

C7 Instrument of Delegation by CEO to Community Asset Committee

Macedon Ranges Shire Council

Instrument of Delegation

by the Chief Executive Officer

to the Stanley Park Community Asset Committee

In exercise of the power conferred by s 47(1)(b) of the *Local Government Act 2020 (Act)*, I, as Chief Executive Officer of Macedon Ranges Shire Council, by this Instrument of Sub-Delegation –

- 1. delegate to each person who is from time to time appointed as a member of the Community Asset Committee, established by resolution of Council passed on **22 June 2022** and known as “Stanley Park Community Asset Committee” (**Community Asset Committee**), each power and/or function and/or duty set out in the Schedule;
- 2. declare that a delegate can only exercise the delegations contained in this Instrument of Sub-Delegation while acting as a member of the Community Asset Committee at a meeting of the Community Asset Committee;
- 3. declare that this Instrument of Sub-Delegation –
 - 3.1.1 comes into force immediately upon its execution;
 - 3.1.2 remains into force until varied or revoked; and
 - 3.1.3 is subject to the conditions and limitations set out in paragraph 4 and 5, and in the Schedule;
- 4. declare that the delegate must comply with specified governance requirements to ensure appropriate standards of probity are met and monitor and report on the activities and performance of the Community Asset Committee;
- 5. declare that the delegate must not determine the issue, take action or do the act or thing 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 47 of the Act or otherwise.

This Instrument of Sub-Delegation is dated **22 June 2022** and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer of Council in the presence of:)
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Witness

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SCHEDULE

Definitions

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| Committee | Means Stanley Park Community Asset Committee |
| Committee Equipment | Means the equipment as itemised with the Annual General Meeting report |
| Council | Means Macedon Ranges Shire Council |
| Council Account | means the account named "Macedon Ranges Shire Council General payments account" (BSB 083 713 Account No. 65261 3355) held by Council with the National Australia Bank Ltd; |
| Finance Officer | Means Council's Coordinator Accounting |
| Governance Officer | Means Council's Coordinator Governance |
| LG Act 1989 | Means the Local Government Act 1989 |
| LG Act 2020 | Means the Local Government Act 2020 |
| MOU | Means Memorandum of Understanding between Council and the former Stanley Park Committee signed on 9 September 2020 |
| Members | Means the members of the Stanley Park Community Asset Committee |
| Parties | Means the Council and the Members |

Powers and functions

To manage the following community asset: **Stanley Park 15 Salisbury Road, Mount Macedon, Victoria** consisting of Vol 4333, Fol 416; Lot 1 on TP 442741B (**the Stated Property**)

And for that purpose:

1. to enter into contracts, and to incur expenditure, not exceeding the value of **\$500**
2. and for the specific purpose of **maintaining and improving the Stated Property** with responsibilities outlined in Schedule 'A'
3. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.
4. to apply for grants or undertake fund raising activities for the purpose of improvement of the asset in accordance with management plans and with land manager approval.
5. to provide Council policy and plan recommendations.

Exceptions, conditions and limitations

The Community Asset Committee is not authorised by this Instrument to:

6. enter into contracts, or incur expenditure, for an amount which exceeds the approved amounts without written approval from Council

7. Exercise the powers which, by force of the Local Government Act 2020, cannot be delegated.
8. Delegate any of its powers or functions

Membership of the Committee

9. The Committee shall be comprised of at least five voting members to the maximum of eleven members comprising representatives.
10. The CEO may at any time, remove a member from the Committee, appoint a member to the Committee, or disband the Committee.
11. All members shall be appointed by the CEO for a duration of three years, and will be eligible for reappointment at the end of this term.
12. A council officer may attend committee meetings on an as needs basis.

Requirements

The members of the Community Asset Committee, when exercising the powers, functions and duties delegated to them, must:

13. Governance requirements:

- 13.1 The Committee shall ensure that all members, including new members, have an understanding of the Instrument of Delegation and Local Laws of Council, as they apply to the Committee.
- 13.2 The Committee shall ensure that all procedures and guidelines applicable to the Committee, as issued by Council, are followed.
- 13.3 Seek assistance and/or clarification from Council, where necessary, to understand its responsibilities under this section by emailing governance@mrsc.vic.gov.au.
- 13.4 Report any issues to Council or liaise in regard to management by emailing environment@mrsc.vic.gov.au
- 13.5 The Committee shall at its commencement and then at its Annual Meeting each year elect from its members at a minimum the following office bearers:
 - President, Chairperson of the Committee
 - Secretary
 - Treasurer
- 13.6 Should a committee member become aware of a Conflict of Interest in a matter before the Committee for consideration, they must declare the conflict to the meeting and excuse themselves from discussion and vote on the matter. Conflicts declared should be recorded in the Meeting Minutes.
- 13.7 Should an office bearer position become vacant, a meeting must be called, and a new officebearer appointed, within 30 days.

- 13.8 Should a committee member wish to resign from the committee, they must notify the Committee and Council in writing within 30 days of ceasing on the committee, by emailing govenance@mrsc.vic.gov.au.
- 13.9 Should a committee member resign, they must return all documents that belong to the Committee or Council within 28 days of ceasing to be a committee member.
- 13.10 Maintain records of current Working with Children Checks for all committee members and volunteers.
- 13.11 Comply with current COVID-19 State Government requirements

14. Reporting requirements

The committee shall monitor and report on its activities and performance at least in accordance with the following:

- 14.1 Each year following the Annual General Meeting, the Committee shall provide a report to Council which includes:
- Changes in contact details for all committee members;
 - Changes to office bearers;
 - Schedule of meetings for the future year;
 - Report on activities undertaken in the reserve.

15. Duties of Chairperson

The Chairperson shall:

- 15.1 Ensure the Committee operates in accordance with this delegation and any other relevant laws.
- 15.2 Work with the Secretary to develop the Agenda prior to a meeting.
- 15.3 Provide the required notice of meetings. This is to be achieved by informing all members of the Committee, no later than seven (7) days prior to the date of the meetings
- 15.4 Chair Committee meetings
- 15.5 Ensure that the Annual General Meeting is held within five (5) months of the end of financial year
- 15.6 Chair at all meetings of the Committee. If the chairperson is absent at any Committee meeting, the Committee shall nominate one of the committee members to chair that meeting- and record the motion and the name of the stand in chairperson
- 15.7 Sign each page of the minutes of the previous meeting following adoption of the minutes

16. Duties of Secretary

The Secretary shall:

- 16.1 Arrange the meetings and preparing the Agenda in consultation with the Chairperson at least 7 days prior to the date of the meeting
- 16.2 Prepare minutes and other associated documents, distributing copies to Committee members and providing copies of the minutes to Council
- 16.3 Receive and record all incoming and outgoing correspondence of the Committee
- 16.4 Have the custody of all documents belonging to the Committee
- 16.5 Keep correct minutes of all proceedings and records of the Committee
- 16.6 Accurately record all written motions/resolutions in the minutes
- 16.7 Carry out follow-up action which arises from the directions of the Committee (under motion/resolution)
- 16.8 Ensure that all Committee members are given a copy of the Instrument of Delegation
- 16.9 Forward a copy of the minutes of all meetings and ensure a copy of the Financial statements as tabled at the Annual General Meeting are forwarded to Council's Director Corporate within fourteen (14) days of the meeting
- 16.10 Provide the proposed dates of all Committee meetings, including regular meetings and the Annual General Meeting, to Council's Coordinator Governance, via the Annual General Meeting minutes, and make the meeting dates and locations available for Council to advertise on their web site for the public to access
- 16.11 Send notification of the Annual General Meeting to all members of the Committee and its volunteers, and Councillors
- 16.12 Advertise the upcoming Annual General Meeting to the community on Council's web site (14) days prior to the meeting noting the date, time and location for the meeting
- 16.13 Maintains volunteer register

17. Duties of Treasurer

The Treasurer shall:

- 17.1 Maintain the committee's bank account, ensuring the account is held in the name of the Committee and maintaining current signatories to the account;
- 17.2 Ensure that the Committee bank account has two signatories
- 17.3 Ensure appropriate fraud prevention control measures are in place and followed;
- 17.4 Record, bank and issue receipts for any money received; and management of grants.
- 17.5 Pay accounts and invoices as authorised by the committee;

- 17.6 Maintain copies of all invoices, receipts, and bank statements;
- 17.7 Provide a report to the committee at each meeting of current bank balances and the committee financial position;
- 17.8 Prepare and present an annual financial report at the Annual General Meeting;
- 17.9 Provide bank statements and financial statements to the secretary to be filed with the Annual Report to Council

18. Committee Members who are not office bearers

Committee Members who are not office bearers shall:

- 18.1 Actively participate in committee meetings, working bees and any activities that may arise with the agreed management and environmental promotion of this community reserve

19. Resignation of Committee Members

- 19.1 Members who decide to resign from an office bearer position but not from the Committee need to forward a letter of resignation to the Committee, which will be accepted and recorded in the minutes.
- 19.2 Notification of the resignation will also be forwarded to Council's Governance via email govenance@mrsc.vic.gov.au
- 19.3 A resigning office bearer must hand over all Committee records to the incoming office bearer

20. Volunteers

Council encourages the Committee to use the services of additional volunteers to help carry out the duties of the Committee and engage the community in the use and management of the stated property.

As such, the Committee shall:

- 20.1 Advertise when there are opportunities for community members to volunteer
- 20.2 Ensure all volunteers are registered with council using the appropriate registration form copies to be provided to environment@mrsc.vic.gov.au and govenance@mrsc.vic.gov.au
- 20.3 Ensure new volunteers are properly inducted and have all safety procedures explained prior to commencing any works on site
- 20.4 Supervise all volunteers whilst they work on the property
- 20.5 Keep an up-to-date list of volunteers and their duties to ensure they are covered by insurance

21. Removal of a Committee Member

- 21.1 The committee can make recommendations to the CEO for removal

22. Committee Meetings

- 22.1 The Committee shall at its Annual General Meeting each year appoint a time and place including zoom details for regular meetings. Such meetings shall be held at intervals of not more than three (3) months.
- 22.2 Should it be necessary to alter or cancel a meeting the times or place of a regular appointed meeting all members of the Committee shall be given at least forty-eight (48) hours notice in writing of the new time or place.
- 22.3 All meetings of the Committee must be advertised to the public. The Committee is to send the notification to Council to advertise on their web site and members of the public should be welcomed to attend. A meeting may be closed by resolution of the Committee to deal with an item of business of a sensitive or confidential nature.

23. Quorum

- 23.1 The quorum of the Committee shall be an absolute majority of the members. The number of persons on the Committee divided by two (2), plus one (1). No business shall be conducted at a meeting of the Committee, unless a quorum is present.
- 23.2 If a meeting does not have a quorum, the meeting should be abandoned and then rescheduled for the following week at the same time and the same location.

24. Voting

- 24.1 Each member shall be entitled to one vote and in the event of equality of votes the Chairperson shall have a casting vote as well as a deliberative vote.

25. Annual General Meeting

- 25.1 The Committee shall hold an Annual General Meeting within five (5) months of the end of financial year. The Annual General meeting shall be advertised at least fourteen (14) days prior to the meeting date.

26. Special Meeting

- 26.1 The Secretary of the Committee shall, on receipt of a requisition signed by the Chairperson, or three (3) members, stating the object of such meeting, within fourteen (14) days call a Special Meeting.
- 26.2 Written/electronic notice of such meeting shall be given to each member of the Committee and made public specifying the object of the meeting and the time and place where the meeting shall be held.
- 26.3 No business, apart from that which is described in the object of a Special Meeting can be conducted or acted upon by the Committee at a Special Meeting.
- 26.4 No motion/resolution has any standing if made at a meeting where a quorum was not present.

27. Recording committee meetings

- 27.1 The Committee shall ensure minutes are kept of all meetings and shall forward to Council (14) governance@mrsc.vic.gov.au) a copy of such minutes within fourteen days of each meeting.
- 27.2 The Committee shall, at each meeting, confirm and adopt the minutes of the previous meeting and alert Council (governance@mrsc.vic.gov.au) to any variation to the draft minutes

28. Finance

The Committee shall:

- 28.1 Maintain an open bank account and advise Council of the name of the bank.
- 28.2 Authorise the manager of its bank to supply Council with a copy of the Committee's bank account on the written request of the Chief Executive Officer.
- 28.3 Ensure that all funds raised by the Committee are only expended on management, control, improvement and minor maintenance of the Stated Property.
- 28.4 Authorise all expenditure, which shall be paid by cheque or bank transfer signed or authorised by any two (2) of three (3) signatories.
- 28.5 Make the annual financial reports for the year ending 30 June, to be presented at the Annual **General** Meeting, available to Councils' auditor no later than 31 July.
- 28.6 Only enter into a contract or agreement for the purpose of maintaining or improving the Stated Property.
- 28.7 Provide Council a copy of all contracts entered into.

Council's Responsibilities

29. Maintenance Duties

Council shall:

- 29.1 Be responsible for all major and minor maintenance of the property as per schedule A
- 29.2 Consider requests for major maintenance at the Stated Property as part of the annual budget process and in line with priorities across all assets
- 29.3 Consult with the Committee on the timing of any such maintenance that may impact on the use of the Stated Property so that clashes with uses shall be minimised or avoided.
- 29.4 Provide and be responsible for payment of a person to perform the annual audit of the Committee's financial records.

- 29.5 Provide assistance to the Committee to enable it to understand and undertake its responsibilities under this Instrument.
- 29.6 Inform the Committee of the appropriate contacts for Council.
- 29.7 Insure the Stated Property against loss or damage.
- 29.8 Maintain public liability insurance cover for the Committee and its volunteers when it is performing its duties under this Instrument of Delegation
- 29.9 Advise the Committee of the requirements for the annual financial audit fourteen (14) days prior to the end of each financial year, to be provided to Council no later than 31 July
- 29.10 Provide training around site inductions, safety and other topics as deemed necessary

30. Maintenance and Other Outgoings

- 30.1 All Maintenance and associated costs is outlined in schedule A.

31. Indemnity

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

32. Winding Up

- 32.1 In the event of the Committee being wound up or dissolved for any reason, all monies, after the satisfaction of all debts and liabilities, all property held or held in trust, all records and any other assets will be paid or transferred to Council.
- 32.2 No monies or property shall be distributed to or amongst members of the Committee.

SCHEDULE – “A” - MAINTENANCE RESPONSIBILITIES

Site management is ultimately guided by the Council adopted Environmental Management Plan and Infrastructure Master Plan

| ITEM | COUNCIL RESPONSIBILITY | CAC RESPONSIBILITY |
|---|--|--|
| Toilets cleaning & repairs | All responsibility Public toilets – Council responsible for regular cleaning, maintenance & repairs | Report maintenance issues including to council after hours phone number for urgent repairs |
| BBQ's | All responsibility Public BBQ - Council responsible for regular cleaning, maintenance & repairs | Report any maintenance issues to council |
| Playground | All responsibility Council conducts a monthly safety audit of the playground & soft fall mulching | Report any damage |
| Mowing | All responsibility Council currently conducts regular mowing regimes. | None Consult with CAC on any changes to regimes |
| Grading of unsealed paths, entrance roads, walking tracks & car parks | All maintenance | Report any damage or issues |
| Viewing platform | All maintenance | Report any damage, issues eg; safety |
| Steps | All maintenance | Report any damage to steps |
| Fences | All maintenance, install and repair | Report any damage or graffiti |
| Gates internal/entrance | All maintenance | Report any damage to gates including broken padlocks |
| Tree hazards | All maintenance | Report all risk trees & storm damage trees |
| Drainage | All maintenance | Report issues |
| Walls - structure | All maintenance, repair & replace | Inspection & reporting of defects |
| Walls finishings | Painting and removal of graffiti & maintenance | Reporting of damage |
| Water supply external Taps & drinking fountain | All responsibility Repair & replace | Report any damage including to afterhours council number for urgent assistance |
| Plumbing, general & sewerage | All responsibility | Report to council & emergency after hours number |

| ITEM | COUNCIL RESPONSIBILITY | CAC RESPONSIBILITY |
|---|-------------------------------|--|
| External roof | All responsibility | Report any damage or defects |
| Floor structure & surfaces | All responsibility | Report any defects or damage |
| Doors (Toilets) | All responsibility | Report any damage or vandalism |
| Internal plumbing, cisterns, pipes, toilet bowls, hand basins, paper towel dispensers & sanitary dispensers | All responsibility | Report any damage, maintenance or vandalism |
| Garden beds and bushland areas. | None | All responsibility - in accordance with the endorsed Environmental Management Plan. The CAC must report on works undertaken. Council approval for grant applications for works required. |
| Litter & rubbish | None | Stanley Park has no bins. Collection of itinerant rubbish is the responsibility of the CAC |
| Signage – on buildings, free standing, reserve name, interpretive signs, safety signs & regulatory | All responsibility | CAC to notify council of any damage to signs or the need for replacement or new signs. |
| Electrical, lighting or BBQ faults | All responsibility | CAC to notify council |