and no further or replacement consent or permit can reasonably be obtained;
- or
- (d) the Licensor commits a breach of a material obligation and has not remedied that breach within a reasonable period of notice from the Licensee having regard to the nature of the breach,

then this Licence may be terminated immediately by notice, by the Licensee in the case of subclauses (a), (c), or 0 and by the Licensor in the case of subclause (b).

## **9.2 Effect on rights or liabilities**

Termination of this Licence does not affect the rights or liabilities of the parties in relation to any cause of action accruing prior to termination.

## **9.3 Licensee to yield up**

Subject to clause 9.4, the Licensee must at the expiration or sooner termination of the Term yield up the Licensed Area in good repair and clean condition (fair wear and tear excepted), having regard to its condition at the Commencement Date.

## **9.4 Removal of Licensee's fixtures and chattels**

- (a) The Licensee must:
  - (i) within 90 days of the Expiry Date (unless there is in place after this Licence a further agreement between the Licensor and the Licensee);
  - (ii) within a reasonable period of earlier termination of this Licence; or
  - (iii) by such other date as the Licensor and the Licensee agree in writing,remove from the Licensed Area the Licensee's Equipment and all above ground fixtures, fittings, plant, machinery, cables and other equipment brought by it onto the Licensed Area or the Land and cap, decommission and render inoperative all cabling, wiring, piping, earthing straps and conduits installed by the Licensee under clause 4.4.
- (b) In removing above ground fixtures the Licensee must restore the surface of the Land as so nearly as practicably possible to the state immediately prior to the removal, fair wear and tear excepted.
- (c) The Licensee may remove all underground cabling, wiring, piping, earthing straps and conduits installed by the Licensee under clause 4.4.

## **9.5 Termination on a Break Date**

The Licensee may terminate this Licence on a Break Date by giving at least 6 months' prior written notice to the Licensor, in which case the nominated Break Date becomes the Expiry Date.

## 10. Notices

### 10.1 Method of service

Any notice to be given under this Licence by one of the parties to the other must be in writing and is given for all purposes by delivery in person, by pre-paid post or by email addressed to the receiving party at the address set out in the notice details in the Information table.

### 10.2 Time of service

Any notice given in accordance with this Licence will be deemed to have been duly served in the case of posting, at the expiration of five Business Days after the date of posting and in the case of an email transmission, on the first Business Day after the date of transmission (providing the sending party receives an email delivery receipt indicating that the notice has been transmitted).

### 10.3 Change of address

A party may at any time change its postal address or email address by giving notice to the other party.

## 11. Assignment, novation and sublicensing

### 11.1 Licensee not to assign or novate

The Licensee must not assign or novate this Licence except under clause 11.2 or with the prior written consent of the Licensor under clause 11.3.

### 11.2 Assignment or novation to a Related Body Corporate

The Licensee may from time to time without the consent of the Licensor assign or novate this Licence or grant a sublicense to a Related Body Corporate of the Licensee. Should the Licensee assign a majority of its portfolio to a third party, the Licensee must gain the Licensor's written consent, of which should not be unreasonably withheld.

### 11.3 Assignment

Subject to clause 11.2 the Licensee may assign or novate this Licence or grant a sublicense with the prior written consent of the Licensor such consent not to be unreasonably withheld or delayed.

## 12. Licensor's covenants

### 12.1 Quiet enjoyment

- (a) The Licensor covenants that the Licensee may peaceably hold and enjoy the Licensed Area and its rights under this Licence during the Term without any interruption by the Licensor or any person rightfully claiming through the Licensor.
- (b) The Licensor must not interfere with the Equipment or Permitted Use on the Licensed Area and must not grant a licence or any other dealing over the Licensed Area to any other third party during the Term which materially interferes with the Permitted Use or enjoyment of the Licensed Area.

### 12.2 Restriction on Licensor's use of the Land

The Licensor must not itself knowingly, nor will it knowingly permit any third party to:

- (a) do anything on the Land which is likely to cause physical or electrical interference which obstructs, interrupts or impedes the use or operation of the Licensee's Equipment;
- (b) park non electric charging vehicles in any parking spaces licensed to the Licensee; or

- (c) undertake works or installation activities within a 5 metre radius of the electric vehicle chargers, other external electrical infrastructure or the car parking bays located within the Licensed Area unless otherwise consented by the Licensee (which consent shall not be unreasonably withheld or delayed),

and in the event of the Licensee notifying the Licensors of any breach of this clause, the Licensors must remove such interference to the extent it is within its power to do so.

### 12.3 Dealings affecting the Licenced Area

- (a) Before the Licensors sells, transfers or leases the Land or any part thereof comprising the Licensed Area to any person, the Licensors must novate this Licence to that person or otherwise, to the Licensee's reasonable satisfaction, ensure that the Licensee's rights under this Licence are not adversely affected by such dealing.
- (b) The Licensors must not enter into any other dealing over the Land or any part thereof comprising the Licensed Area without the Licensee's prior written consent, such consent not to be unreasonably withheld so long as the Licensee's rights under this Licence are not adversely affected by such dealing.
- (c) The Licensors must not assign its rights under this Licence to another person or enter into any arrangement over or in respect of this Licence without the prior consent of the Licensee, such consent not to be unreasonably withheld or delayed.

### 12.4 First Right of Refusal

- (a) The Licensors must not lease or license any part of the Available Land to a Proposed Lessee without first offering a lease or licence of the Available Land to the Licensee on terms that are substantially similar to this Licence, for a minimum term of 5 years, or as otherwise agreed by the parties.
- (b) If within 20 Business Days of receipt by the Licensee of the Offer to Licence the Licensee serves the Notice of Acceptance then the Licensee must within a further 10 Business Days prepare and forward to the Licensors the New Licence (in triplicate) executed by the Licensee, unless the parties have agreed otherwise.
- (c) The Licensors must within 15 Business Days of receipt of the New Lease, return to the Licensee a copy of the New Licence executed by the Licensors.
- (d) If the Licensee does not serve a Notice of Acceptance or notifies the Licensors that it does not wish to lease the Available Land, then the Licensors may lease the Available Land to the Proposed Lessee on terms and conditions not more favourable than the terms and conditions of the Offer to Lease.
- (e) In this clause:
  - (i) **Available Land** means any part of the Land
  - (ii) **Proposed Lessee** means anyone other than the Licensee who is in the business of providing electric vehicle charging stations or electric vehicles or a similar permitted use;
  - (iii) **Lease Documentation** means genuine bona fide and binding documentation to lease or licence the Available Land;
  - (iv) **Offer to Licence** means a notice from the Licensors to the Licensee offering to lease or licence the Available Land to the Licensee containing:
    - (A) a copy of the Lease Documentation, being as set out in clause 12.4(a)
  - (v) **Notice of Acceptance** means a notice by the Licensee to the Licensors that the Licensee will lease or licence the Available Land; and
  - (vi) **New Licence** means a lease or licence of the Available Land between the Licensors and the Licensee containing the same terms and conditions as were set out in the Lease Documentation and otherwise generally the same terms as this Licence, for a minimum term of 5 years or as otherwise agreed by the parties.

- (f) Notwithstanding any other provision, this clause 12 will survive for five years following the Expiry Date of this Licence.

## 13. Miscellaneous

### 13.1 Costs

The Licensee must:

- (a) pay all stamp duty (including penalties and fines other than penalties and fines due to the default of the Licensor) on this Licence; and
- (b) pay the Licensor's reasonable mortgagee's consent fees for consenting to this Licence.

### 13.2 Governing law

This Licence is governed by the laws of the State and the Commonwealth of Australia and the Licensor and the Licensee submit to the non-exclusive jurisdiction of the Courts of the State.

### 13.3 Electronic execution and counterparts

- (a) Each party consents to the signing of this Licence by electronic means and in accordance with all laws. The parties agree to be legally bound by this Licence signed in this way.
- (b) This Licence may be executed in counterparts, all of which taken together constitute one document

## 14. Construction

### 14.1 Licensor's Capital Contribution

- (a) The Licensor acknowledges and agrees that it will make available a \$50,000.00 capital contribution to construction costs (including power upgrade, build etc as required) for the installation.
- (b) Any additional construction costs above the Licensor's contribution pursuant to clause 14.1(a) are the responsibility of the Licensee.
- (c) The parties will do all things reasonable and necessary to have the electric vehicle chargers pursuant to this Licence and the Other Licence operational on or before 1 January 2024.
- (d) For the avoidance of any doubt, the Licensee will retain legal title to the Equipment notwithstanding the Licensor's contribution to construction costs in accordance with clause 14.1(a).

## 15. Reporting & Data Collection

The Licensee must, on a quarterly basis, or otherwise upon Council's reasonable request, except where disclosure is prohibited by any laws, provide to Council information as set out in Annexure B.

## 16. New Option to Lease if Equipment deemed unusable

- (a) If the Equipment is deemed unusable at any point during the Term and requires replacing, as reasonably determined by the Licensee, the Licensee will provide notice in writing to the Licensor that the Equipment is unusable.
- (b) If clause 16(a) occurs, the Licensee will replace the equipment at the Licensee's cost, unless otherwise agreed between the parties.



- (c) If clause 16(b) occurs, the Licensor will grant to the Licensee a further extension of this Licence of the Licensed Area on the same terms as this Licence, for the 9 year and 364 days period commencing 30 days from the date that the notice pursuant to clause 16(a) is given.

## Signing page

**EXECUTED** as an agreement on the

day of

2023

### Licensor Execution

**Signed, sealed and delivered** for and on behalf  
of **BULOKE SHIRE COUNCIL ABN 89 293 793  
980** by its authorised delegate in the presence of:

Signature of witness

Signature of delegate

Name of witness (print)

Name of delegate (print)

Office Held

### **Licensee Execution**

**EXECUTED** by **FAST CITIES AUSTRALIA PTY  
LTD ACN 613 484 754** in accordance with s127 of  
the *Corporations Act 2001* (Cth):

Signature of Authorised Person

Signature of Authorised Person

Name of Authorised Person

Name of Authorised Person

Office Held

Office Held


# Annexure A

Plan referred to in Item 1

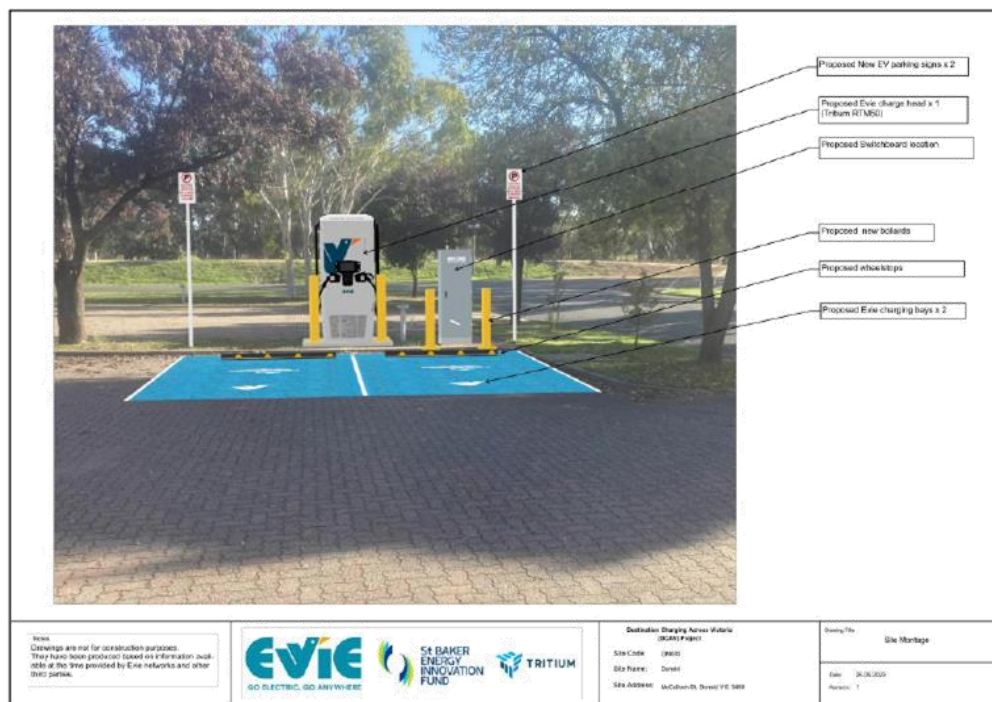
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Licensed Area as positioned on the Land



 Licensed Area (cross-hatched included as the Licensed Area)

Dimensions of the Licensed Area (mm): 7800 x 5000





## Annexure B

### Data Sharing referred to in clause 15

The following Data will be provided from the Licensee to Council Licensor on a quarterly basis or upon reasonable request.

Date	Charge duration (Mins)	Energy Provided (kwh)
14 June 22	20	17
14 June 22	10	6
15 June 22	15	13
...	...	...

- Utilisation per month
- Total charging sessions
- Breakdown of individual charging session including charge duration (minutes) and energy provided (kWh)
- Total unique drivers
- Postcodes (where available)
- CO2e-kg saved using GreenPower
- CO2e-kg saved replacing ICE vehicles

### Notice of Intention to Licence

At its meeting of 12 July 2023, Buloke Shire Council (Council) resolved to give public notice under Section 115 of the *Local Government Act 2020* (Act) that it intends to enter into a licence with Fast Cities Australia Pty Ltd for part of the land described below (Proposal) for the purpose of an electric vehicle charging station.

The parcel of land which is subject of the proposal is the land outlined in “red” on the plan below being that land contained in Certificate of Title Volume 9363 Folio 257 located at 68A Woods Street, Donald.



The key terms of the licence are:

- Licence fee is five (5) per cent of the Net Operating Income. Net Operating Income equals the Licensee's gross revenue minus the cost of the onsite energy, billing/transaction fees and bad debts.
- The term of the licence is 15 Years.
- The new licence would commence 1 September 2023.

A person may make a submission on the Proposal. Any person proposing to make a submission under Section 115 of the Act must do so by 5.00pm on (DATE).

All submissions will be considered in accordance with Section 115 of the Act.

In line with Council's Community Engagement Policy, any person may make a submission on this matter.

A submission must include your name, address and contact details.

Written submissions must be clearly marked as "Proposed Licence – Fast Cities Pty Ltd".

Further information regarding the Proposal may be obtained from Council's Acting Manager Assets, Trevor Rumbold on 1300 520 520.



## 8.2.3 PLANNING PERMIT APPLICATION PA23013 - 5 LOT SUBDIVISION OF LAND - 37 HANNON STREET, SEA LAKE

**Author's Title:** Manager Development Services

**Department:** Community Development

**File No:** LP/09/01

**Relevance to Council Plan 2021 - 2025**

**Strategic Objective:** Our Built and Natural Environment

### PURPOSE

For Council to consider the information in this report and, as the Responsible Authority, resolve to issue a Notice of Decision to grant a Permit or Notice of Refusal.

### SUMMARY

A Planning Permit application was received by Council on the 25<sup>th</sup> January 2023 for a 5 lot subdivision of land, and to alter access to a Transport Zone 2 at 37 Hannon Street, Sea Lake. The proposed subdivision would result in five allotments, each being 404 square metres in area. Access to proposed Lot 1 will be from Hannon Street, Lot 2, 3 & 4 from Horace Street (Calder Highway) and Lot 5 from Hughes Street.

### RECOMMENDATION

That Council:

having caused notice of Planning Application No. PA23013 to be given under Section 52 of the *Planning and Environment Act 1987* and/or the planning scheme, and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987*, decides to issue a Notice of Decision to Grant a Permit under the provisions of 32.05-5 and 52.29-2 of the Buloke Planning Scheme in respect of the land known and described as 37 Hannon Street, Sea Lake (Lot 1 TP251694W), for the five-lot subdivision of land, and alter access to a Transport Zone 2 in accordance with the endorsed plans, with the application dated 25/01/2023, subject to conditions (attached)

**Attachments:** 1 [PA23013 Draft Permit Conditions](#)

### DISCUSSION

A Planning Permit application was received by Council on the 6<sup>th</sup> February 2023 for a 5 lot subdivision of land, and to alter access to a Transport Zone 2 at 37 Hannon Street, Sea Lake. The proposed subdivision would result in five allotments, each being 404 square metres in area. Access to proposed Lot 1 will be from Hannon Street, Lot 2, 3 & 4 from Horace Street (Calder Highway) and Lot 5 from Hughes Street.

#### **Subject site and locality**

The site has a total area of 2020 square metres and currently contains:

- Vacant land

The main site/locality characteristics are:

- The land is located within a mixed use area in the township of Sea Lake.
- The site abuts road reserve on three boundaries: Hughes Street to the north, Horace Street (Calder Highway) to the east and Hannon Street to the south.
- The land adjoins residential land containing a single dwelling to the west.



- A religious building is located opposite over Horace Street.
- Vacant land and residential uses to the north over Hughes Street.
- Sea Lake Showgrounds are located to the south over Hannon Street.
- The subject land is located 250 metres north of the main commercial street of Sea Lake.
- The site is relatively flat with no significant features upon the site
- No significant vegetation exists on the land or surrounding land

### Assessment

The land is zoned Township Zone (TZ), no planning overlays apply to the property.

Purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for residential development and a range of commercial, industrial and other uses in small towns.
- To encourage development that respects the neighbourhood character of the area.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

*In accordance with Clause 32.05-5, a planning permit is required to subdivide land in TZ and must meet specified requirements of Clause 56.*

Decision Guideline	Comments
<b>General</b>	
The Municipal Planning Strategy and the Planning Policy Framework.	<i>These have been considered, please refer to details below.</i>
The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.	<i>The proposed development is not typical of the existing neighbourhood character as the development is a higher density than typical of Sea Lake. However, there are developed lots of a similar density in the north-east of the township. The proposed density is considered appropriate and adds to the diversity of lots sizes in the town.</i>
The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.	<i>Utility services are available to the subject land.</i>
Provision of car and bicycle parking and loading bay facilities and landscaping.	<i>The proposed allotments will allow for the provision of car and bicycle parking and for landscaping.</i>
The effect that existing uses on adjoining or nearby land may have on the proposed use.	<i>Adjoining residential uses will have no impact on the proposed subdivision.</i>
The scale and intensity of the use and development.	<i>The development is of a higher density than typical of Sea Lake. Higher density and increased diversity of housing is supported by policy in the Buloke Planning Scheme.</i>
The safety, efficiency and amenity effects of traffic to be generated by the proposal.	<i>The 5-lot proposal will potentially generate more traffic movements than typical of a single allotment depending on future development. Lots 1 &amp; 5 will gain access from Hannon and Hughes Streets respectively. Neither Hughes or Hannon Streets are the main thoroughfares for the town. Lots 2-4 will gain access from Horace Street (Calder Highway). It is considered that the traffic movements generated by the proposed development will not have a significant detrimental negative effect on safety or amenity.</i>

Decision Guideline	Comments
<b>Subdivision</b>	
The pattern of subdivision and its effect on the spacing of buildings.	<i>The pattern of the subdivision is adapted to the shape of the original allotment. Each allotment is identical in shape and size and will allow for appropriate spacing of buildings for future development.</i>
For subdivision of land for residential development, the objectives and standards of Clause 56.	<i>These have been considered, please refer to details below.</i>

## Clause 56 Residential Subdivision Analysis

Standard	Comment
<b>56.03-5 Neighbourhood character objective</b>	<i>The proposed pattern of the subdivision responds to the surrounding existing land uses, noting that the land to the west, north and north-east are developed for residential housing.</i>
<b>56.04-2 Lot area and building envelopes objective</b>	<i>The proposed allotments will each be 404m<sup>2</sup> in area. A building rectangle measuring 10 metres by 15 metres can adequately be provided on each proposed allotment.</i>
<b>56.04-3 Solar orientation of lots objective</b>	<i>The proposed lots will have adequate solar access for future dwellings.</i>
<b>56.04-4 Street orientation objective</b>	<i>All lots will front Horace Street, although Lot 1 and Lot 5 will be accessed from Hannon and Hughes Streets respectively Street, ensuring good passive surveillance and visibility.</i>
<b>56.04-5 Common area objectives</b>	<i>There will be no common property created as part of this subdivision.</i>
<b>56.06-8 Lot access objective</b>	<i>Proposed Lots 2, 3 &amp; 4 will gain access from an arterial road. The Department of Transport has not objected to the proposal subject to conditions. Specifically, that Lots 1 &amp; 5 should not gain access from Horace Street (Calder Highway). Safe access will be provided to the proposed lots via new crossovers, constructed to the relevant authorities' specifications.</i>
<b>56.07-1 Drinking water supply</b>	<i>The proposed lots will be connected to existing mains water.</i>
<b>56.07-2 Reused and recycled water objective</b>	<i>There are no reused and recycled water supply systems proposed as part of this subdivision.</i>
<b>56.07-3 Wastewater management objectives</b>	<i>The proposed lots will be connected to reticulated sewerage to the satisfaction of GWMWater.</i>
<b>56.07-4 Stormwater management objectives</b>	<i>Stormwater and drainage infrastructure will be provided to the satisfaction of Buloke Shire Council.</i>
<b>56.08-1 Site management objective</b>	<i>No construction is proposed as part of the application.</i>
<b>57.09-1 Shared trenching objective</b>	<i>Any new connections will be provided in shared trenching where possible.</i>
<b>56.09-2 Electricity, telecommunications and gas objectives</b>	<i>Any new electricity and Telecommunications connections will be designed and constructed in accordance with the requirements of each service provider. Reticulated gas is not available in Sea Lake</i>
<b>56.09-3 Fire hydrants objective</b>	<i>If required, fire hydrants will be provided to the satisfaction of the Country Fire Authority.</i>
<b>56.09-4 Public lighting objective</b>	<i>Adequate existing public is available to the subject site</i>

The subject land is adjacent to a Transport Zone 2. Clause 52.29 Land adjacent to the Principal Road Network is applicable.

Purpose of Clause 52.29

To ensure appropriate access to the Principal Road Network and to ensure appropriate subdivision of land adjacent to Principal Road Network

*A permit is required to subdivide land adjacent to a road in a Transport Zone 2 (TRZ2).*

Decision Guidelines	Comments
The views of the relevant road authority.	<i>The Department of Transport has no objection to the proposal subject to conditions.</i>
The effect of the proposal on the operation of the road and on public safety.	<i>The proposal will not impede the operation of the road or impact public safety.</i>

### Municipal Planning Strategy

The following Municipal Planning Strategies have been considered as part of this application:

<b>02 MUNICIPAL PLANNING STRATEGY</b>
<b>02.03 STRATEGIC DIRECTIONS</b> <b>02.03-1 Settlement and housing</b> Council's strategic directions for settlement and housing are: <ul style="list-style-type: none"> <li>• Encouraging residential and economic development in the main townships that have reticulated infrastructure including Birchip, Charlton, Donald, Sea Lake and Wycheproof.</li> <li>• Maintaining urban character, amenity and services.</li> <li>• Directing subdivision development to locations on the established road network.</li> <li>• Providing accommodation, services and independent living for older residents.</li> </ul>
<u>Comments:</u> <i>The proposal is consistent with Municipal Planning Strategy. It will offer diversity of lots within the serviced township of Sea Lake.</i>

### Planning Policy Framework (PPF)

The following Planning Policy Framework have been considered as part of this application:

<b>11 SETTLEMENT</b>
<b>11.03 PLANNING FOR PLACES</b> <b>11.03-6S Regional and local places</b> <b>Objective</b> To facilitate integrated place-based planning. Strategies include considering the distinctive characteristics and needs of regional and local places in planning for future land use and development.
<u>Comments</u> <i>The proposal responds to the distinctive character and needs of Sea Lake and surrounding areas. The proposal provides infill development within an existing residential area and supports the existing town structure rather than seeking additional growth areas and extension of services.</i>
<b>13 ENVIRONMENTAL RISKS AND AMENITY</b>
<b>13.07 AMENITY, HUMAN HEALTH AND SAFETY</b> <b>13.07-1L-02 Township amenity protection</b> This policy applies to land in the Township Zone Strategies include to protect the amenity and character of residential and other sensitive land uses within the main towns.
<u>Comments</u> <i>The proposed development is of a residential nature, and it is not considered that the use will</i>

*significantly affect the amenity of nearby sensitive uses.*

## **15 BUILT ENVIRONMENT AND HERITAGE**

### **15.01 BUILT ENVIRONMENT**

#### **15.01-3S Subdivision Design**

##### **Objective**

To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.

In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:

- Creating compact neighbourhoods that have walkable distances between activities.
- Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

#### **15.01-5S Neighbourhood character**

##### **Objective**

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Strategies include:

- Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

##### **Comments:**

*The proposed development is consistent with the policies of clause 15 - Built Environment. The proposal adds diversity to the lot sizes and housing diversity in Sea Lake.*

## **16 HOUSING**

### **16.01 RESIDENTIAL DEVELOPMENT**

#### **16.01-1S Housing supply**

##### **Objective**

To facilitate well-located, integrated and diverse housing that meets community needs.

Strategies include:

- Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people
- Encourage higher density housing development on sites that are well located in relation to jobs and services.
- Identify opportunities for increased residential densities to help consolidate urban areas.
- Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.

#### **16.01-1L Housing diversity in Buloke**

Strategies include:

- Facilitate new and diverse housing opportunities within existing township boundaries.
- Encourage residential development that offers housing forms best suited to the household structures and age-groups in the municipality.
- Increase the mix of housing types and densities to reflect the needs of older people in the community.

#### **16.01-2S Housing affordability**

##### **Objective**

To deliver more affordable housing closer to jobs, transport and services.

Strategies include:


- Ensuring land supply continues to be sufficient to meet demand.
- Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.

##### **Comments:**

*The proposal is supported by state and local planning policy.*

**The decision guidelines of Clause 65****65.01 Approval of an Application or Plan**

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

Decision Guidelines	Comments
Any significant effects the environment, including the contamination of land, may have on the use or development.	<i>The subject land is not likely to be contaminated and is not highlighted on the EPA Register.</i>
The Municipal Planning Strategy and the Planning Policy Framework.	<i>These have been considered in more detail above.</i>
The purpose of the zone, overlay or other provision.	<i>The proposed subdivision meets the purpose of the zone and provision of the Planning Scheme.</i>
Any matter required to be considered in the zone, overlay or other provision.	<i>These have been addressed earlier in the Report.</i>
The orderly planning of the area.	<i>The proposed subdivision of land is considered orderly planning.</i>
The effect on the environment, human health and amenity of the area.	<i>The proposed subdivision of land will not have an impact on the environment, human health, or on the amenity of the area.</i>
The proximity of the land to any public land.	<p><i>The subject land is located north of the Sea Lake Recreation Reserve, containing the Sea Lake Caravan Park and Traveller's Rest Stop and northwest of the Sea Lake Police Station and public swimming pool.</i></p>  <p><i>Image sourced from Mapshare interactive mapping showing public land 21/06/2023</i></p>
Factors likely to cause or contribute to land degradation, salinity or reduce water quality.	<i>The proposed subdivision will not cause or contribute to any land degradation, salinity or reduce water quality.</i>
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	<i>Stormwater will be managed to the satisfaction of Council.</i>
The extent and character of native vegetation and the likelihood of its destruction.	<i>No native vegetation will be affected by the proposal.</i>

Decision Guidelines	Comments
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	<i>Not applicable</i>
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.	<i>The subject land is not located within a Bushfire Prone area nor will it be affected by flood or erosion. The proposal will not increase any hazard.</i>
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.	<i>Not applicable to this application.</i>
The impact the use or development will have on the current and future development and operation of the transport system.	<i>The proposed subdivision will not have an impact on the transport system.</i>

### 65.02 Approval of an Application to Subdivide Land

Before deciding on an application to subdivide land, the responsible authority must consider, as appropriate:

Decision Guidelines	Comments
The suitability of the land for subdivision.	<i>The subject land is suitable for subdivision.</i>
The existing use and possible future development of the land and nearby land.	<i>The proposed subdivision of land will not have an impact on existing land uses. The proposal will allow for future development of land at an acceptable scale.</i>
The availability of subdivided land in the locality, and the need for the creation of further lots.	<i>The proposed subdivision of land will add five additional lots to the market and offers diversity in lot size as the proposed lots are smaller than the majority of the existing lots in the township.</i>
The effect of development on the use or development of other land which has a common means of drainage.	<i>Not applicable – there is no development as part of this proposal.</i>
The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.	<i>The proposed subdivision of land takes into consideration the existing physical characteristics of the land. There is no significant vegetation on the land.</i>
The density of the proposed development.	<i>The proposal is of a higher density than typical subdivisions in the township, however lots of a similar size can be found in the north-west of Sea Lake. The proposal offers choice of an alternate lot size.</i>
The area and dimensions of each lot in the subdivision.	<i>Each proposed lot will have an area of 404m<sup>2</sup>, with dimensions measuring 20.1 metres by 21.1 metres each.</i>
The layout of roads having regard to their function and relationship to existing roads.	<i>The proposed subdivision of land will not have an impact on existing road conditions.</i>
The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.	<i>The proposed subdivision of land does not create or have an impact on existing conditions on movement of pedestrians or traffic.</i>
The provision and location of reserves for public open space and other community facilities.	<i>No native vegetation will be affected by the proposal.</i>
The staging of the subdivision.	<i>Not applicable to this application.</i>
The design and siting of buildings having regard to safety and the risk of spread of fire.	<i>The proposal is not located within the Bushfire Prone area and will not be affected by flood or erosion.</i>
The provision of off-street parking.	<i>There is ample room on each of the lots for onsite car parking.</i>

Decision Guidelines	Comments
The provision and location of common property.	<i>Not applicable to this application.</i>
The functions of any body corporate.	<i>Not applicable to this application.</i>
The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.	<i>All relevant utility services are or will be connected to the subject land.</i>
If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.	<i>Reticulated sewerage is available for connection to the proposed lots.</i>
Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.	<i>Not applicable to this application.</i>
The impact the development will have on the current and future development and operation of the transport system.	<i>Not applicable to this application.</i>

The proposal provides for infill development in an established township, offering diversity and affordable housing options. The density of the subdivision is considered appropriate and is supported by state and local policy.

Any future residential development of the land must meet certain objectives and standards of Clause 54, including neighbourhood character, site layout and amenity. This would ameliorate any concerns relating to privacy or overlooking of adjoining properties.

The application was referred to the Department of Transport who have not objected to the proposal subject to conditions. They are allowing the three middle lots to gain access from Horace Street (Calder Highway). The highway at this location has a speed limit of 60km/h. It is considered that there would not be any impacts on road safety. There are several properties north of the subject site that gain access from the highway, with no major safety impacts.

#### **RELEVANT LAW**

The application is being assessed in accordance with the *Planning and Environment Act 1987 (the Act)*

#### **RELATED COUNCIL DECISIONS**

N/A

#### **OPTIONS**

Council has the option to resolve to issue a Notice of Refusal to Grant a Permit. (motion below)

*That Council having caused notice of Planning Application No. PA23013 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a Notice of Refusal to Grant a Permit under the provisions of 32.05-5 and 52.29-2 of the Buloke Planning Scheme in respect of the land known and described as 37 Hannon Street, Sea Lake (Lot 1 TP251694W ), for the 5 lot subdivision of land and alter access to a Transport Zone 2 with the application dated 25/01/2023.*

The Notice must state the grounds on which the application was refused.

#### **SUSTAINABILITY IMPLICATIONS**

There are no significant environmental sustainability implications.

**COMMUNITY ENGAGEMENT**

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending one (1) notice to the owners and occupiers of adjoining land.
- Notice in all locally circulating newspaper publications

The notification has been carried out correctly.

Council has received one (1) objection to date. The key issues that were raised in the objection are:

- The density of the subdivision is out of character with the area.
- Privacy will be reduced due to the potential of five new adjoining neighbours.
- Road safety concerns for potential families who may purchase the land.
- The proposal may affect the value of their property

Consultation was not undertaken. The applicant provided the following response to the objector:

- Having a number of backyards abutting another residential property is common in townships and general residential areas.

Therefore, proposing such accords with the planning policies and objectives of the Township Zone within the Buloke Planning Scheme.

- Future dwellings to be constructed upon each allotment will be single storey; and as the proposal is for subdivision and not development, privacy will not be affected by the subdivision proposal.
- In relation to the concerns raised along the Calder Highway, we note that Department of Transport & Planning have advised of no objections subject to conditions.
- An objection on financial grounds is not planning grounds as determined by many VCAT Decisions.

**INNOVATION AND CONTINUOUS IMPROVEMENT**

N/A

**COLLABORATION**

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	DoT – conditional consent GWMWater – conditional consent Powercor – conditional consent
Section 52 notices	n/a

Internal Council Referrals	Advice/Response/Conditions
Assets & Infrastructure	No objection

**FINANCIAL VIABILITY**

There are no significant financial viability impacts. Property valuations may change for rating purposes.

**REGIONAL, STATE AND NATIONAL PLANS AND POLICIES**

Please see policy discussion at Discussion section of this report.

**COUNCIL PLANS AND POLICIES**

N/A


**TRANSPARENCY OF COUNCIL DECISIONS**

In order to promote transparency, Council will consider this resolution in an open meeting.



**CONFLICTS OF INTEREST**

No officer involved in the preparation of this report has a conflict of interest in the subject matter of this report.

 <b>BULOKE</b> SHIRE COUNCIL	<b>Draft Permit Conditions</b>  Application No: <b>PA23013</b> Planning Scheme: <b>Buloke Planning Scheme</b> Responsible Authority: <b>Buloke Shire Council</b>
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**ADDRESS OF THE LAND:****37 Hannon Street Sea Lake VIC 3533****THE PERMIT ALLOWS:****Five-lot subdivision of land, alter access to a Transport Zone 2****THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:****Endorsed Plans**

1. The plan of subdivision as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

**Subdivision**

2. The owner of the land must enter into an agreement with:
  - a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - b. a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
3. The owner of the land must enter into agreements with the relevant authorities for the

provision of water supply, drainage, sewerage facilities and electricity services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.

4. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.
5. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

#### **Access and Car Parking**

6. Vehicular crossings accessing Council roads must be constructed to the road to suit the proposed driveways to the satisfaction of the responsible authority.

#### **Referral Authority Conditions - Department of Transport**

7. Before the plan of subdivision is submitted to the Responsible Authority for certification under the Subdivision Act 1988, amended plans must be submitted to and approved by the Head, Transport for Victoria. The plans must be generally in accordance with the plans for 5 lot Subdivision Hannon St Sea Lake but modified to show:
  - a) No access from lots 1 and 5 onto Horace Street (Calder Highway); access only allowed onto the Hannon Street and Hughes Street respectively (local roads).
  - b) Access from lots 2, 3 and 4 onto Horace Street (Calder Highway).
8. Prior to the issue of a Statement of Compliance, the following must be completed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria and the Responsible Authority. The access lands, driveways, crossovers and associated works must be provided and available for use and be:
  - a) Formed to such levels and drained so that they can be used in accordance with the endorsed plans.
  - b) Constructed generally in accordance with VicRoads Guideline Drawing GD4010 for a passenger vehicle.
  - c) Treated with an all-weather seal or some other durable surface.

9. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).

**Commencement**

10. This permit will operate from the issued date of this permit.

**Permit Expiry**

This permit as it relates to development (subdivision) will expire if one of the following circumstances applies:

- a. The plan of subdivision has not been certified under the *Subdivision Act 1988* within 2 years of the issued date of this permit.
- b. A statement of compliance is not issued within 5 years of the date of certification.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

**Permit Notes**

It is your responsibility to ensure all other authorisations are obtained prior to any works commencing. This may include Building, Engineering and Local Laws Permits. You are also required to abide by any State and Federal Legislation in relation to your approved proposal.



## **8.2.4 PLANNING PERMIT APPLICATION 928/21 – USE AND DEVELOPMENT OF LAND FOR A SERVICE STATION (FUEL CELL) – 2 CAMPBELL STREET, BIRCHIP**

**Author's Title:** Manager Development Services

**Department:** Community Development

**File No:** LP/09/01

**Relevance to Council Plan 2021 - 2025**

**Strategic Objective:** Our Built and Natural Environment

### **PURPOSE**

For Council to consider the information in this report and, as the Responsible Authority, resolve to issue a Notice of Decision to grant a Permit or Notice of Refusal.

### **SUMMARY**

A planning permit application was received by Council on the 13<sup>th</sup> May 2021 for the use and development of land for a service station (fuel cell) at 2 Campbell Street, Birchip. The proposal includes a sign and creating new access to Campbell Street. The facility will be unstaffed, customers will be able to pay for their fuel by using the self-service console integrated into the proposed fuel cell. It will be available for use from 7.00am to 10.00pm, seven days a week.

Council issued a Notice of Decision to Refuse the application at the Wednesday 9<sup>th</sup> February 2022 meeting. The applicant appealed for a review of the decision to VCAT. The responsible authority's decision was set aside and the matter was remitted to the responsible authority for reconsideration. The application has been re-referred to the relevant authorities, and further public notice has been given.

### **RECOMMENDATION**

That Council:

having caused notice of Planning Application No. 928/21 to be given under Section 52 of the *Planning and Environment Act 1987* and/or the planning scheme, and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987*, decides to Grant a Notice of Decision to Grant a Permit under the provisions of 34.01-1, 34.01-4, 52.05-11 and 52.29-2 of the Buloke Planning Scheme in respect of the land known and described as 2 Campbell Street, Birchip (Lots 6, 7, 8 & 9 LP58023) for the use and development of land for a service station (fuel cell), construct and display a business identification sign, and alter access to a Transport Zone 2, in accordance with the endorsed plans, with the application dated 13/05/2021, subject to conditions (attached).

**Attachments:** 1 [PPA928/21 Draft Planning Permit Conditions](#)

### **DISCUSSION**

A planning permit application was received by Council on the 13<sup>th</sup> May 2021 for the use and development of land for a service station (fuel cell) at 2 Campbell Street, Birchip. The proposal includes

a partly internally illuminated business identification sign and creating new access to Campbell Street. The facility will be unstaffed, customers will be able to pay for their fuel by using the self-service console integrated into the proposed fuel cell. It will be available for use from 7.00am to 10.00pm, seven days a week.

Council issued a Notice of Decision to Refuse the application at the Wednesday 9th February 2022 Council meeting. The applicant appealed for a review of the decision to VCAT. The responsible authority's decision was set aside, and the matter was remitted to the responsible authority for reconsideration. By Order dated 14 September 2022 the applicant was required to provide a complete set of plans that showed the proposal modified in accordance with the permit conditions specified by the Head, Transport for Victoria. A Practice Day Hearing was conducted to consider the status of the plans submitted to the Tribunal as they differ from the application plans, and to consider whether notice of the plans should be required to be given. The member, having regard to the difference of the plans submitted in accordance with the permit conditions required by Transport for Victoria and the permit application plans, found that the application should be remitted to the responsible authority for reconsideration. The applicant applied for an amendment to the permit application under section 57A of the Planning and Environment Act 1987, which applies to amending an application after notice has been given. The application has been re-referred to the relevant authorities, and further public notice has been given.

The property 2 Campbell Street, Birchip is zoned Commercial 1 Zone (C1Z) and a narrow 2 metre strip of the land on the eastern boundary is subject to the Heritage Overlay (HO14). HO14 is the Birchip Township Heritage Precinct; 2 Campbell Street is not contributory to the heritage precinct. The property is located at the corner of Campbell Street and Taverner Street and is 50 metres to the west of Cumming Avenue. The adjoining allotment to the east on Campbell Street is a park area owned by Buloke Shire Council. The other adjoining allotment to the east is a dwelling. The adjoining allotment to the north is a GWMWater depot and office. The properties to the west over Taverner Street are dwellings. The property directly opposite to the south over Campbell Street is the Birchip Hotel. The subject site is at the southern end of the Commercial 1 Zone that indicates the main commercial and retail precinct in Birchip.

The site is improved with a small structure that is in poor condition, and the boundary is fenced with 'cyclone' type fencing. There is some vegetation on the east and west boundaries.

The proposed use and development includes:

- Removal of all structures and vegetation on the site except for the north and east boundary fencing, and Lemon Scented Gum on the east boundary
- Placement of an above-ground fuel-cell (tank). The tank will be 12.19m in length, 2.43m in width and a total height of 2.89m.
- Provision of a canopy over the proposed tank and re-fueling area. The canopy will be 10.01m in length and 5.233m in width. It will have a total height of 6m. Two led down lights will be recessed in the underside of the canopy, directly above the pumps.
- The tank and canopy constructed in a T formation, with the centreline of the setback 24.5m from the Taverner Street (east) boundary and 10m from the Campbell Street (south) boundary.
- Remove 2x street trees in nature strip along Campbell Street frontage.
- Construct 2x crossovers along Campbell Street frontage.
- Provision of a business identification and advertising sign. It will:
  - be attached to the ground with all fixings concealed,
  - have a total width of 1.2m and height of 2.4m,
  - be double sided with a total area of 5.76sqm (2.88sqm on each side), and
  - be partly internally illuminated, featuring the company logo and price-board to advertise the fuel available

The property 2 Campbell Street, Birchip is zoned Commercial 1 Zone (C1Z). The purpose of the C1Z is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.

- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

*At Clause 34.01-1 to use land for a service station is a Section 2 – planning permit required land use. At Clause 34.01-4 a permit is required to construct a building or carry out works.*

The property is adjacent to a Road Zone 1 (RDZ1) and Clause 52.29 Land Adjacent to a Road Zone Category 1 applies. The purpose of Clause 52.29 is:

- To ensure appropriate access to identified roads.
- To ensure appropriate subdivision of land adjacent to identified roads.

*At Clause 52.29-2 a permit is required to create or alter access to a road in a Road Zone, Category 1.*

A business identification sign is proposed for the development. Clause 52.05 Signs applies to the development of land for signs. The purpose of Clause 52.05 Signs is:

- To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

*A permit is required for an internally illuminated sign with a display area exceeding 1.5 m<sup>2</sup>*

### **Planning Policy Framework**

#### **Clause 13.04-1S Contaminated and potentially contaminated land**

Objective - To ensure that contaminated and potentially contaminated land is used and developed safely

Strategies include ensuring contaminated or potentially contaminated land is or will be suitable for the proposed use, prior to the commencement of any use or development and protecting sensitive uses including a residential use or use as childcare centre, kindergarten, pre-school centre, secondary school, or children's playground from the effects of contamination.

*Section 60 of the Planning and Environment Act 1987 requires a responsible authority, before deciding on a permit application, to consider 'any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development'. Section 60 is applicable to potentially contaminated land, which may affect, or be affected by, use or development.*

*Planning officers have followed the guidance provided in Planning Practice Note 30 in the consideration of this application. Planning officers use the recommended approach to assessing potentially contaminated land at Table 3 in Planning Practice Note 30.*

*As the previous land use at this site was a fuel and oil depot there is a potential for contamination of the land. Planning officers consider that the potential for contamination of the land is 'medium' for the purposes of Table 3. The proposed land use and development is not a sensitive use defined in Ministerial Direction No. 1 or Clause 03.04-1S. The outcome of this assessment is for the responsible authority to document its consideration of the potential for contamination to impact the proposal. As the proposed use and development is a non-sensitive use the potential for the potential contamination to affect the proposal is low.*

#### **Clause 13.051S Noise abatement**

Objective - To assist the control of noise effects on sensitive land uses.

*It is considered by Council that the noise generated by the refueling activities will not significantly affect the amenity of the immediate area. The fuel cell will be available for use from 7.00am to 10.00pm, 7 days per week reducing noise generated at night.*



*A condition on the planning permit will require that the fuel cell be replenished only between the hours of 8.00am to 8.00pm Monday to Friday.*

*A 3 metre high acoustic wall, sealed at the base with no gaps or holes, and setback 1.5 metres from the allotment boundary will be built for the purpose of noise mitigation.*

**Clause 13.06-1S Air quality management**

Objective – to assist the protection and improvement of air quality

*The effect on air quality will be from exhaust emissions from vehicles accessing the site. The use will not in itself contribute to more vehicles on the road. The impact on air quality in the immediate area will be minimal.*

*Generation of dust will be minimal as the turning circle will consist of 300mm compacted dust suppressed quarry rubble.*

**Clause 13.07-1S Land use compatibility**

Objective - To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

**Clause 13.07-1L-01 Amenity protection - General**

Objective - To encourage use and development without compromising residential amenity or agricultural land use.

*The proposed land use is compatible with the purpose of the Commercial 1 Zone to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. Off-site impacts are not inconsistent with a commercial use in commercial zone. Appropriate measures can be utilised to mitigate off site impacts, for example appropriate screening for light spill. A 3 metre high acoustic wall to be constructed on the property will mitigate the light spill from turning vehicles within the site.*

**Clause 14.02-2S Water Quality**

Objective – to protect water quality

*There is potential for contaminated stormwater to be generated by a fuel dispensing operation. The fuel dispensing areas are constructed of a bunded concrete area. All stormwater and any fuel spill from the concrete bunded area is directed to a contaminate separator with a treatment capacity of 3000 litres per hour and contains 20 litres of removable storage for fuel removed from water.*

*The remainder of the site should not produce contaminated stormwater.*

**Clause 15.01-1S and 15.01-1L Urban design**

Objective - To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity

*The proposed development is consistent with the scale and massing of buildings in the immediate area. Traffic movements entering and exiting the site will be slow moving and it is considered that walking, cycling and traffic access and safety in the immediate area will not be significantly impacted.*

*The development will not detract from the presentation and appearance of the township commercial centre.*

**Clause 15.01-2S and 15.01-2L-01 Building design**

Objective - To achieve building design outcomes that contribute positively to the local context and enhance the public realm

*The development will not have a significant detrimental impact on neighbouring properties, the public realm, or the natural environment. The form, scale and appearance of the development are typical of*

*this type of commercial development and are in keeping with the prevailing scale, bulk, streetscape character and built form of the area.*

#### **Clause 15.03-1S Heritage Conservation**

Objective - to ensure the conservation of places of heritage significance

*The site adjoins the Heritage Overlay HO14 – Birchip Township Heritage Precinct. The proposed development will not be readily visible from Cumming Avenue and the development will not detract from the Heritage significance of the Heritage Precinct.*

#### **Clause 17.01-1S Diversified economy**

Objective – to strengthen and diversify the economy

*The proposed fuel cell is an unmanned facility and therefore will not create any ongoing employment directly. The facility will provide fuel services to the district including transport operators, farmers and service providers.*

#### **Clause 17.02-1S Business**

Objective – To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

*The facility is located for accessibility, utilises existing infrastructure, and is located in the existing commercial area.*

#### **Clause 18.02-3S Road System**

Objective - To manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.

*The proposal makes use of the existing road infrastructure.*

#### **Clause 19.02-6S Open space**

Objective - To establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community.

*The park at the corner of Campbell Street and Cummings Avenue will be largely unaffected by the proposal with the shelter and seating area in excess of 50 metres from the proposed fuel cell infrastructure.*

Decision Guidelines - Commercial 1 Zone	
Municipal Planning Strategy and the Planning Policy Framework	<i>Policy discussion in previous section</i>
The interface with adjoining zones, especially the relationship with residential areas.	<i>The property interfaces with C1Z on all adjoining boundaries. C1Z over the highway to the south, TZ over Taverner street to the west.</i>
The effect that existing uses may have on the proposed use.	<i>Existing uses adjoining will not affect service station use of land. Works depot to the north, residence and park to the east, residential over the road to the west, and commercial over the road to the south</i>
The drainage of the land.	<i>Drainage is provided for on plans. Stormwater will be directed to the Legal point of discharge.</i>
The availability of and connection to services.	<i>Services are available at the property</i>

Decision Guidelines - Commercial 1 Zone	
The effect of traffic to be generated on roads.	<i>The service station use will increase traffic movements in the immediate area. The access is from an arterial road (Sunraysia Hwy). The application has been referred to Dept. of Transport, DoT have no objection subject to conditions. Traffic entering and exiting will be slow moving. The majority of the traffic utilising the site will be already on the road network and will therefore not generate additional traffic movement past the school, or on the road network.</i>
The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.	<i>Vehicles supplying the fuel cell will unload with the supply vehicle totally situated within the property. The fuel cell will be replenished between the hours of 8.00am and 8.00pm Monday to Friday. There is access for emergency vehicles, public transport will be unaffected.</i>
The provision of car parking.	<i>No car parking is proposed. The nature of the land use does not require parking onsite. There is sufficient area on the site for maintenance and service vehicles.</i>
The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.	<i>The service station does not provide for verandas etc but is not located within a streetscape where verandas are present, no part of the building adjoins the allotment boundary. A 3m acoustic fence will shield the service station from view on 3 sides, landscaping will be provided on the road side of the acoustic shield.</i>

The proposal is in accordance with the purpose of the zone, being a commercial enterprise servicing the community and complementary to other businesses that are utilising diesel fuel.

The proposal represents orderly planning for the area. Department of Transport have been consulted in regard to traffic access and movements, and GWMWater have been consulted for comment on the potential impact to their infrastructure. These authorities do not object to the proposal subject to conditions.

There is some potential for an impact on the amenity of the area. It is considered that the impact on the amenity will not be significant. The facility will be available between the hours of 7.00am to 10.00pm but is considered that in the context of the population of Birchip and the nature of the demand that the majority of the use of the facility will not cause significant detriment to local amenity. Traffic accessing and exiting the site will be slow moving and have good visibility allowing for road safety.

The subject land adjoins a community space. The public space is oriented toward Cumming Avenue and will not be significantly impacted.

The proposal will incorporate measures to mitigate the contamination of stormwater, and any reduction of water quality.

No native vegetation will be removed as part of this proposal. Two small street trees will be removed to facilitate access. The large lemon scented gum on the east of the allotment will be retained.

The proposed use will not contribute to increased flood, erosion or fire hazard.

#### **RELEVANT LAW**

The application is being assessed in accordance with the *Planning and Environment Act 1987 (the Act)*

**RELATED COUNCIL DECISIONS**

Council issued a Notice of Decision to Refuse this application at the Wednesday 9<sup>th</sup> February 2022 Council meeting. An appeal to review the decision was made to VCAT. VCAT ordered the responsible authority's decision is set aside and the matter is remitted to the responsible authority for re-consideration.

**OPTIONS**

Council has the option to resolve to issue a Notice of Refusal to Grant a Permit. (motion below)

*That Council having caused notice of Planning Application No. PPA928/21 to be given under Section 52 of the Planning and Environment Act 1987, and having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to issue a Notice of Refusal to Grant a Permit under the provisions of 34.01-1 and 34.01-4, 52.05-11 and 52.29-2 of the Buloke Planning Scheme in respect of the land known and described as 2 Campbell Street, Birchip (Lots 6, 7, 8 and 9 LP58023 ), for the use and development of land for a service station (fuel cell), construct and display a business identification sign, and alter access to a Transport Zone 2 with the application dated 13/05/2021.*

The Notice must state the grounds on which the application was refused.

**SUSTAINABILITY IMPLICATIONS**

There are no significant sustainability implications. The proposal will not generate traffic movements to the extent that air quality will be affected. Risks to stormwater quality can be mitigated with appropriate measures.

**COMMUNITY ENGAGEMENT**

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending nine notices to the owners and occupiers of adjoining land.
- Placing two signs on site
- Notice in Buloke Times Newspaper, 22<sup>nd</sup> March 2023 edition

The notification has been carried out correctly.

Council received one further objection upon giving notice for the amended application. date. The key issues that were raised in the objection are:

- Road safety concerns, close to main intersection of Campbell Street and Cumming Avenue.
- Amenity concerns in the immediate area; noise generated by large vehicles using the fuel cell, and concerns around light spill from the facility

The objections to the original application are taken as objections to the amended application.

**INNOVATION AND CONTINUOUS IMPROVEMENT**

N/A

**COLLABORATION**

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Department of Transport: no objection subject to conditions

Section 52 notices	GWMWater: no objection subject to conditions
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Internal Council Referrals	Advice/Response/Conditions
Municipal Building Surveyor	Building permit required
Infrastructure planning	Noted: streetscape works and possible future Cumming Avenue works

**FINANCIAL VIABILITY**

There are no significant financial viability impacts. The property valuation would change for rating purposes.

**REGIONAL, STATE AND NATIONAL PLANS AND POLICIES**

Please see policy discussion at Discussion section of this report.

**COUNCIL PLANS AND POLICIES**


N/A

**TRANSPARENCY OF COUNCIL DECISIONS**

In order to promote transparency, Council will consider this resolution in an open meeting.

**CONFLICTS OF INTEREST**

No officer involved in the preparation of this report has a conflict of interest in the subject matter of this report.

	<p><b>Draft Planning Permit Conditions</b></p> <p>Application No: <b>PPA928/21</b></p> <p>Planning Scheme: <b>Buloke Planning Scheme</b></p> <p>Responsible Authority: <b>Buloke Shire Council</b></p>
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**ADDRESS OF THE LAND:****2 Campbell Street Birchip VIC 3483****THE PERMIT ALLOWS:****Use and development of land for a service station (fuel cell), construct and display a business identification sign and alter access to a Road Zone, Category 1****THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:****General Conditions**

1. The use and development shown on the endorsed plans must not be altered without the written consent of the responsible authority.
2. The development and/or use must operate only between the hours of 7.00am and 10.00pm unless otherwise approved in writing by Council.
3. Deliveries of fuel to the site, routine maintenance and servicing of fixtures, fitting and equipment must only take place between:  
8.00am and 8.00pm Monday to Friday  
Emergency repairs and measures are not subject to this control.
4. The loading and unloading of goods from vehicles must only be carried out on the land and be to the satisfaction of the responsible authority.
5. No plant, equipment, services, or architectural features other than those shown on the endorsed plans are permitted above the roof level of the buildings without the written consent of the responsible authority.
6. All waste and debris must be removed from site within 14 days of the completion of the works to the satisfaction of the responsible authority.
7. Any contaminated soils or products removed from the site must be disposed of in accordance with the relevant State Environmental Protection policies and to the satisfaction of the responsible authority.

**Amenity**

8. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
  - a. Transport of materials, goods or commodities to or from the land

- b. Appearance of any building, works or materials
- c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
- d. Presence of vermin

to the satisfaction of the responsible authority.

- 9. The use and development of the land must not interfere with surrounding existing uses, including residential.
- 10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority, including auto shutoffs and other appropriate measures
- 11. Prior to the commencement of the use, the property boundaries must be fitted with appropriate light screening to prevent light spill into residential properties to the satisfaction of the responsible authority.
- 12. No trailers may be hired from the land, and no motor vehicles serviced or washed or motor vehicles installed with parts or accessories on the land, except with the written consent of the responsible authority.
- 13. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.

#### **Access and Car Parking**

- 14. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel at no cost to Council and to the satisfaction of the responsible authority prior to commencement of the use.
- 15. Access to and exit from the site must only be at the nominated crossings shown on the endorsed plans. Access to and exit from the site must only be from Campbell Street.
- 16. Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - a. constructed
  - b. properly formed to such levels that they can be used in accordance with the plans
  - c. surfaced with an all-weather-access material
  - d. drained
  - e. clearly marked to indicate all access lanes
  - f. clearly marked to show the direction of traffic along access lanes and driveways tothe satisfaction of the responsible authority.

Access lanes must be kept available for these purposes at all times.

17. Before construction commences, photographic evidence of the condition of all Council infrastructure adjoining the subject land must be provided to the satisfaction of the responsible authority. This includes all footpaths, road, drainage, channel and curb and nature strip. Any damage to Council property during construction must be made good to the satisfaction of the responsible authority and at no cost to the responsible authority.

#### **Drainage**

18. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into the responsible authority's drains or watercourses.

#### **Landscaping**

19. Before the use/occupation of the development starts or by such later date as is approved by the Council in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Council.
20. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Council for a minimum period of 2 years. Any dead, diseased or damaged plants are to be replaced prior to the end of this period.

#### **Advertising Signs**

21. The sign must be dimmable and have a suitable control system to enable maximum lighting levels to be set or adjusted if deemed necessary by the responsible authority.
22. If the sign is illuminated, it must not be flashing, cause dazzle or distract road users due to its colouring or luminosity.
23. The sign must not display content, images or text:
  - a) Giving the illusion of continuous movement.
  - b) Capable of being mistaken for traffic signals or traffic control devices, including red, amber or green circles, octagons, crosses or triangles.
  - c) Capable of being mistaken as an instruction to a road user, including the wording stop, give way, slow down, turn left or turn right.
  - d) With a flashing background, flashing text, flashing images, blinking or fading elements that create the illusion of movement.
  - e) Contain any animation.
  - f) Capable of being interpreted as projections beyond the face of the advertising screen such as through 3D technology.
  - g) Consisting of present time or other contemporary update information relating to news, weather or time.
  - h) Containing video, movie or television broadcasts.
24. The use of sound or motion to activate the sign is not permitted.



25. The use of sound to interact with road users is not permitted.

**Maintenance**

26. All buildings and works must be maintained in good order and appearance to the satisfaction of the responsible authority.

**Referral Authority Conditions - GWMWater**

27. The owner/applicant must relocate the existing fire plug located within the proposed new crossover to an area it can be safely accessed.
28. The owner/applicant must ensure that the proposed turning circle has a horizontal clearance of at least one metre from GWMWater assets where no easement is identified. GWMWater's sewer main is located along the north-eastern end of the property.
29. The owner/applicant must ensure that the proposed 350mm deep swale drain on the eastern side is a minimum one metre clear of GWMWater's sewer main to the north. The swale must drain away from the sewer main.
30. The owner/applicant may be responsible for a financial contribution to GWMWater where any works associated with the development are deemed by the corporation to increase the risk of its assets failing, necessitating replacement or realignment of the assets before their end of life.
31. The owner/applicant must ensure that any works undertaken in association with the development will place no additional load on any GWMWater water or sewer assets during or post construction. Upon request the developer must demonstrate that no external load is applied to GWMWater's assets.

**Referral Authority Conditions - Department of Transport**

32. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans date stamped 11/10/2022 Ref: Project # 20427 Perrys Fuel Birchip (SHEET # 01\_SH01; SHEET # 01\_SH02, SHEET # 01\_SH03 and SHEET # 01\_SH04) but annotated and modified to show:
- a) The western access operating and designed as a dedicated entry point.
- b) The eastern access operating and designed as a dedicated exit point.
- c) The installation of appropriate 'No Entry' (R2-4) signs to enforce the access arrangement of the western and eastern access points.

d) All existing and proposed line marking, signage, services, vegetation on Campbell Street.

e) The removal of all existing crossovers from the subject land on Taverner Street.

33. Prior to the commencement of the use, the crossovers and associated works must be provided for and available for use to the satisfaction of and at no cost to the Head, Transport for Victoria.

#### **Permit Expiry**

This permit as it relates to use and development will expire if one of the following circumstances applies:

- a. The development is not started within 2 years of the issued date of this permit.
- b. The development is not completed within 4 years of the issued date of this permit.
- c. The use does not start within 4 years of the issued date of this permit .

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months afterwards.



### **8.3 FINANCIAL REPORTS**

Nil

## 8.4 ORGANISATIONAL REPORTS

### 8.4.1 COUNCIL PLAN 2021-2025 - YEAR 2 ANNUAL PLAN REVIEW

**Author's Title:** Director Community Development

**Department:** Community Development

**File No:** CM/13/06

**Relevance to Council Plan 2021 - 2025**

**Strategic Objective:** Our Council and Community Leadership

#### PURPOSE

The purpose of this report is to give Council a final update on the actions taken against the Council Plan 2021-2025 - Year 2 Annual Plan.

#### SUMMARY

Council at its 16 June 2021 Meeting adopted its Long-Term Community Vision and Council Plan 2021-2025 and subsequently developed a Year 2 Annual Plan for the implementation of the strategic objectives. Quarterly progress reports have been provided to Council throughout the financial year.

#### RECOMMENDATION

That Council note the progress made to deliver the strategic objectives noted in the Year 2 Annual Plan for the Buloke Shire Council - Council Plan 2021-2025.

**Attachments:** 1 [Annual Plan Year 2 Review](#)

#### DISCUSSION

The purpose of Annual Plans is for Council to develop a series of actions, projects, programs and initiatives for the financial year, in order to achieve the Council Plan 2021-2025.

Council has received progress reports against the Year 2 Annual Plan throughout the 2022/23 year, and attached is the final report on the Annual Plan.

The final report highlights a strong year of delivering on the Annual Plan, and the overarching Council Plan 2021-2025, despite the effects of the October 2022 Flood Event on Council's internal resources and access to external materials and labour. While ten of the actions have been deferred due to the impacts of the flood, 11 have been completed and closed, or completed and remain ongoing. The redevelopment of the Community Engagement Policy was deemed to necessary after a desktop review.

Some of the highlights of the report are:

- Delivery of the Agriculture Resilience Project
- Continuation of VicHealth Local Government Partnership
- Publication of the Loddon Mallee Partnership Early Childhood Education and Childcare in Rural Areas Report
- Strong increase of tourism marketing projects
- Two revisions of the Advocacy Strategy
- Subdivision of the old Sea Lake Primary School site

**RELEVANT LAW**

The Annual Plan forms part of the review of the Council Plan, required under the *Local Government Act 2020*.

**RELATED COUNCIL DECISIONS**

This item responds directly to the adoption of the Year 2 Annual Plan on 10 August 2022.

**OPTIONS**

Not applicable.

**SUSTAINABILITY IMPLICATIONS**

Sustainability implications are addressed as part of the Council Plan 2021-2025 under the key strategic objective Our Built and Natural Environment.

There are items included in the Annual Plan relating directly and indirectly to Council's Climate Change Mitigation and Adaptation Strategy.

**COMMUNITY ENGAGEMENT**

There was significant community engagement undertaken in the development of the Council Plan 2017-2021, which is the basis of the Annual Plan. Further actions have been developed through consultation with the community over the past two years. Projects and programs delivered as part of the Annual Plan were subject to Council's Community Engagement Policy.

**INNOVATION AND CONTINUOUS IMPROVEMENT**

Reporting on the delivery of strategic objectives ensures continuous improvement and accountability to the community.

**COLLABORATION**

Many actions achieved in the Annual Plan rely upon the collaboration of other Councils and key peak bodies, local stakeholder groups and the community.

Council partnered directly with the Birchip Cropping Group to deliver the Agriculture Resilience Project and with VicHealth to deliver the Local Government Partnership Program.

**FINANCIAL VIABILITY**

The items listed in the Annual Plan have been factored into the Annual Budget, which is reported on regularly.

**REGIONAL, STATE AND NATIONAL PLANS AND POLICIES**

Not applicable.

**COUNCIL PLANS AND POLICIES**

This report responds directly to the implementation of the Council Plan 2021-2025 and the adopted Annual Plan.

**TRANSPARENCY OF COUNCIL DECISIONS**

The adoption of regular reporting on the Annual Plan provides strong transparency to the community regarding the key focus areas of Council over the 2022/23 financial year and how Council is tracking against those actions.

**CONFLICTS OF INTEREST**

I, Travis Fitzgibbon, have no conflict of interest to declare in relation to this report.

## Buloke Shire Council Plan 2021-2025

### Annual Plan - Year 2

#### Priority 1:

#### Our Built and Natural Environment.

The Vision: Our future Buloke has quality, safe and accessible infrastructure valued by and responsive to the community alongside attractive streetscapes and a protected and celebrated natural environment reflecting Buloke pride.

Initiative	Council Plan Relevance	Measure	Timeframe	Status	Comment
<b>Climate Change Mitigation and Adaption Strategy</b>	1.1 Work Towards Sustainability	Report to Council on progress against the Climate Change Mitigation and Adaption Strategy.	<b>March 2023</b>	<b>Complete</b>	This report was slightly delayed by the October 2022 Flood Event but was noted by Council at its May Council Meeting.
<b>Waste Services – Glass Out Initiative</b>	1.1 Work Towards Sustainability	Skip bins established at landfill/transfer stations and within smaller townships.	<b>March 2023</b>	<b>Deferred</b>	Delayed due to October 2022 flood event.  Bins have been procured. Delivery and associated civil and monitoring works yet to be determined.
<b>Buloke Drainage Plans</b>	1.3 An Attractive and Well Maintained Buloke	Buloke Drainage Plans designed and adopted.	<b>June 2023</b>	<b>Deferred</b>	Delayed due to October 2022 flood event.  This initiative will now be delivered as part of the Annual Plan Year 3 due to the October 2022 Flood Event.

<b>Transport Asset Management Implementation Plan</b>	1.4 A Safe and Active Buloke	Transport Asset Management Implementation Plan adopted.	<b>June 2023</b>	<b>Deferred</b>	Delayed due to October 2022 flood event.  Public consultation to recommence in February 2023.  Draft to be revised with flood mitigation focus.
<b>Road Management Plan</b>	1.4 A Safe and Active Buloke	Road Management Plan adoption in accordance with the <i>Road Management Act 2004</i> .	<b>June 2023</b>	<b>Deferred</b>	Delayed due to amendments requiring additional legislative process under the <i>Road Management Act 2004</i> .
<b>Road Services Internal Service Review</b>	1.4 A Safe and Active Buloke	Road Services Internal Service Review completed with report to Councillor Briefing.	<b>June 2023</b>	<b>Deferred</b>	This initiative will now be delivered as part of the Annual Plan Year 3 due to the October 2022 Flood Event.

**Priority 2:****Our Community Wellbeing.**

The Vision: Our future Buloke is a welcoming, well-connected and inclusive community built around social connections for all age groups and backgrounds and access to, as well as ongoing advocacy for, vital services.

<b>Initiative</b>	<b>Council Plan Relevance</b>	<b>Measure</b>	<b>Timeframe</b>	<b>Status</b>	<b>Comment</b>
<b>Agriculture Resilience Project</b>	2.1 Partnerships to Outcomes	Partner with Birchip Cropping Group to deliver an Agriculture Resilience Project.	<b>June 2023</b>	<b>Complete</b>	Council partnered with the Birchip Cropping Group to deliver a range of projects and programs.
<b>VicHealth Local Government Partnership</b>	2.1 Partnerships to Outcomes	VicHealth Local Government Partnership Project Year 2 delivered.	<b>June 2023</b>	<b>Complete</b>	Amongst the outcome this year were a localised 'This Girl Can' campaign and the Inflating Buloke Program.



<b>Reconciliation Action Plan</b>	2.2 Inclusiveness Plan in Action	Reconciliation Action Plan adopted by Council.	<b>June 2023</b>	<b>Deferred</b>	Whilst the project commenced, the impacts of the October 2022 Flood Event not interrupted progress but have potentially changed the objectives of the RAP.
<b>Gender Equality Action Plan</b>	2.2 Inclusiveness Plan in Action	Advance the Gender Equality Action Plan including the establishment of a Gender Equality Working Group. Commence preparation of report to Commissioner of Gender Equality.	<b>June 2023</b>	<b>Complete</b>	Council has formed its Gender Equality Action Plan Working Group and has commenced its preparation for reporting to the Commissioner for Gender Equality in February 2024.  Council staff undertook the People Matter Survey in June 2023.
<b>Municipal Early Years Plan</b>	2.3 Well Supported Community	Updated Municipal Early Years Plan adopted by Council.	<b>March 2023</b>	<b>Deferred</b>	This initiative will now be delivered as part of the Annual Plan Year 3 due to the October 2022 Flood Event.
<b>Loddon Mallee Partnership Early Childhood Education and Childcare in Rural Areas Project.</b>	2.3 Well Supported Community	Collaborate in the Loddon Mallee Partnership Early Childhood Education and Childcare in Rural Areas project and publish the resulting report.	<b>December 2022</b>	<b>Complete</b>	This document is complete and forms part of Council's Advocacy Strategy and is being distributed to relevant stakeholders.

**Priority 3:****Our Economy.**

The Vision: Our future Buloke is an innovative and strong economy with agriculture, small business and industry capitalising on new ideas to provide a range of employment and tourism opportunities backed by the services, connectivity and housing to achieve population stability.

Initiative	Council Plan Relevance	Measure	Timeframe	Status	Comment
<b>Wimmera Mallee Tourism/Wimmera Development Association Initiative</b>	3.1 Tourism	Increased tourism marketing projects implemented as part of the Wimmera Mallee Tourism/Wimmera Development Association Initiative.	<b>June 2023</b>	<b>Complete/ Ongoing</b>	<p>Marketing initiatives undertaken include:</p> <p>Silo Art Trail A3 Maps.</p> <p>Enhancing Mallee Silo Art Signage Project.</p> <p>Improving Digital Capability of Tourism Businesses Across Wimmera Mallee.</p> <p>Eclectic Wimmera Accommodation – Feasibility Study.</p> <p>Industry Capability Building within the Wimmera Mallee.</p> <p>Augmented and Virtual Reality Scoping Project.</p> <p>Enhance Marketing Mallee Silo Trail Project.</p> <p>Cabins Across the Wimmera Mallee: Strengthening the Visitor Economy.</p>
<b>Submission to State Government for the 2026 Commonwealth Games</b>	3.1 Tourism	Submission made to the State Government for tourism and social housing outcomes as part of the 2026 Commonwealth games.	<b>August 2022</b>	<b>Complete</b>	<p>Council made its submission to the State Government in August 2022.</p> <p>Council has also contributed to the Loddon Campaspe Regional Prospectus and a submission made by Wimmera Mallee Tourism.</p>

<b>Implement Interim Economic and Tourism Development Strategy</b>	3.3 Employment Opportunities	Implement identified initiatives from the Interim Economic and Tourism Development Strategy.	<b>June 2023</b>	<b>Complete/ Ongoing</b>	<p>Some initiatives undertaken include: Working with local Housing groups and developers in Birchip, Charlton, and Donald to get funding for future housing.</p> <p>Revisiting and adopting acceptable housing and business incentives based on the recommendations of EDATAC.</p> <p>Active participation in regional partnerships relating to economic and tourism development initiatives (e.g. WMT, Bendigo Region of Gastronomy, INVEST Loddon Mallee, Traditional Owner relationships, and participating in Wimmera Development Association projects).</p> <p>Participated in the creation and launch of Invest Loddon Mallee with 5 other LGA's.</p> <p>Updating of Council's Industry Investment Guides.</p>
<b>Suitable Housing</b>	3.3 Employment opportunities	Complete subdivision of former Sea Lake Primary School site and make blocks available for sale.	<b>December 2022</b>	<b>Ongoing</b>	At the time of reporting, the Sutcliff Street blocks were close to be available for sale.

**Priority 4:****Our Council and Community Leadership.**

The Vision: Our future Buloke is dynamically led by a council that informs community, has active partnerships, authentic advocacy and quality customer service delivering valued responsive community services in a responsible way.

Initiative	Council Plan Relevance	Measure	Timeframe	Status	Comment
Community Plans	4.1 Active Leaders and Volunteers	Updated Community Plans noted by Council and made available on Council's website.	June 2023	Deferred	This initiative will now be delivered as part of the Annual Plan Year 3 due to the October 2022 Flood Event.
Safer Together Program	4.1 Active Leaders and Volunteers	Deliver the Safer Together Program in conjunction with Gannawarra Shire Council and report to Council Safer Together Program progress.	June 2023	Deferred	This initiative will now be delivered as part of the Annual Plan Year 3 due to the October 2022 Flood Event.
Community Engagement Policy	4.2 Community Engagement	Revised Community Engagement Policy Adopted by Council.	Dec 2022	Withdrawn	A review of the document at the start of process demonstrated that the document was still fit for purpose.  It was subsequently identified by the Local Government Inspectorate as a best practise document during its review of Local Government compliance with the <i>Local Government Act 2020</i> .
Customer Experience Strategy	4.2 Community Engagement	Report to Council on the delivery of Customer Experience Strategy actions.	June 2023	Ongoing	This initiative has been slightly delayed due to the October 2022 Flood Event and will come to the August 2023 Council Meeting.
Advocacy Strategy	4.4 A Well Governed and	Review, update and adopt Council's Advocacy Strategy in line with Council's Long-	October 2022	Complete	Council adopted an updated Advocacy Strategy in October 2022. Due to the October 2022 Flood Event a subsequent revision to include

	Healthy Organisation	Term Community Vision and Council Plan 2021-2025.			advocacy efforts for that event was adopted in April 2023.
<b>Rural Councils Transformation Program</b>	4.4 A Well Governed and Healthy Organisation	Actively participate in the State Governments Rural Councils Transformation Program.	<b>June 2023</b>	<b>Complete/ Ongoing</b>	Funded initiatives are progressing in the Rural Councils Transformation Program in partnership with Gannawarra Shire Council and Swan Hill Rural City Council and Ararat Rural City and Yarriambiack Shire Council.



## **8.5        REPORTS FROM COUNCILLORS**

Nil

**9. OTHER BUSINESS**

**9.1 NOTICES OF MOTION**

Nil

**9.2 QUESTIONS FROM COUNCILLORS**

Nil

**9.3 URGENT BUSINESS**

Nil

**9.4 ANY OTHER BUSINESS**

**9.5 MATTERS WHICH MAY EXCLUDE THE PUBLIC**

Nil

**10. MEETING CLOSE**