



Victoria Government Gazette

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No. G 44 Thursday 4 November 2010

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GENERAL

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The last Special Gazette was No. 453 dated 2 November 2010.

The last Periodical Gazette was No. 1 dated 9 June 2010.

How To Submit Copy

- See our webpage www.gazette.vic.gov.au
 - or contact our office on 8523 4601 between 8.30 am and 5.30 pm Monday to Friday
-

Copies of recent Special Gazettes can now be viewed at the following display cabinet:

- 1 Treasury Place, Melbourne (behind the Old Treasury Building)
-

VICTORIA GOVERNMENT GAZETTE

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JENNY NOAKES
Government Gazette Officer

PRIVATE ADVERTISEMENTS

Associations Incorporation Act 1981

SECTION 36B(4)

Footscray Youth Housing Group Inc.
(A0001594Y) (in liquidation)

Notice is hereby given that the Registrar of Incorporated Associations on 6 October 2010 appointed Mr Gary Stephen Fettes of Rodgers Reidy, Level 3, 326 William Street, Melbourne, Victoria 3000, to be the Liquidator of the incorporated association.

Dated 20 October 2010

G. FETTES

Liquidator

Rodgers Reidy, Chartered Accountants
Level 3, 326 William Street
Melbourne Victoria 3000.

DISSOLUTION OF PARTNERSHIP

Take notice that the partnership heretofore subsisting between Neil John Fitt and Peter Arnold Fitt, trading under the name of AAA Automatic Gates & Doors, has been dissolved with effect from 19 October 2009.

TERMINATION AND DISSOLUTION OF LIMITED PARTNERSHIP

Notice is given that the limited partnership Bupa Health Limited Partnership (Organisation Number L 0000126K), a limited partnership between Bupa Investments Limited, ARBN 121 649 358, as general partner, and Bupa Investments Overseas Limited, ARBN 121 649 303, as limited partner, was terminated and dissolved on 1 November 2010. Any enquiries in relation to the partnership should be addressed to Bupa Asia Pacific Pty Ltd, ACN 098 309 025, at 600 Glenferrie Road, Hawthorn, Victoria 3122.

Re: DORIS ELIZABETH BARROW,
deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 3 August 2010, are required by the trustee, Paul Morris Natoli, to send particulars of their claim to the trustee, care of the undermentioned solicitors, by a date not later than two months from the date of publication

hereof, after which date he may convey or distribute the assets, having regard only to the claims of which he has notice.

A. B. NATOLI PTY, solicitors,
24 Cotham Road, Kew 3101.

Re: RICHARD CHARLES HARVEY,
deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 7 June 2010, are required by the trustee, Loch Neish Adams, of 42 Station Street, Moorabbin, Victoria, Australian legal practitioner, to send particulars to the trustee by 20 January 2011, after which date the trustee may convey or distribute the assets, having regard only to the claims of which the trustee has notice.

ADAMS & GARDE, legal practitioners,
42 Station Street, Moorabbin 3189.

Creditors, next of kin and others having claims against the estate of BETH CHRISTINE WILLIAMS, late of Glenview Community Care, 168 High Street, Rutherglen, Victoria, farmer, who died on 20 July 2010 are required to send particulars of their claims to David John Williams, John Henry Williams and John McLeod Carmichael, care of Andrew P. Melville, lawyers, of PO Box 80, Rutherglen 3685, the personal representatives, on or before 12 January 2011, after which date David John Williams, John Henry Williams and John McLeod Carmichael may convey or distribute the assets, having regard only to the claims of which they then have notice.

ANDREW P. MELVILLE, lawyers,
110 Main Street, Rutherglen 3685.
(APM/BMcC 9695)

REMIGIO CANDELLARI, late of 14 Gramatan Avenue, Beaumaris, grocery store proprietor, deceased.

Creditors, next-of-kin, and others having claims in respect of the estate of the deceased, who died on 27 August 2010, are required by the trustee, care of Harris & Chambers Lawyers of 4/250 Charman Road, Cheltenham 3192, to send particulars to them by 5 January 2011, after

which date the trustee may convey or distribute the assets, having regard only to the claims of which the trustee then has notice.

HARRIS & CHAMBERS, lawyers,
4/250 Charman Road, Cheltenham 3192.

ELIZABETH McFARLANE LAMONT,
late of Karinya Grove, 3 Aberdeen Road,
Sandringham, office manager, deceased.

Creditors, next of kin and others having claims in respect of the estate of the deceased, who died on 15 September 2010, are required by the trustees, care of Harris & Chambers Lawyers of 4/250 Charman Road, Cheltenham 3192, to send particulars to them by 5 January 2011, after which date the trustees may convey or distribute the assets, having regard only to the claims of which the trustees then have notice.

HARRIS & CHAMBERS, lawyers,
4/250 Charman Road, Cheltenham 3192.

ARTHUR ERNEST GEARY, late of
United Manor Aged Care, 15 Buffalo Crescent,
Wyndham Vale, Victoria, retired, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 30 April 2010, are required by Bruce Alan Watson and Kevin William Volkmer, the executors of the will of the deceased, to send particulars of their claims to them, care of the undermentioned solicitor, by 3 January 2011, after which date the executors may convey or distribute the assets, having regard only to the claims of which they then have notice.

J. A. MIDDLEMIS, barrister & solicitor,
30 Myers Street, Bendigo 3550.

Re: BARBARA VIOLET FOX, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 14 May 2010, are required by the trustees, Gregory Mark Fox and Craig Andrew Fox, to send particulars to them, care of the undersigned, by 5 January 2011, after which date the trustees may distribute the assets, having regard only to the claims of which they then have notice.

KIM BAINBRIDGE LEGAL SERVICE
PTY LTD (t/as Garden & Green), lawyers,
4 McCallum Street, Swan Hill, Vic. 3585.

Re: TERESA LAP MUI LEW SANG, (in the Will called Teresa Lew Sang and also known as Teresa Lap Mui Lew-Sang and Teresa Lew-Sang), late of 7 Clitus Street, Glen Waverley, Victoria, pensioner, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 29 May 2010, are required by the trustee, Andre Mark Bokos, care of 40-42 Scott Street, Dandenong, Victoria, to send particulars to the trustee by 4 January 2011, after which date the trustee may convey or distribute the assets, having regard only to the claims of which the trustee has notice.

MACPHERSON + KELLEY, lawyers,
40-42 Scott Street, Dandenong 3175.
Telephone: 9794 2520

Re: CHARLOTTE SYLVIA McELROY,
late of 57 Norma Crescent, Knoxfield, Victoria,
retired, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 17 May 2010, are required by the trustees, Janice Elizabeth McElroy and Susan Marie Webbe, to send particulars to the trustees, care of the undermentioned solicitors, by 7 January 2011, after which date the trustees may convey or distribute the assets, having regard only to the claims of which the trustees then have notice.

MAHONS with Yuncken & Yuncken, solicitors,
178 Whitehorse Road, Blackburn 3130.
CD: 2100914

Re: ARTHUR VIVIAN BROADBENT,
late of Girrawheen Aged Care, 453 New
Street, Brighton, Victoria, tramway employee,
deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 7 February 2010, are required by Alexander Lawrence Cropley, the executor of the Will of the deceased, to send particulars of their claims to him, care of the undermentioned solicitor, no later than 60 days from the date of publication of this notice, after which date he will convey or distribute the assets, having regards of the claims of which he then has notice.

MAKIN & KINSEY, solicitors,
1/317 Montague Street, Albert Park, Vic. 3206.

Creditors, next-of-kin and others having claims in respect to the estate of ANNA NOGAS, late of Werribee Terrace Nursing Home, 8 Russell Street, Werribee, Victoria, pensioner, deceased, who died on 26 September 2010, are required to send particulars of such claims to the executors, care of the undermentioned solicitors, by 4 January 2011, after which date the executors will convey or distribute the assets, having regard only to the claims of which the executors then have notice.

PIETRZAK, solicitors,
222 La Trobe Street, Melbourne 3000.

Creditors, next-of-kin and others having claims in respect to the estate of STANISLAW PLACZEK, late of 3 Percival Street, Bayswater, Victoria, pensioner, deceased, who died on 15 October 2010, are required to send particulars of such claims to the executor, care of the undermentioned solicitors, by 3 January 2011, after which date the executor will convey or distribute the assets, having regard only to the claims of which the executor then has notice.

PIETRZAK, solicitors,
222 La Trobe Street, Melbourne 3000.

MARY KATHLEEN BAKER, late of Grandview Lodge, Wycheproof, Victoria 3527, retired statistician, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 17 August 2010, are required by the executors, Cecilia Frances Baker and Reginald Hugh Storrier Radford, care of the undermentioned solicitors, to send particulars of their claim to them by 31 January 2011, after which date the executors may convey or distribute the assets, having regard only to the claims of which they then have notice.

RADFORD LEGAL, barristers and solicitors,
14 Napier Street, St Arnaud, Victoria 3478.

VIDA KATHLEEN WALLER, late of Oak Towers, 139 Atherton Road, Oakleigh, Victoria, home duties, deceased.

Creditors, next-of-kin, and others having claims in respect of the estate of the deceased, who died on 2 April 2010, are required by the executors, Valerie Rita Bennett of 1/11 Nelson Street, Ringwood, Victoria, retired, and Stanley Arthur Hester of 3/13 Samantha Drive,

Mornington, Victoria, retired, to send particulars to them (care of the undersigned) by 4 January 2011, after which date they may convey or distribute the assets, having regard only to the claims of which they then have notice.

RENNICK & GAYNOR, solicitors,
431 Riversdale Road, Hawthorn East, Victoria.

Creditors, next-of-kin and others having claims in respect of the estate of GEORGINA CALDWELL, deceased, of Unit 531 and 197/8 Robinsons Road, Frankston South, Victoria, who died on 6 July 2010, are to send particulars of their claims to the executors, care of the undermentioned solicitors, by 6 January 2011, after which date the executors will distribute the assets, having regard only to the claims of which the executors then have notice.

RIGBY COOKE, solicitors,
Level 13, 469 La Trobe Street,
Melbourne, Victoria 3000.

Re: JULIANA TUZ, late of 4 Reddan Court, Doncaster, Victoria, retired, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 24 July 2010, are required by Wolfgang Haupt and John Haupt, the executors of the will of the deceased, to send particulars of their claims to them, care of the undermentioned solicitors, by 11 January 2011, after which date they will convey or distribute the assets, having regard only to the claims of which they then have notice.

RODDA LEGAL, lawyers,
Suite 3001, Westfield Tower,
Doncaster Shoppingtown, Doncaster 3108.

Re: THELMA HAZELDENE
WOLSTENHOLME, deceased.

Creditors, next of kin and others having claims in respect of the Estate of THELMA HAZELDENE WOLSTENHOLME, deceased, late of 44 Stephen Street, Yarraville, widow, who died on 16 February 2010, are requested to send particulars of their claims to the executor, Andrew Alexander Grech, care of the undersigned solicitors by 3 January 2011, after which date he will convey or distribute the assets, having regard only to the claims of which he then has notice.

SLATER & GORDON, solicitors,
100 Paisley Street, Footscray 3011.

Re: KATHLEEN ELSIE HARROP, late of Corangamarah Aged Care, Colac, Victoria, credit officer, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 16 June 2010, are required by the deceased's personal representatives, Meredith Kaye Robinson and Andrew William Mitchell, to send particulars to them, care of the undermentioned lawyers, by 12 January 2011, after which date the personal representatives may convey or distribute the assets, having regard only to the claims of which they then have notice.

SLM LAW, lawyers,
119 Murray Street, Colac 3250.

Re: GREGORY FRANCIS NUZUM, late of Flat 7, 24 Daly Street, Brunswick West, Victoria, administrative officer, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 30 May 2009, are required by the deceased's personal representative, Laurence Anthony Nuzum, to send particulars to him, care of the undermentioned lawyers, by 12 January 2011, after which date the personal representative may convey or distribute the assets, having regard only to the claims of which he then has notice.

SLM LAW, lawyers,
119 Murray Street, Colac 3250.

ISABELLA BALLARD, late of 85 Waverley Park Drive, Cranbourne North, Victoria, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 2 February 2010, are required by the executor, Sharon Mary Isabella Bunting of 1275 Pound Road, Clyde, Victoria, to send particulars to her, care of Stidston Warren Lawyers, by 8 January 2011, after which date the executor may convey or distribute the assets, having regard only to the claims of which she then has notice.

STIDSTON WARREN, lawyers,
Suite 1, 10 Blamey Place, Mornington 3931.

JAN IRENE HEARN, late of 328 Stony Point Road, Crib Point, Victoria, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 9 July 2010, are required by the executor, Kevin Richard Hearn, of 88 Woodleigh St Hellier Road, Woodleigh, Victoria, to send particulars to him, care of Stidston Warren Lawyers, by 8 January 2011, after which date the executor may convey or distribute the assets, having regard only to the claims of which he then has notice.

STIDSTON WARREN, lawyers,
Suite 1, 10 Blamey Place, Mornington 3931.

EDGAR FRANK MONK, late of Lorikeet Lodge Nursing Home, 24 Moorooduc Road, Frankston South, Victoria, deceased.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 23 April 2010, are required by the executor, Bridget Nicholson Hunter (also known as Bridget Nicholson Skull), of 176-180 Moorooduc Highway, Mt Eliza, Victoria, to send particulars to her, care of Stidston Warren Lawyers, by 8 January 2011, after which date the executor may convey or distribute the assets, having regard only to the claims of which she then has notice.

STIDSTON WARREN, lawyers,
Suite 1, 10 Blamey Place, Mornington 3931.

Re: WILLIAM THOMAS ALEXANDER ENSCOE, late of Forrest Hill, Merino, Victoria.

Creditors, next-of-kin and others having claims in respect of the estate of the deceased, who died on 26 August 2008, are required to send particulars of their claims to the executors, care of GPO Box 1946, Melbourne, Victoria 3001, by 2 February 2011, after which date the executors may convey or distribute the assets, having regard only to the claims of which they may then have notice.

WILLS & PROBATE VICTORIA, lawyers,
Level 3, 20-22 McKillop Street, Melbourne 3000.

In the Supreme Court of the State of Victoria
SALE BY THE SHERIFF

On Thursday 9 December 2010 at 2.30 pm at the Sheriff's Office, 444 Swanston Street, Carlton (unless process be stayed or satisfied).

All the estate and interest (if any) of Rhodri Llewelyn Thomas of 830 Koo Wee Rup-Longwarry Road, Bayles, sole proprietor of an estate in fee simple in the land described on Certificate of Title Volume 09533 Folio 158, which consists of approximately 8.94 Hectares upon which is erected a dwelling and various outbuildings known as 830 Koo Wee Rup-Longwarry Road, Bayles.

Registered Caveat No. X815198J, Caveat No. X829690Y, Caveat No. AE658322A, affect the said estate and interest.

The property can be located by travelling to the township of Nar Nar Goon. From the Nar Nar Goon Post Office, 2 Racecourse Road, Nar Nar Goon, continue on Racecourse Road in an easterly direction towards Nar Nar Goon Road, turn right onto Nar Nar Goon Road, continue along Main Street Nar Nar Goon and Seven Mile Road Nar Nar Goon for approximately 10.2 km, turn left onto Ballarto Road, Koo Wee Rup North then veer left onto Phillips Road, Koo Wee Rup for approximately 3.6 km, continue along Koo Wee Rup-Longwarry Road, Bayles, for approximately 1.6 km; the property can be located on the left and is known as 830 Koo Wee Rup-Longwarry Road, Bayles.

Refer RACV VicRoads Country Directory Edition 7, Map 96, B4.

Payment Terms – Cash/Eftpos (debit cards only/no credit cards)/bank cheque or solicitors trust account cheque.

Note: Must be paid in full at the fall of the hammer.

There are no exceptions to these arrangements.
SW100041744

K. GRIFFIN
Sheriff's Office
Phone (03) 9947 1539

In the Supreme Court of the State of Victoria
SALE BY THE SHERIFF

On Thursday 9 December 2010 at 2.30 pm at the Sheriff's Office, 444 Swanston Street, Carlton (unless process be stayed or satisfied).

All the estate and interest (if any) of Adrian Underwood of 31 Simpsons Road, Eaglehawk, as shown on Certificate of Title as Adrian Peter Underwood, sole proprietor of an estate in fee simple in the land described on Certificate of Title Volume 04993 Folio 511, upon which is erected a dwelling known as 31 Simpsons Road, Eaglehawk.

Registered Mortgage No. AC082672W affects the said estate and interest.

Payment Terms – Cash/Eftpos (debit cards only/no credit cards)/bank cheque or solicitors trust account cheque.

Note: Must be paid in full at the fall of the hammer.

There are no exceptions to these arrangements.
SW100025200

K. GRIFFIN
Sheriff's Office
Phone (03) 9947 1539

In the Supreme Court of the State of Victoria
SALE BY THE SHERIFF

On Thursday 9 December 2010 at 2.30 pm at the Sheriff's Office, 444 Swanston Street, Carlton (unless process be stayed or satisfied).

All the estate and interest (if any) of Nichole Norman of 5 Churchill Way, Melton, sole proprietor of an estate in fee simple in the land described on Certificate of Title Volume 08890 Folio 190, upon which is erected a residential home known as 5 Churchill Way, Melton West.

Registered Mortgage No. AF684638P affects the said estate and interest.

Payment Terms – Cash/Eftpos (debit cards only/no credit cards)/bank cheque or solicitors trust account cheque.

Note: Must be paid in full at the fall of the hammer.

There are no exceptions to these arrangements.
SW100014444

K. GRIFFIN
Sheriff's Office
Phone (03) 9947 1539

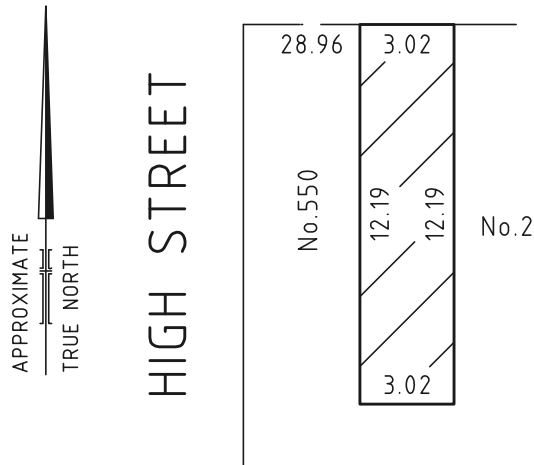
**GOVERNMENT AND OUTER BUDGET
SECTOR AGENCIES NOTICES**

DAREBIN CITY COUNCIL

Road Discontinuance

Pursuant to section 206 and schedule 10, clause 3 of the **Local Government Act 1989**, the Darebin City Council at its ordinary meeting held on 18 October 2010, formed the opinion that the road adjoining 550 High Street and 2 Darebin Road, Northcote, which is shown by hatching on the plan below, is not reasonably required as a road for public use and resolved to discontinue the road and to sell the land from the road by private treaty to the owners of 550 High Street, Northcote.

DAREBIN ROAD



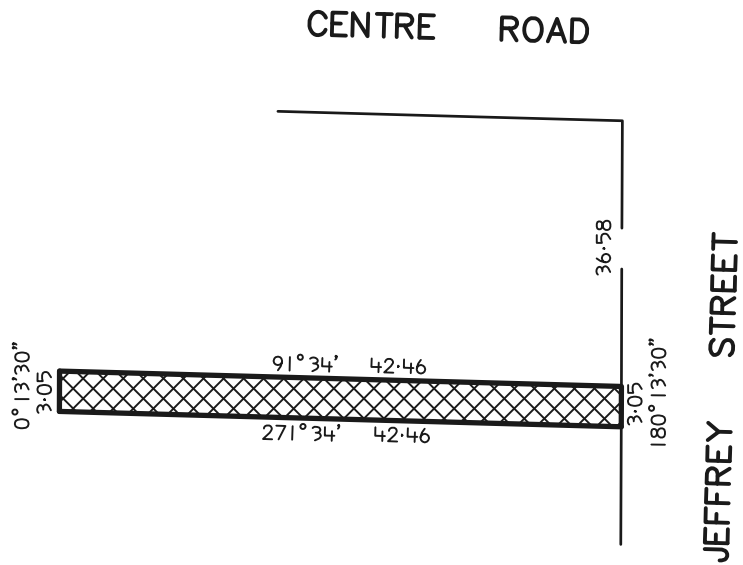
RASIAH DEV
Chief Executive

GLEN EIRA CITY COUNCIL

Road Discontinuance

Pursuant to section 206 and schedule 10, clause 3 of the **Local Government Act 1989**, the Glen Eira City Council has formed the opinion that the road at the rear of 600 to 604 Centre Road and adjoining 33 Jeffrey Street, Bentleigh, shown cross-hatched on the plan below, is not reasonably required as a road for public use and resolved to discontinue the road and to sell the land from the road by Private Treaty to the adjoining property owners.

The road is to be sold subject to the right, power or interest held by South East Water Limited in the road in connection with any sewers, drains or pipes under the control of that authority in or near the road.



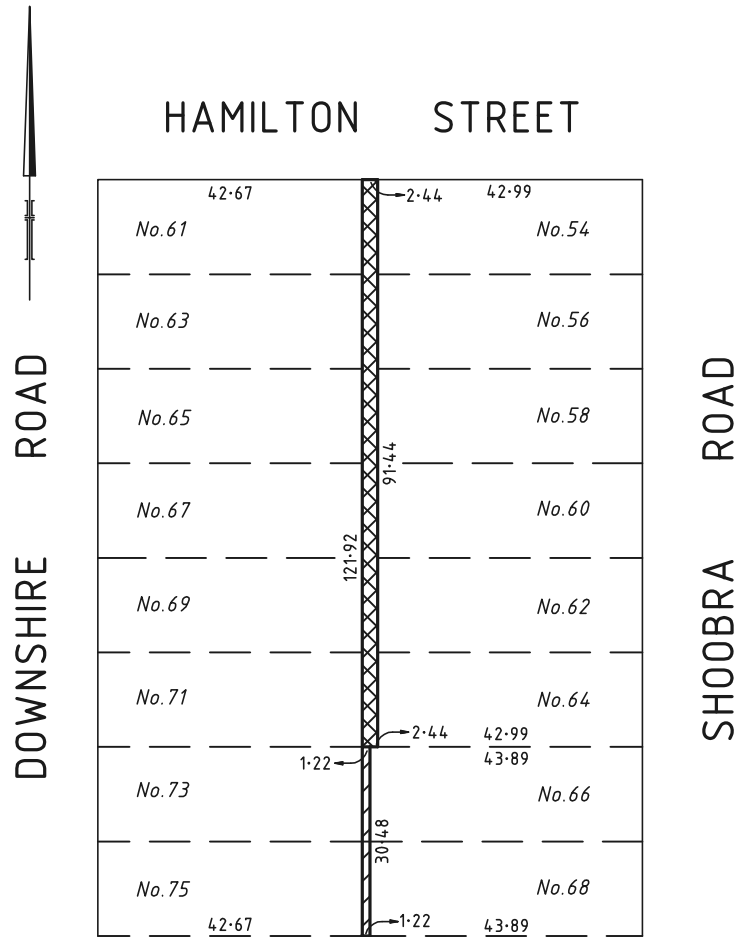
ANDREW NEWTON
Chief Executive Officer

GLEN EIRA CITY COUNCIL
Road Discontinuance

Pursuant to section 206 and schedule 10, clause 3 of the **Local Government Act 1989**, the Glen Eira City Council has formed the opinion that the road at the rear of 54 to 68 Shoobra Road and 61 to 75 Downshire Road, Elsternwick, shown hatched and cross-hatched on the plan below, is not reasonably required as a road for public use and resolved to discontinue the road and to sell the land from the road by Private Treaty to the adjoining property owners.

The section of road shown hatched is to be sold subject to the right, power or interest held by Glen Eira City Council in the road in connection with any drains or pipes under the control of that authority in or near the road.

The section of road shown cross-hatched is to be sold subject to the right, power or interest held by South East Water Limited and Glen Eira City Council in the road in connection with any sewers, drains or pipes under the control of those authorities in or near the road.

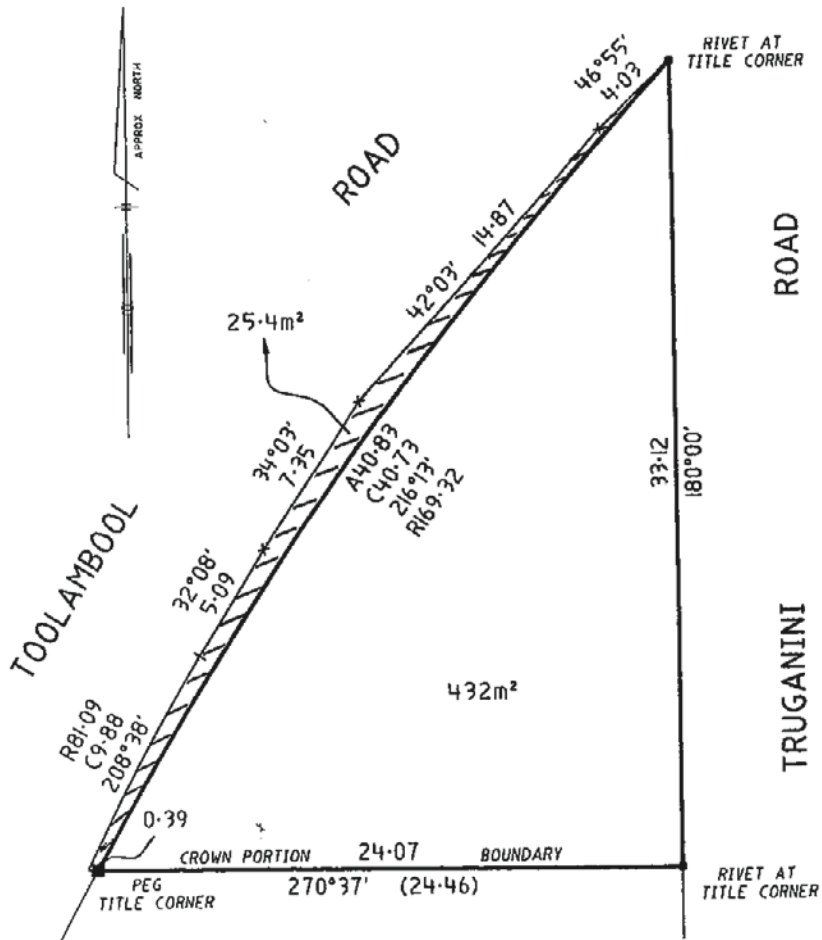


ANDREW NEWTON
Chief Executive Officer

GLEN EIRA CITY COUNCIL

Road Discontinuance

Pursuant to section 206 and schedule 10, clause 3 of the **Local Government Act 1989**, the Glen Eira City Council has formed the opinion that the sliver of road adjoining 34 Toolambool Road, Carnegie, shown hatched on the plan below, is not reasonably required as a road for public use and resolved to discontinue the road and to sell the land from the road by Private Treaty to the owners of 34 Toolambool Road, Carnegie.

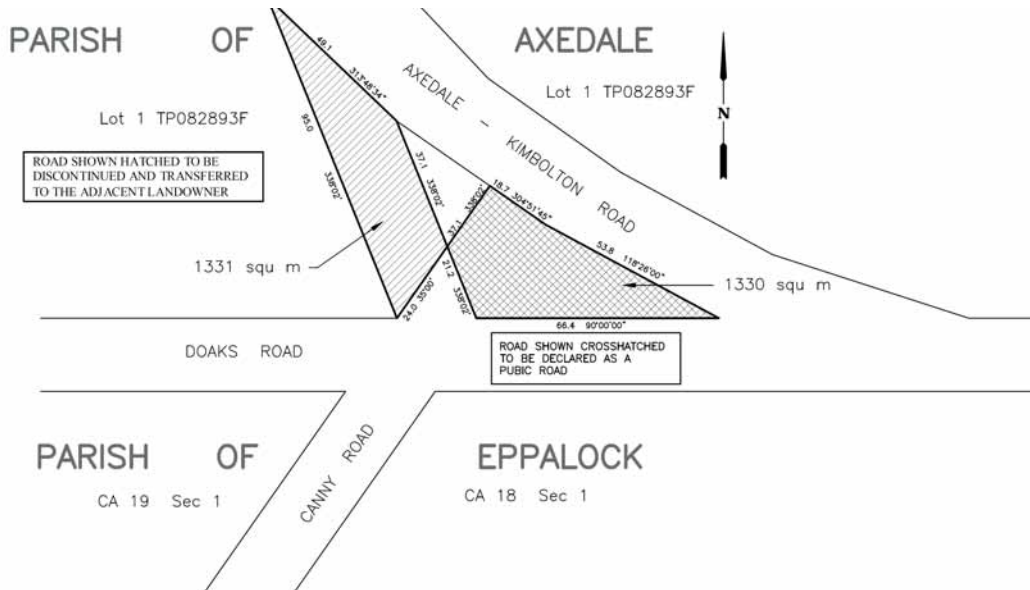


ANDREW NEWTON
Chief Executive Officer

CITY OF GREATER BENDIGO

Road Deviation – Axedale–Kimbolton Road, Axedale

The City of Greater Bendigo at its ordinary meeting on 29 September 2010 resolved to deviate part of the Axedale–Kimbolton Road, Axedale (shown hatched) in exchange for the creation of a road (shown cross hatched) in accordance with section 207B and Schedule 10 Clause 2 of the **Local Government Act 1989**. The discontinued section of road will be transferred to the adjoining landowner.

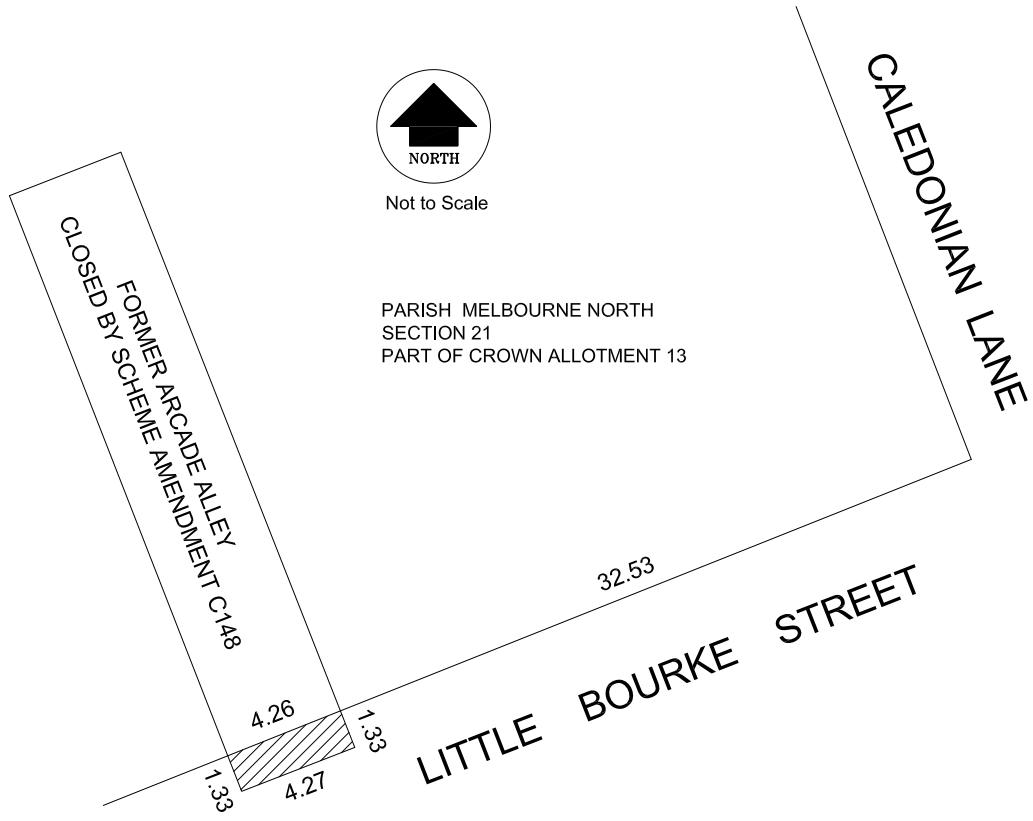


CRAIG NIEMANN
Chief Executive Officer

MELBOURNE CITY COUNCIL

Public Highway Declaration of a Road

Pursuant to section 204 (1) of the **Local Government Act 1989**, the Melbourne City Council declares the road shown hatched on the plan hereunder as a public highway.



Not to Scale

PARISH MELBOURNE NORTH
SECTION 21
PART OF CROWN ALLOTMENT 13

DR KATHY ALEXANDER
Chief Executive Officer

WYNDHAM CITY

Declaration of Road as Public Highway

Under section 204(1) and section 204(2) of the **Local Government Act 1989**, the Wyndham City, at its Ordinary Meeting held on 25 October 2010, has declared that the land shown hatched on the plan below as a Public Highway that is reasonably required for public use to be open to public traffic.



KERRY THOMPSON
Chief Executive Officer

WYNDHAM CITY

Declaration of Road as Public Highway

Under section 204(1) of the **Local Government Act 1989**, the Wyndham City, at its Ordinary Meeting held on 25 October 2010, has declared that the land shown hatched on the plan below as a Public Highway.



KERRY THOMPSON
Chief Executive Officer

MELBOURNE CITY COUNCIL

Notice of the Making of a Local Law

Notice is given pursuant to section 119 of the **Local Government Act 1989** that the Melbourne City Council ('Council') has made a new local law pursuant to Part 5 of the **Local Government Act 1989** known as the Conduct of Meetings Local Law 2010 ('the Local Law').

Purpose: The purposes of the Local Law are to:

- (a) govern the conduct of meetings of the Council and its Special Committees;
- (b) regulate the use of the Common Seal and prohibit its unauthorised use; and
- (c) repeal the Conduct of Meetings Local Law 2001.

General Purport: The general purport of the Local Law is as follows:

- (a) Part 2 of the Local Law provides for the holding of ordinary and special meetings of Council.
- (b) Part 3 of the Local Law provides for the holding of ordinary and special meetings of Special Committees formed under section 86 of the **Local Government Act 1989**.
- (c) Part 4 of the Local Law provides for offences.
- (d) Part 5 of the Local Law provides for the suspension of the Local Law.
- (e) Part 6 of the Local Law provides for the use of the common seal of Council.
- (f) Part 7 of the Local Law repeals the Conduct of Meetings Local Law 2001.
- (g) Part 8 of the Local Law provides for the application of the Councillor Code of Conduct and Meeting Procedures Code during meetings.

Copy Available: A copy of the Local Law can be obtained from the Council offices (Front Desk, Melbourne Town Hall Administration Building, 90–120 Swanston Street, Melbourne). Office hours are generally 7.30 am to 5 pm, Monday to Friday, excepting public holidays. Alternatively you can view a copy online at www.melbourne.vic.gov.au



Borough of Queenscliffe

Draft Local Law No 1, 2010 – Processes of Municipal Government

Draft Local Law No 2, 2010 – Community Amenity, and Associated Policies and Procedures Manual

Notice is hereby given pursuant to section 119(2) of the **Local Government Act 1989** that at its meeting on 27 October 2010 the Borough of Queenscliffe Council resolved to give notice of its intention to make Local Law No. 1, 2010 – Processes of Municipal Government and Local Law No. 2, 2010 – Community Amenity, and associated Policies and Procedures Manual.

The purpose and general purport of Local Law No. 1, 2010 – Processes of Municipal Government is to:

- (a) regulate and control proceedings for the election of Mayor;
- (b) facilitate the orderly conduct of meetings of Council and special committees;
- (c) regulate and control the procedures governing the conduct of meetings including:
 - i. the notice required for meetings;
 - ii. the keeping of minutes;
- (d) promote and encourage community participation in the system of local government by providing mechanisms for the Council to ascertain the community's views and expectations;
- (e) regulate and control the use of the Council's seal;
- (f) provide generally for the peace, order and good government of the municipal district; and
- (g) repeal any redundant local laws.

The purpose and general purport of Local Law No. 2, 2010 – Community Amenity, and associated Policies and Procedures Manual is to:

- (a) provide for those matters which require a local law under the **Local Government Act 1989** and any other Act;
- (b) prohibit, regulate and control activities, events, practices and behavior in places so that no nuisance is caused and there is no detriment to the amenity of the neighborhood, to a person or to a person's property;
- (c) provide for the administration and exercise of Council powers and functions;
- (d) provide for the peace, order and good government of the municipal district of the Borough of Queenscliffe; and
- (e) repeal any redundant local laws.

A copy of Local Law No. 1, 2010 and Local Law No. 2, 2010, and associated Policies and Procedures Manual can be obtained from the Council Offices and will be available for inspection at the Council Offices at 50 Learmonth Street, Queenscliff and the Queenscliff Library, 55 Hesse Street, Queenscliff. Copies may also be accessed on Council's website, www.queenscliffe.vic.gov.au

In accordance with section 223 of the **Local Government Act 1989**, any person wishing to make a submission in regard to Local Law No 1, 2010 – Processes of Municipal Government or Local Law No 2, 2010 – Community Amenity, and associated Policies and Procedures Manual should do so in writing, addressed to 'Local Law Submission', Borough of Queenscliffe, PO Box 93, Queenscliff 3225.

A person making a submission is entitled to request to appear in person, or to be represented, at a meeting to be heard in support of the submission. A request must be made as part of the written submission and nominate any person who they wish to appear on their behalf.

Submissions will be received until 4 pm on 1 December 2010.

LENNY JENNER
Chief Executive Officer

Planning and Environment Act 1987
CAMPASPE PLANNING SCHEME
Notice of Preparation of Amendment
Amendment C85
Authorisation A01810

The Campaspe Shire Council has prepared Amendment C85 to the Campaspe Planning Scheme.

In accordance with section 8A(3) of the **Planning and Environment Act 1987**, the Minister for Planning authorised the Campaspe Shire Council as planning authority to prepare the Amendment.

The Amendment applies to various parcels of public and privately owned land within the Shire of Campaspe that are affected by the Land Subject to Inundation Overlay and Floodway Overlay.

This Amendment proposes to:

- amend the schedule to the Land Subject to Inundation Overlay to clarify the provisions in relation to the exemption from a planning permit for a dwelling;
- amend the schedule to the Floodway overlay to update the current Local Floodplain Development Plans for the precincts of Lower Goulburn, Echuca, Murray River, Campaspe River Upper and Lower, Corop Lakes, Picaninny and Mount Hope Creeks and to clarify the requirements in relation to the construction of a dwelling; and
- replace the schedule to the table of incorporated documents at Clause 81.01 to reflect the updated Local Floodplain Development Plans.

You may inspect the Amendment, any documents that support the Amendment and the explanatory report about the Amendment, free of charge, at the following locations: during office hours, at the office of the planning authority, Shire of Campaspe, Echuca Headquarters, Corner Hare and Heygarth Streets, Echuca 3564; and at the Department of Planning and Community Development website, www.dpcd.vic.gov.au/planning/publicinspection.

Any person who may be affected by the Amendment may make a submission to the planning authority.

The closing date for submissions is 22 November 2010. A submission must be sent to Mr Andrew Cowin, Strategic Planner at the Shire of Campaspe, PO Box 35, Echuca 3564.

KEITH BAILLIE
Chief Executive Officer

Planning and Environment Act 1987GREATER SHEPPARTON
PLANNING SCHEME

Notice of Preparation of an Amendment to a Planning Scheme and Notice of an Application for Planning Permit given under S96C of the

Planning and Environment Act 1987

Amendment C119

Authorisation No. A01754

Planning Permit Application 2008-436

The land affected by the Amendment is 177–193 Numurkah Road, Shepparton (being Lot 2 on LP 90949).

The land affected by the Application is 177–193 Numurkah Road, Shepparton (being Lot 2 on LP 90949).

The Amendment proposes to:

- rezone the site from the Business 4 Zone (BZ4) to the Business 1 Zone (B1Z);
- amend the Schedule to the Business 1 Zone to include a retail floor space cap for the Shepparton North Neighbourhood Centre.

The Application is for a permit to:

- buildings and works for a neighbourhood centre incorporating shops;
- buildings and works in the Land Subject to Inundation Overlay;
- removal of easement for channel purposes;
- display of business identification signage;
- reduction in car parking requirements;
- removal of three Grey Box trees;
- alteration to access to a road within the Road Zone Category 1.

The person who requested the Amendment is CPG Australia on behalf of Gordon Undera Pty Ltd.

The applicant for the permit is CPG Australia on behalf of Gordon Undera Pty Ltd.

You may inspect the Amendment, the explanatory report about the Amendment, the application, and any documents that support the Amendment and the application, including the

proposed permit, free of charge, at the following locations: during office hours and free of charge at the office of the planning authority, Greater Shepparton City Council, 90 Welsford Street, Shepparton; and at the Department of Planning and Community Development website, www.dpcd.vic.gov.au/planning/publicinspection.

Any person who may be affected by the Amendment or by the granting of the permit may make a submission to the planning authority.

The closing date for submission is Monday 6 December 2010. A submission must be sent to the Greater Shepparton City Council, Locked Bag 1000, Shepparton 3632.

COLIN KALMS

Manager Planning and Development

Planning and Environment Act 1987

MONASH PLANNING SCHEME

Notice of Amendment C98

Ministerial Authorisation No. AO1758

The City of Monash has prepared Amendment C98 to the Monash Planning Scheme.

The Amendment affects land at 70 and 72 Batesford Road, 657–695 Warrigal Road, Chadstone.

The Amendment:

- rezones the land to a Business 2 Zone (B2Z);
- identifies in the schedule to the Business 2 Zone (B2Z) maximum shop floor areas;
- replaces the Design and Development Overlay 1 (DDO1) over all of the land with a new Design and Development Overlay 9 (DDO9);
- introduces an Environmental Audit Overlay (EAO) over all of the land;
- introduces in Clause 22.03, Business Character Type 4 (BUS4) with an existing and desired future character statement for all of the land; and
- makes minor consequential changes to the Monash Planning Scheme.

The Amendment, associated documentation can be inspected free of charge, during office hours at the offices of the Monash City Council, 293 Springvale Road, Glen Waverley or on the following websites: www.dpcd.vic.gov.au/planning/publicinspection and www.monash.vic.gov.au/planning/amendments

Submissions about the Amendment must be sent to the City of Monash, PO Box 1, Glen Waverley 3150 by 6 December 2010.

DAVID CONRAN
Chief Executive Officer
Monash City Council

Planning and Environment Act 1987

MONASH PLANNING SCHEME

Notice of Amendment C102

Ministerial Authorisation No. AO1791

The City of Monash has prepared Amendment C102 to the Monash Planning Scheme.

The Amendment affects land at 1501–1555, part 1386–1388 and 1390–1434 Dandenong Road, 807–811 Warrigal Road, 83–85 and 102–110 Drummond Street and 14–32 and 25–41 Dalgety Street, Oakleigh.

The Amendment proposes to:

- rezone the land from In1Z – Industry 1 to B2Z – Business 2;
- replace the existing DDO1 over the land with a new DDO10;
- introduce an EAO – Environmental Audit Overlay over the land; and
- introduce in Clause 22.03 a BUS5 – Business Character Type with an existing and desired future character statement for all of the land.

The Amendment and associated documentation can be inspected free of charge, during office hours at the offices of the Monash City Council, 293 Springvale Road, Glen Waverley, or on the following websites: www.dpcd.vic.gov.au/planning/publicinspection; and www.monash.vic.gov.au

Submissions about the Amendment must be sent to the City of Monash, PO Box 1, Glen Waverley 3150 by 13 December 2010.

DAVID CONRAN
Chief Executive Officer
Monash City Council

Creditors, next-of-kin and others having claims against the estate of any of the undermentioned deceased persons are required to send particulars of their claims to State Trustees Limited, ABN 68 064 593 148, 168 Exhibition Street, Melbourne Victoria 3000, the personal representative, on or before 7 January 2011, after which date State Trustees Limited may convey or distribute the assets having regard only to the claims of which State Trustees Limited then has notice.

AUCHTTL, Rosemary, late of 24 Canara Street, Doncaster East, Victoria 3109, deceased, who died on 5 July 2010.

DI PIETRO, Lucia, late of 14 Griffiths Street, Bellfield, Victoria 3081, pensioner, deceased, who died on 4 August 2010.

FITZPATRICK, Edwin Clark, late of 18 Campbell Street, Collingwood, Victoria 3066, state manager, deceased, who died on 16 December 2009.

FLEISCHER, Lillias Mary Margaret, late of Karana Nursing Home, 55–59 Walpole Street, Kew, Victoria 3101, pensioner, deceased who died on 17 July 2010.

O'BRIEN, Victor William Thomas, late of Epping Aged Care, 30 Epping Road, Epping Victoria 3076, deceased, who died on 21 June 2010.

RUDZIAUSKAS, Theodore Julius, also known as Teodoras Julius Rudziauskas, late of 55 Scenic View Drive, Mount Martha Victoria 3934, antique dealer, deceased, who died on 23 February 2010.

SHEFFIELD, Viola Ruth, late of Unit 37, Illawong Village, 75–93 Gladesville Boulevard, Patterson Lakes, Victoria 3197, pensioner, deceased, who died on 10 February 2010.

WILLIAMS, Madge Maisie, late of Kirrak House, 225 Graham Street, Wonthaggi Victoria 3995, pensioner, deceased, who died on 24 June 2010.

Dated 29 October 2010

ROD SKILBECK
Manager
Client Services

Creditors, next of kin and others having claims against the estate of any of the undermentioned deceased persons are required to send particulars of their claims to State Trustees Limited, ABN 68 064 593 148, 168 Exhibition Street, Melbourne Victoria 3000, the personal representative, on or before 5 January 2011, after which date State Trustees Limited may convey or distribute the assets having regard only to the claims of which State Trustees Limited then has notice.

BLACKWOOD, Coral Valerie, late of Mentone Gardens, 66–70 Nepean Highway, Mentone, Victoria 3194, pensioner, deceased, who died on 28 July 2010.

DALE, Peter John, also known as Peter Dale, late of 88 Maddox Road, Newport, Victoria 3015, pensioner, deceased, who died on 16 July 2010.

FOX, Kenneth Albert, late of Kirralee Nursing Home, 207 Richards Street, Ballarat, Victoria 3350, pensioner, deceased, who died on 5 September 2010.

KERLIN, Raymond John, late of Alan David Lodge, 382 Torquay Road, Grovedale, Victoria 3216, pensioner, deceased, who died on 18 August 2010.

MIRA, Maria, late of 10 David Street, Brunswick Victoria 3056, pensioner, deceased, who died on 13 November 2009.

SPOOR, Gloria Mary, formerly of 142 Riversdale Road, Hawthorn, Victoria 3122, but late of Lynden Aged Care Facility – Gaffney, 49 Lynden Street, Camberwell, Victoria 3124, deceased, who died on 14 July 2010.

SYBERS, Hugh Leonard, late of Unit 10, 12 Beach Avenue, Elwood, Victoria 3184, deceased, who died on 24 August 2010.

WROBEL, Charles, late of Room 24B, 38 Grey Street, St Kilda, Victoria 3182, retired, deceased, who died on 14 July 2010.

Dated 27 October 2010

ROD SKILBECK
Manager
Client Services

EXEMPTION

Application No. A102/2007

Pursuant to section 83(1) of the **Equal Opportunity Act 1995** ('the Act'), the Victorian Civil and Administrative Tribunal grants an exemption to the Applicants from the operation of sections 13, 14, 15, 100 and 195 of the Act on the following conditions:

- (a) The exemption applies only in respect of actions or omissions which are reasonably necessary for the Applicants to meet the requirements of the Department of State of the United States of America, the United States Department of Commerce and the United States Federal Aviation Authority, contained in or referable to the International Traffic in Arms Regulations and the Export Administration Regulations (the US Security Regulations), so far as those requirements apply directly or indirectly to work carried on, or on behalf of, or at the request of, or under the control or supervision of, an Applicant.
- (b) For an applicant to take the benefit of the exemption in relation to an action or omission which adversely affects an existing or potential employee or employee of a contractor, it must take reasonable steps to avoid or reduce the adverse effect. In particular, the Applicants are required, prior to taking any action permitted by this exemption order, to:
 - (i) assess the reasonableness of gaining a specific exemption for an employee, prospective employee or employee of a contractor, who does not satisfy the US Security Regulations;
 - (ii) provide all current and prospective employees with:
 - (A) express notice that they may be adversely affected by the exemption if they are not an Australian national or if they hold dual nationality and/or citizenship;
 - (B) a reasonable explanation in plain English of the nature of any adverse effects of such action to them;
 - (C) information about how they can apply for Australian citizenship; and
 - (D) information regarding their rights under the **Racial Discrimination Act 1975** (Cth) and the **Equal Opportunity Act 1995** (Vic.), and, in particular, the complaints procedure under those Acts and the rights of aggrieved persons to take their complaints to the Victorian Civil and Administrative Tribunal and the (Australian) Human Rights and Equal Opportunity Commission.
 - (iii) provide all current employees with ongoing and regular education and training in anti-discrimination, particularly race discrimination, and the internal and external procedures available to receive, investigate and resolve discrimination complaints and grievances and, in particular, those relating to race;
 - (iv) provide to the Applicants' contractors:
 - (A) express notice that the contractor's employees may be adversely affected by the exemption if they are not an Australian national or if they hold a dual nationality and/or citizenship;
 - (B) a document containing a reasonable explanation in plain English of the nature of this exemption order that the contractor may provide to the contractor's employees; and
 - (C) guidance to enable the contractor to conduct training in anti-discrimination and particularly race discrimination.
 - (v) implement comprehensive anti-discrimination policies governing all aspects of the work and workforce, including management, and with particular regard to race discrimination.
- (c) The Applicants are required to provide a written report to the Victorian Civil and Administrative Tribunal and the Victorian Equal Opportunity Tribunal and Human Rights Commission every six months from the date of this exemption order, over the three year period specified in the order, detailing:

- (i) the steps they have taken to comply with the above conditions;
- (ii) the number of persons affected by this exemption order, the nature of the effects, and the steps taken to redress any adverse effects; and
- (iii) implementation and compliance generally with the terms of this exemption order.

The Applicants' compliance with these orders as demonstrated in its reports will be a factor considered by the Victorian Civil and Administrative Tribunal in connection with any future renewal of these orders.

This exemption is granted as a short-term or 'holding' exemption to enable an application for a further exemption in relation to similar conduct to be advertised, to give the opportunity for submissions on the proposal and to give sufficient time for the application to be properly heard and determined.

This exemption is to remain in force from the date it is published in the Government Gazette until 30 April 2011.

Dated 28 October 2010

C. McKENZIE
Senior Member

SCHEDULE OF APPLICANTS

- 1. Raytheon Australia Pty Ltd;
 - 2. Aerospace Technical Services Pty Ltd;
 - 3. Australian Maritime Surveillance Pty Ltd;
 - 4. Aeronautical Consulting, Training & Engineering Pty Ltd;
 - 5. Other companies which are now or may in the future be related entities to Raytheon Australia Pty Ltd within the meaning of the **Corporations Act 2001** (Cth); and
 - 6. Officers and employees of any company which is otherwise an applicant.
-

Country Fire Authority Act 1958DECLARATION OF FIRE DANGER PERIOD
2010/2011

In pursuance of the powers conferred by section 4 of the **Country Fire Authority Act 1958**, I, Mick Bourke, Chief Executive Officer of the Country Fire Authority, after consultation with the Secretary to the Department of Sustainability and Environment, hereby declare the following periods to be the Fire Danger Period in the municipal districts of the municipalities or parts of municipalities specified, commencing on the dates shown and, unless varied by subsequent declaration, ending at 0100 hours on 1 May 2011.

To commence from 0100 hours on 8 November 2010.

Mildura Rural City

MICK BOURKE
Chief Executive Officer

Livestock Disease Control Act 1994

NOTICE OF ORDER

Order declaring a Control Area for Newcastle Disease and prohibitions on the entry of domestic chickens into Victoria

I, Joe Helper, Minister for Agriculture, give notice of the making of an Order under section 29 of the **Livestock Disease Control Act 1994** declaring the whole of Victoria to be a Control Area in respect of the exotic disease *Newcastle disease*.

The Order:

- specifies requirements for the owners of commercial poultry flocks in Victoria to vaccinate chickens for Newcastle Disease;
- prohibits the entry of domestic chickens into Victoria for inclusion in a commercial poultry flock unless the chickens have been vaccinated in accordance with the requirements set out in the Order and are accompanied by a vendor declaration attesting to vaccination status, or are introduced in accordance with an authority approved by the Manager Animal Standards, Department of Primary Industries.

The Order has effect for 12 months from 1 November 2010 unless continued for any further period or periods.

A copy of the Order may be obtained by telephoning the office of the Chief Veterinary Officer on (03) 9217 4248.

Dated 29 October 2010

JOE HELPER MP
Minister for Agriculture

Mineral Resources (Sustainable Development) Act 1990

DEPARTMENT OF PRIMARY INDUSTRIES

Exemption of Land from an Exploration
or Mining Licence

I, David Boothroyd, Manager Earth Resources Tenements, pursuant to section 7 of the **Mineral Resources (Sustainable Development) Act 1990** and under delegation from the Minister for Energy and Resources hereby exempt all that Crown land situated within the boundaries of exploration applications 5317, 5318 and 5319 from being subject to an exploration licence and a mining licence.

Dated 27 October 2010

DAVID BOOTHROYD
Manager Earth Resources Tenements
Earth Resources Regulation Branch

Education and Training Reform Act 2006

VICTORIAN INSTITUTE OF TEACHING

Schedule of Registration Fees 2011

In accordance with the Education and **Training Reform Act 2006**, the following fees concerning teacher registration have been fixed by the Minister for Education.

The fees are fixed for a period of twelve months.

Fee schedule

Initial registration – applicants with Victorian qualifications	\$125*
Initial registration – applicants with interstate or overseas qualifications	\$145*
Annual registration	\$72
National Criminal History Record Check (NCHRC)	\$25
Late payment processing fee	\$30
Replacement of registration card processing fee	\$22

*includes the cost of an NCHRC

Enquiries

Contact the Victorian Institute of Teaching on 1300 888 067 or email <vit@vit.vic.edu.au>

Interpretation of Legislation Act 1984ELECTRICITY SAFETY (BUSHFIRE MITIGATION)
AMENDMENT INTERIM REGULATIONS 2010

Notice of Incorporation of Documents and Address for Inspection of Documents

The Electricity Safety (Bushfire Mitigation) Amendment Interim Regulations 2010 ('the Regulations') apply, adopt or incorporate the following document:

Table of Applied, Adopted or Incorporated Matter

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 9(2) which amends regulation 8(1)(i) of the Principal Regulations	Australian/New Zealand Standard, 'Electrical installations', AS/NZS 3000, published 12 November 2007 by Standards Australia.	Table 3.8

A copy of the material applied, adopted or incorporated by the Regulations has been lodged with the Clerk of the Parliaments and is available for inspection by the public, free of charge, during normal business hours at Energy Safe Victoria, Level 3, 4 Riverside Quay, Southbank, telephone 9203 9700.

PETER BATCHELOR MP
Minister for Energy and Resources

Plant Health and Plant Products Act 1995**ORDER PROHIBITING OR RESTRICTING THE ENTRY OR IMPORTATION OF
QUEENSLAND FRUIT FLY HOST MATERIAL INTO VICTORIA**

I, Pat Sharkey, as delegate of the Minister for Agriculture, make the following Order:

Dated 1 November 2010

PAT SHARKEY
Manager Plant Standards

1. Objective

The objective of this Order is to prevent the entry of the exotic pest Queensland fruit fly into Victoria.

2. Authorising provision

This Order is made under section 24 of the **Plant Health and Plant Products Act 1995** (the Act).

3. Revocation

The Order made on 9 November 2009 under section 24 of the **Plant Health and Plant Products Act 1995**, and published in Government Gazette G47 on 19 November 2009 is revoked.

4. Definitions

In this Order—

‘**accreditation program**’ means any program under which a person is permitted to issue an assurance certificate, including any procedures available under the Interstate Certification Assurance (ICA) Scheme;

‘**Greater Sunraysia Pest Free Area**’ means that part of Victoria declared as a restricted area under section 20 of the Act for the control of Queensland fruit fly, and that part of NSW proclaimed under the **Plant Diseases Act 1924** (NSW);

‘**Manager Plant Standards**’ means the person for the time being occupying or acting in the position of Manager, Plant Standards in the Department of Primary Industries;

‘**Queensland fruit fly**’ means the exotic pest *Bactrocera tryoni* (Froggatt);

‘**Queensland fruit fly host produce**’ means any fruit or vegetable, or plant in fruit as listed in the Schedule 1;

‘**Queensland fruit fly host material**’ means any Queensland fruit fly host produce or used packaging;

‘**used packaging**’ means any packaging that has contained Queensland fruit fly host produce.

5. Controls applying to Queensland fruit fly host material

(1) The entry or importation into Victoria of any Queensland fruit fly host material is prohibited.

(2) Sub-clause (1) does not apply if—

(a) the Queensland fruit fly host produce was grown and packed in the NSW portion of the Greater Sunraysia Pest Free Area; or

(b) except in the case of material entering the Greater Sunraysia Pest Free Area, the Queensland fruit fly host produce was grown or packed, or the used package was last used on a property in a State or Territory, or part of a State or Territory, for which an area freedom certificate issued by an officer responsible for agriculture in the State or Territory where the Queensland fruit fly host produce was grown or packed, or package was last used, is currently in force certifying that the State or Territory or that part of the State or Territory is known to be free of Queensland fruit fly; or

- (c) the material is accompanied by a plant health certificate issued by an officer of the department responsible for agriculture in the affected State or Territory certifying that the material has been treated in a manner approved by the Manager Plant Standards; or
- (d) the material is accompanied by a plant health declaration issued by an authorised person declaring that it has been treated in a manner approved by the Manager Plant Standards;
- (e) the host produce has been packed, labelled and certified in accordance with conditions prescribed by an accreditation program under which the produce is certified;
- (f) the material is consigned in any other manner approved by the Manager Plant Standards

6. Verification of consignments

- (1) Where Queensland fruit fly host material is required by clause 5(2) to be accompanied by an assurance certificate, plant health declaration or Plant Health Certificate, the host produce and the accompanying certificate or declaration must be:
 - (a) presented to an authorised inspector for inspection; or
 - (b) verified by a person accredited to do so by the Department of Primary Industries.

Note: Section 25 of the Act provides that a person is guilty of an offence and a penalty not exceeding 50 penalty units for a natural person, or 200 penalty units for a body corporate, for knowingly breaching an importation order.

Schedule 1

Abiu	Durian	Nectarine
Acerola	Eggplant	Orange
Achachairu	Feijoa	Passionfruit
Apple	Fig	Pawpaw
Apricot	Granadilla	Peach
Avocado	Grape	Peacharine
Babaco	Grapefruit	Pear
Banana	Grumichama	Pepino
Black Sapote	Guava	Persimmon
Blackberry	Hog Plum	Plum
Blueberry	Jaboticaba	Plumcot
Boysenberry	Jackfruit	Pomegranate
Brazil Cherry	Jew Plum	Prickly Pear
Breadfruit	Ju Jube	Pummelo
Caimito (Star Apple)	Kiwifruit	Quince
Cape Gooseberry	Lemon	Rambutan
Capsicum	Lime	Raspberry
Carambola (Starfruit)	Loganberry	Rollinia
Cashew Apple	Longan	Santol
Casimiroa (White Sapote)	Loquat	Sapodilla
Cherimoya	Lychee	Shaddock
Cherry	Mandarin	Soursop
Chilli	Mango	Strawberry
Citron	Mangosteen	Sweetsop (Sugar Apple)

Cocoa Berry	Medlar	Tamarillo
Cumquat	Miracle Fruit	Tangelo
Custard Apple	Mulberry	Tomato
Date	Nashi	Wax Jambu (Rose Apple)
Dragon Fruit (Than Lung)		

Plant Health and Plant Products Act 1995

ORDER DECLARING A RESTRICTED AREA IN EASTERN GIPPSLAND FOR THE CONTROL OF QUEENSLAND FRUIT FLY

I, Joe Helper, Minister for Agriculture, under section 20 of the **Plant Health and Plant Products Act 1995**, make the following Order declaring a restricted area for the control of the exotic pest Queensland fruit fly and specifying the prohibitions, restrictions and requirements which are to operate in the restricted area.

Dated 12 October 2010

JOE HELPER
Minister for Agriculture

1. Objective

The objective of this Order is to declare a restricted area for the control of Queensland fruit fly, and to specify the prohibitions, restrictions and requirements which are to operate in the restricted area.

2. Authorising provisions

This Order is made under section 20 of the **Plant Health and Plant Products Act 1995**.

3. Revocation

The Order made on 10 November 2009 under section 20 of the Act and published in Government Gazette G47 on 19 November 2009 is revoked.

4. Definition

In this Order –

‘**Act**’ means the **Plant Health and Plant Products Act 1995**;

‘**host produce**’ means any fruit or vegetable, or plant in fruit, as listed in Schedule 1;

‘**Manager Plant Standards**’ means the person for the time being occupying or acting in the position of Manager Plant Standards in the Department of Primary Industries;

‘**Queensland fruit fly**’ means the exotic pest *Bactrocera tryoni* (Froggatt).

5. Restricted area for the control of Queensland Fruit Fly

The restricted area for the control of Queensland fruit fly is declared to be the area described in Schedule 2.

6. Prohibitions, restrictions and requirements

- (1) The removal from the restricted area into any part of Victoria of any –
 - (a) host produce; or
 - (b) package which has been used to contain any host produce – is prohibited.
- (2) Sub-clause (1) does not apply if the produce or package –
 - (a) is accompanied by a plant health certificate issued by an authorised officer, certifying that the produce or package has been treated in a manner approved by the Manager Plant Standards; or

- (b) is accompanied by a plant health declaration issued by an authorised person declaring that it has been treated in a manner approved by the Manager Plant Standards; or
- (c) is packed, labelled and certified in accordance with any conditions prescribed by an accreditation program under which the produce is certified.

7. Verification of consignments

- (1) Where required by clause 6(2) to be accompanied by an assurance certificate, plant health declaration or plant health certificate, the Queensland fruit fly host produce and the accompanying certificate or declaration must be:
 - (a) presented to an authorised inspector for inspection, examination or treatment; or
 - (b) verified by a person accredited to do so by the Department of Primary Industries.

Schedule 1

Abiu	Durian	Nectarine
Acerola	Eggplant	Orange
Achachairu	Feijoa	Passionfruit
Apple	Fig	Pawpaw
Apricot	Granadilla	Peach
Avocado	Grape	Peacharine
Babaco	Grapefruit	Pear
Banana	Grumichama	Pepino
Black Sapote	Guava	Persimmon
Blackberry	Hog Plum	Plum
Blueberry	Jaboticaba	Plumcot
Boysenberry	Jackfruit	Pomegranate
Brazil Cherry	Jew Plum	Prickly Pear
Breadfruit	Ju Jube	Pummelo
Caimito (Star Apple)	Kiwifruit	Quince
Cape Gooseberry	Lemon	Rambutan
Capsicum	Lime	Raspberry
Carambola (Starfruit)	Loganberry	Rollinia
Cashew Apple	Longan	Santol
Casimiroa (White Sapote)	Loquat	Sapodilla
Cherimoya	Lychee	Shaddock
Cherry	Mandarin	Soursop
Chilli	Mango	Strawberry
Citron	Mangosteen	Sweetsop (Sugar Apple)
Cumquat	Medlar	Tamarillo
Custard Apple	Miracle Fruit	Tangelo
Date	Mulberry	Tomato
Dragon Fruit (Than Lung)	Nashi	Wax Jambu (Rose Apple)

Schedule 2

The area of land, in the state of Victoria, east of the line commencing at a point where Lake King enters Bass Strait, then in a westerly direction along the southern shoreline of Lake King, to the intersection of Lake King and the western boundary of the parish of Colquhoun, then in a northerly direction along the western border of the parish of Colquhoun to the intersection of the parishes of Colquhoun, Boole Poole and Bumberrah, then in a westerly and northerly direction along the southern and western borders of the parish of Bumberrah to the intersection of the parishes of Bumberrah, Sarsfield and Tambo and the Nicholson River, then in a northerly direction along the

Nicholson River to the point where the Nicholson River intersects with Quarry Creek Road, then in a northerly direction along Quarry Creek Road to the intersection of Quarry Creek Road and Chester Road, then in a northerly direction along Chester Road to the intersection of Chester Road and Engineers Road, then in a straight line in a northerly direction to the intersection of Bullumwaal – Mt Baldhead Track and Nelson Track, then in a straight line in a north-westerly direction to the intersection of New Rush Track and Groves Gap Road, then in a north-westerly direction along Groves Gap Road to the intersection of Groves Gap Road and the Parishes of Wentworth, Omeo and Carneek, then in a north-westerly direction along the western boundary of the Parish of Omeo to the intersection of the Parishes of Omeo, Carneek and Bingo Munjie South, then in westerly and northerly direction along the southern and western boundaries of the Parish of Bingo Munjie South to the intersection of the Parishes of Bingo Munjie South, Mullawye and Theddora, then in a north-westerly direction along the western boundary of the parish of Theddora to the intersection of the parishes of Theddora, Hotham and Lochiel, then in a northerly direction along the western boundary of the parish of Lochiel to the intersection of the parishes of Lochiel, Darbalang and Nowyeo, and the Shire of East Gippsland, then in a northerly and westerly direction along the western boundary of the East Gippsland Shire to the intersection of the East Gippsland, Alpine and Towong Shires, then in a north-westerly direction along the western boundary of Towong Shire to the intersection of Towong and Indigo Shires and the Wodonga City Council, then in a westerly direction along the southern boundary of the Wodonga City Council, to the intersection of the boundaries of the Wodonga City Council and the parishes of Yackandandah and Beethang, then in a northerly direction along the western boundary of the parish of Beethang to the intersection of the boundaries of the parishes of Beethang, Yackandandah and Baranduda, then in a straight line in a westerly direction to the intersection of Whytes Road and Boundary Road, then in a westerly direction along Boundary Road to the intersection of Boundary Road and Wodonga–Yackandandah Road, then in a straight line in a south-westerly direction to the intersection of Ridge Lane and Baranduda Range Track, then in a south-westerly direction along Baranduda Range Track to the intersection of Baranduda Range track and the boundary of the Wodonga City Council and Indigo Shire, then in a south-westerly and northerly direction along the south-eastern and western boundaries of the Wodonga City Council to the intersection of the boundary of the Wodonga City Council and Indigo Shire and the parishes of Woorragee North, Barnawartha South and Belvoir West, then in a northerly direction along the western boundary of the parish of Belvoir West to the Murray River.

Public Records Act 1973

SECTION 16(1)

Declaration of a Prescribed Record

I, Peter Batchelor, Minister for the Arts, acting pursuant to section 16(1) of the **Public Records Act 1973**, hereby declare the records described in Schedule A to be prescribed records.

Dated 24 February 2010

PETER BATCHELOR
Minister for the Arts

SCHEDULE A

Description of prescribed records

1. Court of Mines Register for the 'Ballarat District', date range 27 May 1858 – 3 April 1865
2. Smythesdale Police Station watch house charge book, date range 3 January 1860 – 4 April 1862
3. Smythesdale Court of Petty Sessions cause list book, date range 27 July 1866 – 28 August 1868

Public Records Act 1973

SECTION 16(1)

Declaration of a Prescribed Record

I, Peter Batchelor, Minister for the Arts, acting pursuant to section 16(1) of the **Public Records Act 1973**, hereby declare the records described in Schedule A to be prescribed records.

Dated 7 April 2010

PETER BATCHELOR
Minister for the Arts

SCHEDULE A

Description of prescribed records

1. Shipping Register, Railway Pier Sandridge, 1857 to 1898
-

Road Safety Act 1986**PARTIAL EXEMPTION FROM ROAD RULES AND PROVISIONS OF THE
ROAD SAFETY ACT 1986 FOR PARTICIPANTS IN CASTERTON STREET DRAGS 2010****Purpose**

1. The purpose of this notice is to exempt participants in the Casterton Street Drag Races ('The Event') from certain provisions of the **Road Safety Act 1986** and certain provisions of the Road Rules.

Authorising provision

2. This notice is issued and published under section 99B(4) of the **Road Safety Act 1986** on the application of the Casterton and District Drag Racing Club Inc. ('The Event Organiser') which proposes to conduct the Event as a non-road activity on the Portland–Casterton Road, Casterton.

Background

3. The Event involves a series of drag races over an eighth mile course and other social activities in the township of Casterton on Saturday 27 November 2010.
4. The Event Organiser is conducting the Event which it has held annually since 1994 under the auspices of The Australian National Drag Racing Association Inc. (ANDRA).
5. The Event Organiser has applied for a declaration under section 99B(4) of the Act to exempt participants in the event from certain provisions of the **Road Safety Act 1986** and certain provisions of the Road Rules. In particular, the Event Organiser has applied for exemptions from the provisions specified in this notice in relation to –
 - (a) part of the Portland–Casterton Road; and
 - (b) the period – specified in the notice.

Declaration of Exemptions with respect to the Events

6. I, Tim Pallas, Minister for Roads and Ports, on the application of the Event Organiser, by this notice declare that, subject to the limitations and conditions specified in this notice, the provisions of the **Road Safety Act 1986** specified in column one of Schedule 1 and the Road Rules (other than the provisions specified in column one of Schedule 2) do not apply to the Event to be conducted on the part of the Portland–Casterton Road specified in Schedule 3 during the period specified in Schedule 4.
7. The descriptions in column two of Schedules 1 and 2 of the provisions specified in column one of those Schedules are for information purposes only and do not extend or limit the extent of, or otherwise affect, an exemption under this notice.

Limitations

8. The exemptions declared by this notice apply only to a person who is a participant whilst that person is actually participating in the Event.

Conditions

9. The following conditions apply to the conduct of the Event by the Event Organiser.
 - (a) The part of the highway used for the non-road activity is closed to traffic during the times when the activity is actually being carried out, which may not be the full period specified in Schedule 4.
 - (b) The Event Organiser has obtained all permits required in respect of the relevant non-road activity by the responsible road authority under section 99B(1) of the **Road Safety Act 1986**, and the Event is conducted in accordance with such permits and all other authorities.

- (c) That all applicable provisions of relevant legislation are complied with, including (without limitation), relevant provisions of the **Road Safety Act 1986**, the **Road Management Act 2004** and the **Occupational Health and Safety Act 2004** and any regulations under those Acts including the Road Rules (other than the provisions of the **Road Safety Act 1986** and the Road Rules which do not apply by force of this notice).
- (d) That a copy of this notice is produced on demand by the officer of the Event Organiser who is in charge of the Event to any member of the police force or to any person who is an authorised officer of VicRoads under section 71 of the **Road Management Act 2004**.
10. An exemption under this notice does not cease to apply only because of a failure to comply with a condition in clause 10 (other than the condition in clause 10(b)).

Schedule 1
Provisions of the Road Safety Act 1986 that do not apply to Event participants

Column 1 Provision	Column 2 Subject
Section 65A(1)	Improper use of motor vehicle
Section 68(1)	Participating in speed trials
Section 68(2)	Organising or managing speed trials

Schedule 2
Provisions of the Road Rules that apply to Event participants

Column 1 Provision	Column 2 Subject
Part 1	Introductory
Part 2	Interpretative provisions
Rule 78	Driver must not obstruct police and emergency vehicles
Rule 79	Driver must give way to emergency vehicles
Rule 300	Driver must not use hand-held mobile phone
Rule 304	Obeying police directions
Part 19	Exemptions
Part 20	Meaning and application of traffic control devices and traffic-related items
Part 21	General interpretive provisions
Schedules 1 to 4	Abbreviations, symbols and signs
Dictionary	Meanings of terms

Schedule 3
Highways or parts of highways to which exemptions apply

Item	Specified highway or part of highway
1.	Portland–Casterton Road from 200 metres South of the Glenelg Highway to 50 metres before the beginning of the intersection with Mackwood Lane.

Schedule 4
Period during which exemptions apply

Item	Specified highway or part of highway	Specified period
1.	Portland–Casterton Road from 200 metres South of the Glenelg Highway to 50 metres before the beginning of the intersection with Mackwood Lane.	7.00 am until 8.00 pm Saturday 27 November 2010

Dated 27 October 2010

TIM PALLAS MP
Minister for Roads and Ports

Water Act 1989

LATROBE RIVER ENVIRONMENTAL ENTITLEMENT 2010

I, Tim Holding, Minister for Water, as Minister administering the **Water Act 1989**, allocate the following environmental entitlement –

PART 1 – INTRODUCTORY**Title**

1. This Instrument is called the Latrobe River Environmental Entitlement 2010.

Purpose

2. The purpose of this Instrument is to establish an environmental entitlement to sustain and improve the environmental values and health of water ecosystems in the Latrobe River system, including their biodiversity, ecological functioning and water quality, and the other uses that depend on environmental condition.

Commencement

3. This Instrument comes into operation on the day it is published in the Government Gazette.

Empowering provisions

4. This Instrument is made under section 48B of the **Water Act 1989**.

Definitions

5. In this Instrument –

‘**Act**’ means the **Water Act 1989**;

‘**AHD**’ means the Australian Height Datum;

‘**Annual Watering Plan**’ means a document prepared by the environment Minister that details the use of water under this entitlement for a particular year to achieve the objectives of the Environmental Operating Strategy;

‘**Department**’ means the Department supporting the Minister administering the Act;

‘**Environmental Flow Manager**’ means any person or persons acting jointly, appointed by the environment Minister under section 48PB of the Act to undertake the functions set out in clause 12 of this instrument;

‘**environment Minister**’ has the same meaning as in section 3(1) of the Act;

‘**Environmental Operating Strategy**’ means the strategic planning document prepared by the environment Minister that sets out the principles and overarching objectives for the use of the water under this entitlement;

‘**Latrobe River system**’ means the Latrobe River and its tributaries in the Latrobe Basin, including the Tanjil River and the Tyers River, as well as the lower Latrobe wetlands, including Dowd Morass, Sale Common, and Heart Morass;

‘**licence**’ means any licence granted under Part 4 of the Act;

‘**Minister**’ means the Minister administering the **Water Act 1989**, and in relation to a provision, includes any person authorised by the Minister to act on the Minister’s behalf in relation to that provision, or to whom the Minister has delegated the relevant power, discretion, function, authority or duty under section 306 of the Act;

‘**Operating Arrangements**’ means a document prepared under clause 19 of this instrument that sets out the roles and responsibilities of the parties and management arrangements for use of water under this entitlement;

‘**Parks Victoria**’ means the body referred to in the **Parks Victoria Act 1998**;

‘**Southern Rural Water**’ means Gippsland and Southern Rural Water Corporation trading as Southern Rural Water;

‘**Swing Bridge (Sale) Gauging Station**’ means the stream gauging station number 226027, located on the Latrobe River;

- ‘**Thomson River confluence**’ means where the Thomson River joins the Latrobe River;
- ‘**West Gippsland Catchment Management Authority**’ means the Catchment Management Authority established for the West Gippsland catchment and land protection region established under section 11(1) of the **Catchment and Land Protection Act 1994**;
- ‘**year**’ means the 12 months commencing 1 July.

PART 2 – THE ENTITLEMENT

Entitlement to water

6. The environment Minister is entitled to water from the Latrobe River system in accordance with this Instrument.

Lower Latrobe wetlands entitlement

7. Subject to clause 8, the environment Minister is entitled to take water from the Latrobe River downstream of the Thomson River confluence for the purpose of inundating floodplain wetlands, in accordance with the Environmental Operating Strategy, Annual Watering Plan and operating arrangements.
8. The water taken under clause 7 may be taken from the waterway at any time of the year when flows are above -0.7 metres AHD as recorded at the Swing Bridge (Sale) Gauging Station.
9. The water taken under clause 7 must be used to provide water to the lower Latrobe wetlands, including Dowd Morass, Sale Common, and, subject to clause 10, Heart Morass.
10. Water used under this entitlement may be provided to Heart Morass only if there is an agreement between the environment Minister and the owners of private land within Heart Morass whose land might be affected by the use of this water.
11. The environment Minister is not permitted to transfer the entitlement to water under clause 7.

PART 3 – OPERATION AND MANAGEMENT

Environmental Flow Manager

12. The environment Minister may appoint an environmental flow manager to act on the environment Minister’s behalf in relation to any of the provisions of this entitlement.

Environmental Operating Strategy

13. The environment Minister must prepare an Environmental Operating Strategy for the use of water under this entitlement within twelve months of the commencement of this instrument.
14. The Environmental Operating Strategy must –
- (a) include a framework for the development of an Annual Watering Plan;
 - (b) be consistent with the Environmental Water Reserve Objective described in section 4B of the Act; and
 - (c) have regard to environmental, social and economic benefits and costs.
15. The environment Minister must review and update the Environmental Operating Strategy established under clause 13 at least every five years in consultation with the Department.
16. The environment Minister must supply the Department, Parks Victoria, West Gippsland Catchment Management Authority and Southern Rural Water with the most up to date version of the Environmental Operating Strategy.

Annual Watering Plan

17. The environment Minister must develop an Annual Watering Plan in accordance with the framework set out in the Environmental Operating Strategy and referred to in clause 14(a) of this instrument. The Annual Watering Plan must be reviewed and updated annually.

18. The environment Minister must supply the Department, Parks Victoria, West Gippsland Catchment Management Authority and Southern Rural Water with the most up to date version of the Annual Watering Plan.

Operating arrangements

19. The environment Minister, jointly with West Gippsland Catchment Management Authority, Southern Rural Water and Parks Victoria must endeavour to agree on operating arrangements for the water taken under this entitlement.
20. The operating arrangements must give reasonable consideration to potential adverse impacts of taking water under this entitlement on other entitlement holders on the Latrobe River downstream of the Thomson River confluence.
21. If the environment Minister, jointly with West Gippsland Catchment Management Authority, Southern Rural Water and Parks Victoria have not reached agreement under clause 19 within twelve months of the date of this Instrument, either party may give written notice to the other party requiring the matter to be determined in accordance with clauses 30 to 38.
22. The environment Minister, jointly with West Gippsland Catchment Management Authority, Southern Rural Water and Parks Victoria may vary the operating arrangements from time to time.

Metering program

23. The environment Minister must propose to the Minister, within 12 months of the date of this Instrument, a metering program to demonstrate compliance with this entitlement.
24. The Minister may –
 - (a) approve the program proposed under clause 23; or
 - (b) require the environment Minister to amend the proposed program; and
 - (c) require the environment Minister –
 - (i) to review the program approved by the Minister if, in the Minister's opinion, it is, at any time, no longer appropriate; and
 - (ii) to propose an amended program to the Minister.

Reporting requirements

25. The Minister may require the environment Minister to report on all or any of –
 - (a) the water diverted under this entitlement in any watering event;
 - (b) the annual volume of water diverted under this entitlement;
 - (c) subject to clause 11, the assignment of any part of the allocation under this entitlement;
 - (d) any bulk entitlement, licence or water right, temporarily or permanently transferred to the environment Minister;
 - (e) any amendment to this Instrument;
 - (f) any failure by the environment Minister to comply with any provision of this Instrument; and
 - (g) any existing anticipated difficulties experienced by the environment Minister in complying with this Instrument and any remedial action taken or proposed.
26. The Minister may require the environment Minister to report on all or any of the matters set out in clause 25 –
 - (a) in writing, or in such electronic form as may be agreed between the environment Minister and the Minister; and
 - (b) within 14 days of receiving the Minister's written request or such longer period as the Minister may determine.

Data

27. The Minister will endeavour to ensure that all hydrological and other data required by the environment Minister to comply with this entitlement is made available to the environment Minister.
28. The environment Minister must make available to any person data collected by or on behalf of the environment Minister for the purpose of clause 27, subject to the person paying any fair and reasonable access fee imposed by the environment Minister to cover the costs of making the data available to that person.

Costs

29. The environment Minister will be responsible for the costs associated with the use of water to which the environment Minister is entitled under clause 7 of this instrument.

PART 4 – DISPUTE RESOLUTION**Dispute resolution**

30. If a difference or dispute arises between the environment Minister and West Gippsland Catchment Management Authority, Parks Victoria or Southern Rural Water, concerning the interpretation or application of the Instrument, the environment Minister may give written notice to West Gippsland Catchment Management Authority, Parks Victoria or Southern Rural Water requiring the matter to be determined by an independent expert.
31. If a difference or dispute arises between the environment Minister and West Gippsland Catchment Management Authority, Parks Victoria or Southern Rural Water, concerning the interpretation or application of the Instrument, and West Gippsland Catchment Management Authority, Parks Victoria or Southern Rural Water gives written notice to the environment Minister requiring the matter to be determined by an independent expert, the environment Minister must comply with the notice.
32. The notice requiring that the matter be determined by independent expert may only be given 14 days after the matter has arisen. The independent expert may only commence to determine the matter a further 14 days after the giving of that notice.
33. The independent expert will be either –
 - (a) a person agreed to by the parties to the difference or dispute; or
 - (b) if the parties cannot agree, a person nominated by the President of the Institute of Arbitrators, Australia.
34. The independent expert must reach a conclusion on the matter within 30 days of it being referred, but has power to extend the period for reaching a conclusion on the matter by a further 30 days.
35. The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.
36. In any difference or dispute to which the Minister is a party –
 - (a) the independent expert must express the conclusion as a recommendation; and
 - (b) the Minister must consider any recommendation made under paragraph (a) before deciding whether there are grounds for giving a direction pursuant to section 48J(2) of the Act.
37. In any difference or dispute to which the Minister is not a party, any conclusion by an independent expert is final and binding on the parties.
38. The environment Minister may request the Minister to determine the apportionment of the costs of and incidental to every reference, including the costs of the independent expert.

Dated 24 October 2010

Responsible Minister
TIM HOLDING
Minister for Water

Water Act 1989

**BULK ENTITLEMENT (YARRA RIVER – MELBOURNE WATER
FOR CITY WEST WATER LIMITED) CONVERSION ORDER 2006**

Minor Amendment Notice 2010

I, Tim Holding, Minister for Water, as Minister administering the **Water Act 1989**, by Notice amend the Bulk Entitlement (Yarra River – Melbourne Water for City West Water Limited) Conversion Order 2006.

1. Citation

This Notice may be cited as the Bulk Entitlement (Yarra River – Melbourne Water for City West Water Limited) Minor Amendment Notice 2010.

2. Empowering provisions

This Notice is made under section 45(1) of the **Water Act 1989**.

3. Commencement

This Notice comes into effect on the day it is published in the Government Gazette.

4. Preliminary

The Bulk Entitlement (Yarra River – Western Water) Order 2006 was created to provide Western Water with a primary entitlement to take and use water from the Melbourne bulk transfer system. The obligation to supply this primary entitlement exists under bulk entitlements for the Yarra system held by City West Water, South East Water and Yarra Valley Water.

The obligation is no longer required because the Bulk Entitlement (Yarra River – Western Water) Order 2006 is revoked.

5. Purpose

The purpose of this Notice is to remove the obligation to supply primary entitlements from the Bulk Entitlement (Yarra River – Melbourne Water for City West Water Limited) Conversion Order 2006.

6. Amendment

Clause 7 and Schedule 2 are deleted.

Dated 24 October 2010

Responsible Minister
TIM HOLDING
Minister for Water

Water Act 1989

**BULK ENTITLEMENT (YARRA RIVER – MELBOURNE WATER
FOR YARRA VALLEY WATER LIMITED) CONVERSION ORDER 2006**

Minor Amendment Notice 2010

I, Tim Holding, Minister for Water, as Minister administering the **Water Act 1989**, by Notice amend the Bulk Entitlement (Yarra River – Melbourne Water for Yarra Valley Water Limited) Conversion Order 2006.

1. Citation

This Notice may be cited as the Bulk Entitlement (Yarra River – Melbourne Water for Yarra Valley Water Limited) Minor Amendment Notice 2010.

2. Empowering provisions

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3. Commencement

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5. Purpose

The purpose of this Notice is to remove the obligation to supply primary entitlements from the Bulk Entitlement (Yarra River – Melbourne Water for Yarra Valley Water Limited) Conversion Order 2006.

6. Amendment

Clause 7 and Schedule 2 are deleted.

Dated 24 October 2010

Responsible Minister
TIM HOLDING
Minister for Water

Water Act 1989

**BULK ENTITLEMENT (YARRA RIVER – MELBOURNE WATER
FOR SOUTH EAST WATER LIMITED) CONVERSION ORDER 2006**

Minor Amendment Notice 2010

I, Tim Holding, Minister for Water, as Minister administering the **Water Act 1989**, by Notice amend the Bulk Entitlement (Yarra River – Melbourne Water for South East Water Limited) Conversion Order 2006.

1. Citation

This Notice may be cited as the Bulk Entitlement (Yarra River – Melbourne Water for South East Water Limited) Minor Amendment Notice 2010.

2. Empowering provisions

This Notice is made under section 45(1) of the **Water Act 1989**.

3. Commencement

This Notice comes into effect on the day it is published in the Government Gazette.

4. Preliminary

The Bulk Entitlement (Yarra River – Western Water) Order 2006 was created to provide Western Water with a primary entitlement to take and use water from the Melbourne bulk transfer system. The obligation to supply this primary entitlement exists under bulk entitlements for the Yarra system held by City West Water, South East Water and Yarra Valley Water.

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5. Purpose

The purpose of this Notice is to remove the obligation to supply primary entitlements from the Bulk Entitlement (Yarra River – Melbourne Water for South East Water Limited) Conversion Order 2006.

6. Amendment

Clause 7 and Schedule 2 are deleted.

Dated 24 October 2010

Responsible Minister
TIM HOLDING
Minister for Water

La Trobe University Act 2009

LA TROBE UNIVERSITY

Guidelines concerning commercial activities in accordance with Part 6 Division 6 of the
La Trobe University Act 2009

Table of contents**Part 1 – Preliminary**

1. Authorising provisions
2. Commencement
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4. Definitions

Part 2 – Guidelines

5. Guideline 1 – prior to entering a commercial activity
6. Guideline 2 – indemnities
7. Guideline 3 – after entering a commercial activity
8. Guideline 4 – register of commercial activities and report
- 9–10. Guideline 5 – corporations and joint ventures
- 11–16. Guideline 6 – university controlled entities
17. Guideline 7 – audit of income and expenditure
18. Guideline 8 – making assessments

1. Authorising provisions

These Guidelines:

- (a) are made pursuant to sections 53 to 56 and other provisions of the **La Trobe University Act 2009** (the Act);
- (b) were submitted by the University to the Minister for approval pursuant to section 53 of the Act; and,
- (c) are approved by the Minister pursuant to section 55 of the Act, following consultation with the University and the Treasurer.

2. Purpose

The Guidelines provide a set of principles and outline process for the development and conduct of commercial activities of the University, in order to maximise the benefits and to minimise the risks to the University of undertaking such activities.

Commencement

These Guidelines take effect on the date of their publication in the Government Gazette.

3. Application of other laws

The Guidelines:

- (a) are subject to:
 - (i) the **Higher Education Support Act 2003** (Comm.) and any conditions required by the Commonwealth in respect of funding agreements under that or other Act;
 - (ii) the provisions of, and any directions or regulations under the **Financial Management Act 1994** (Vic) that apply to the University;
 - (iii) the provisions of the **Audit Act 1994** (Vic) that apply to the University;
 - (iv) other Acts or laws that apply to the University;
- (b) are consistent with University statutes or University regulations¹.

¹ See section 57 of the Act.

4. Definitions

Words or expressions defined in the Act have the same meaning for the purposes of these Guidelines. In these Guidelines, unless the contrary intention appears –

Auditor-General has the same meaning as in the **Audit Act 1994**²;

commercial activity includes the provision or sale by the University (or the University in partnership, joint venture or association with others) of property, goods, services or things with a view to a profit, and the acquisition by the University of property, goods, services or things for that purpose, but does not include:

- (a) the supply of educational services to students including students whose enrolment is governed by the **Education Services for Overseas Students Act 2000**, or the awarding of qualifications, degrees or other awards;
- (b) an activity that is conducted by the University which primarily supplies goods and/or services to students and staff of the University;
- (c) an activity that is conducted on a not for profit basis;
- (d) an activity undertaken principally pursuant to a grant from or funding agreement with the Commonwealth, or a State or Territory;
- (e) research undertaken prior to the provision, sale or acquisition of the property, goods, services or things that are the result or product of that research;
- (f) the exercise of any of the investment powers in clauses 40 or 46 of the Act;
- (g) the sale of cars or other items that were purchased by the University principally for the purpose of conducting the non commercial functions of the University;
- (h) contracts for delivery of a service by the University for a fee;
- (i) leases or licences on arms length commercial terms which relate to the provision of goods or services to students and staff of the University ;
- (j) an activity undertaken by a legal entity that is not a controlled entity of the University, such as a company in which the University has an interest;
- (k) any activity the Council decides should be exempted on the grounds that the activity will commit the University to expenditure of less than an amount deemed to be significant having regard to relevant accounting standards during the life of the activity, and will not expose the University to liability of more than that amount;

company means a company registered under the **Corporations Act 2001** and includes a company limited by guarantee;

controlled entity is one that satisfies the test of control in s.50AA of the **Corporations Act 2001**³;

² Section 3 of the **Audit Act 1994** defines the Auditor-General as ‘the Auditor-General appointed under section 94A of the **Constitution Act 1975**’.

³ Note: Protocol 2 of the national governance protocols for higher education providers requires the university to: (e) approve and monitor systems of control and accountability, including general overview of any controlled entities.

Section 50AA of the **Corporations Act 2001** states:

‘(1) For the purposes of this Act, an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity’s financial and operating policies.

(2) In determining whether the first entity has this capacity:

(a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and

(b) any practice or pattern of behaviour affecting the second entity’s financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

(3) The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity’s financial and operating policies.

entity has the meaning given in section 64A of the **Corporations Act 2001**⁴;

joint venture means an association of persons which includes the University for the purposes of a trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with the University agreeing to contribute money, property or skill;⁵

Minister means the Minister responsible for administering the Act;

partnership means the relation subsisting between persons carrying on business in common with a view to profit.⁶

Guideline 1 – prior to entering a commercial activity

5. No new commercial activity as defined in paragraph 4 above may be entered into until Council is satisfied that the following assessments and measures have been undertaken, as appropriate to the nature of the activity:
- (a) that the activity is consistent with the mission or strategic direction of the University or its objects or functions;
 - (b) a financial analysis, that assesses the level of exposure of the University's resources and assets;
 - (c) a cost/benefit analysis including the social costs and benefits;
 - (d) a risk assessment of the activity and development of associated risk management measures;
 - (e) whether the governance arrangements, legal structures and audit requirements are appropriate for the size, risk and type of activity;
 - (f) whether the terms and conditions of the arrangements and agreement are appropriate including those dealing with governance, representation of the University on any board or decision making group formed for the purpose of the undertaking, risk (including insurance), taxation, intellectual property, the rights of the University to terminate its involvement in the activity and any indemnities;
 - (g) a due diligence assessment in a form appropriate for/commensurate with the activity;
 - (h) whether there are any actual or perceived conflicts of interest for University staff or University Council members that may arise from the activity, and measures to address those conflicts;

(4) *If the first entity:*

(a) *has the capacity to influence decisions about the second entity's financial and operating policies; and*

(b) *is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members;*

the first entity is taken not to control the second entity.'

⁴ Section 64A of the **Corporations Act 2001** states a reference to an entity:

'(a) is a reference to a natural person, a body corporate (other than an exempt public authority), a partnership or a trust; and

(b) includes, in the case of a trust, a reference to the trustee of the trust.'

⁵ This definition is a modified version of the High Court's comments in *United Dominions Corporation Ltd v Brian Pty Ltd* (1985) 157 CLR at 10, per Mason, Brennan and Deane JJ – *'The term "joint venture" is not a technical one with a settled common law meaning. As a matter of ordinary language, it connotes an association of persons for the purposes of a particular trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with each participant usually (but not necessarily) contributing money, property or skill. Such a joint venture (or, under Scots' law, "adventure") will often be a partnership. The term is, however, apposite to refer to a joint undertaking or activity carried out through a medium other than a partnership: such as a company, a trust, an agency or joint ownership. The borderline between what can properly be described as a "joint venture" and what should more properly be seen as no more than a simple contractual relationship may, on occasion, be blurred.'*

⁶ **Partnership Act 1958**, s.5

- (i) in respect to activities conducted overseas, appropriate legal advice in respect of relevant overseas laws having regard to the nature of the arrangement; and
 - (j) any consequences of termination.
- See the footnote below on borrowings⁷.

Guideline 2 – indemnities

6. The University must consider whether any indemnity it provides which is considered significant by the University, having regard to relevant accounting standards, should be backed by an insurance policy which indemnifies the University to the same value where insurance coverage is available.

Guideline 3 – after entering a commercial activity

7. After entering a commercial activity, the University must regularly monitor the activity as appropriate to the scale and nature of the activity.

Guideline 4 – register of commercial activities and report

8. The University must –
- (a) maintain a register of its current commercial activities which discloses:
 - (a) all university commercial activity approved by the Council under section 8(3)(h) of the Act, and significant commercial activities of controlled entities;
 - (b) other commercial activities which it considers sufficiently important or of interest to list on the register;
 - (c) the University's involvement in each of those activities, and University staff or council members that occupy a board seat or some other office in connection with the activity and the directors' and officers' liability insurance or other insurance arrangements that apply to the activity;
 - (d) the results of any assessment undertaken (if any) to determine whether the activity is meeting its purposes and objectives;
 - (e) whether the activity is ongoing or its anticipated termination date; and
 - (b) provide a summary of the above matters in the annual report of its operations under section 45 of the **Financial Management Act 1994**, together with the matters listed under paragraph 12(c) of Guideline 6.

Guideline 5 – section 48 of the Act – corporations and joint ventures⁸

9. Before exercising any of the powers in section 48(1) of the Act to be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture (collectively referred to as the undertaking), the University must assess whether:
- (a) it will be doing so for a purpose (not necessarily the main purpose) of engaging in a commercial activity; and/or
 - (b) in the case of the University being a member of, forming, managing or participating in a company, the main object of the company is to engage in a commercial activity, despite whether the activity meets the definition of 'commercial activity' in paragraph 5.

⁷ Section 45 of the Act states Universities may borrow moneys, obtain financial accommodation or enter financial arrangements within the limits and upon the conditions as the Treasurer may approve after consultation with the Minister. If intending to seek the Treasurer's approval the University will first assess the application against those limits and conditions.

⁸ Section 48(1) of the Act states the University may be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture for the purpose of one or more of the objects in section 48(2). Not all the objects in section 48(2) involve a commercial activity, and the following Guideline 5 makes that distinction.

10. If the University in association with other persons –
 - (a) will be engaging in a commercial activity, the University must comply with Guidelines 1 to 4;
 - (b) will be a member of, forming, managing or participating in a company not engaging in a commercial activity, the University must comply with Guideline 2;
 - (c) will be engaging in an undertaking other than through a company and will not be engaging in a commercial activity, the University must make an assessment of the University's exposure to liability and, if that assessment is greater than an amount deemed to be significant having regard to relevant accounting standards, must consider which, if any, of Guidelines 2 to 3, should apply to the undertaking.

Guideline 6 – University controlled entities

11. Where an entity is a controlled entity of the University, the University must:
 - (a) ensure that any amendment to the constitution has had the prior approval of the Council before its representative shareholder or member can vote in favour of that amendment (or where the entity is a trust, partnership, joint venture or other form of entity, similarly ensure that an amendments to the relevant constituent document or agreement governing that entity have the prior approval of the Council);
 - (b) ensure that where the entity's total annual income exceeds, or may reasonably be expected to exceed, \$1 million, a report by the Auditor General if the Auditor-General approves a request under paragraph 13, or if not then by a registered company auditor, on the accounts of the entity is made every twelve months and is submitted to the Council within three months after the end of each twelve month period to which the report relates;
 - (c) state in the report referred to in paragraph 11(b) of Guideline 6, the name of any entity formed or acquired in the year to which that report pertains, and the reasons the Council decided that the acquisition was in the interests of the management or conduct of the affairs or concerns of the University;
 - (d) where it is required to comply with section 45 of the **Financial Management Act 1994**, include in its annual report under that section 45 a copy of the accounts of the entity prepared in accordance with the requirements of the **Financial Management Act 1994** as if the entity was a public body within the meaning of that Act in respect of the financial year ending during the period to which the University's annual report relates, or if it is not required to comply with that section 45 to forward to the Minister a copy of those accounts by 30 June of each year; and
 - (e) within 14 days of lodging any material report, statement or return in respect of the entity with the Australian Securities and Investments Commission under the Corporations Act or the Australian Taxation Office, other than a routine report of changes in company officers, minor change in a company's constitution or the like, submit a copy of the report, statement or return to the Minister and Treasurer.
12. Where the University forms, participates in the formation of or is a member of, an entity to which paragraph 11 applies, the University must:
 - (a) where the entity is a company, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor under the Corporations Act 2001; and
 - (b) where the entity is an incorporated entity other than a company, ensure the entity seeks the Auditor-General's approval for the Auditor General to be appointed as its auditor; and
 - (c) where the Auditor-General approves a request under sub-paragraph (a) or (b), ensure the entity appoints the Auditor-General as its auditor⁹.

⁹ The Guideline does not authorise entities to breach current contracts.

This paragraph 12 is subject to any contractual obligation which the entity has in relation to any other auditor prior to the entity becoming a controlled entity of the University.

13. The requirements of paragraph 12 are in addition to the requirements of the **Corporations Act 2001** or any other legislation governing the relevant controlled entity.
14. The University will pay to the Auditor General an amount to be determined by the Auditor-General to defray the costs and expenses of any audit under this Guideline.
15. The University must ensure the Auditor-General and any person assisting the Auditor-General under this Guideline –
 - (a) has right of access at all times to the books, securities, accounts and vouchers of an entity to which paragraph 12 applies; and
 - (b) is provided with any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
16. The University must regularly monitor the significant activities of controlled entities, which will include regular reports to Council. Any such monitoring shall also include any proposals governing the transfer of ownership of the University's controlled entities or investments in controlled entities (whether the transfer is to a third party or pursuant to an internal University reorganisation).

Guideline 7 – section 47 of the Act – audit of income and expenditure of the university

17. The University must establish and keep full and complete books and accounts of all moneys received and paid by the University and ensure that an audit of the income and expenditure of the University is made at such intervals as the Council directs.

Nothing in Guideline 7 is intended to affect any responsibilities which may apply to the University and its employees under the **Financial Management Act 1994**, and in particular section 44 which requires the accountable officer of a public body to ensure that there are kept proper accounts and records of the transactions and affairs of the public body and such other records as sufficiently explain the financial operations and financial position of the public body.

Guideline 8 – making assessments

18. The University may determine the manner in which it makes any assessment required under any of the guidelines and the processes it undertakes to approach and complete the assessment, including the manner of recording the outcome of the assessment.

Dated 19 July 2010

THE COMMON SEAL of LA TROBE UNIVERSITY
was affixed by authority of the
Vice-Chancellor
PAUL JOHNSON
in the presence of:
Deputy Vice-Chancellor
JOHN ROSENBERG

Signed and approved by
the Minister for Skills and Workforce
Participation on 29 October 2010

Monash University Act 2009

MONASH UNIVERSITY

Guidelines concerning the University's commercial activities in accordance with Part 6 Division 6 of the **Monash University Act 2009**

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- 11–16. Guideline 6 – university controlled entities
17. Guideline 7 – audit of income and expenditure
18. Guideline 8 – making assessments

1. Authorising provisions

These Guidelines:

- (a) are made pursuant to sections 53 to 56 and other provisions of **Monash University Act 2009** (the Act);
- (b) were submitted by the University to the Minister for approval pursuant to section 53 of the Act; and,
- (c) are approved by the Minister pursuant to section 55 of the Act, following consultation with the University and the Treasurer.

2. Purpose

The Guidelines provide a set of principles and outline process for the development and conduct of commercial activities of the University, in order to maximise the benefits and to minimise the risks to the University of undertaking such activities.

Commencement

These Guidelines take effect on the date of their publication in the Government Gazette.

3. Application of other laws

The Guidelines:

- (a) are subject to:
 - (i) the **Higher Education Support Act 2003** (Comm.) and any conditions required by the Commonwealth in respect of funding agreements under that or other Acts;
 - (ii) the provisions of and any directions or regulations under the **Financial Management Act 1994** (Vic) that apply to the University;
 - (iii) the provisions of the **Audit Act 1994** (Vic) that apply to the University;
 - (iv) other Acts or laws that apply to the University;
- (b) are consistent with University statutes or University regulations.

4. Definitions

Words or expressions defined in the Act have the same meaning for the purposes of these Guidelines. In these Guidelines, unless the contrary intention appears –

Auditor-General has the same meaning as in the **Audit Act 1994**¹;

commercial activity includes the provision or sale by the University (or the University in partnership, joint venture or association with others) of property, goods, services or things with a view to a profit, and the acquisition by the University of property, goods, services or things for that purpose, but does not include:

- (a) the supply of educational services to students including students whose enrolment is governed by the **Education Services for Overseas Students Act 2000**, or the awarding of qualifications, degrees or other awards;
- (b) an activity which primarily supplies goods and/or services to students and staff of the University;
- (c) an activity that is conducted on a not for profit basis;
- (d) an activity undertaken principally pursuant to a grant from or funding agreement with the Commonwealth, or a State or Territory;
- (e) research², or research that leads to the provision, sale or acquisition of the property, goods, services or things that are the result or product of that research;
- (f) the exercise of any of the powers in sections 40, 41, 42, 45 or 46 of the Act;
- (g) the sale of cars or other items that were purchased by the University principally for the purpose of conducting the non commercial functions of the University;
- (h) leases or licences which relate to the provision of goods and services to students and staff of the University;
- (i) an activity undertaken by a legal entity that is not a controlled entity of the University (for example, a company in which the University has an interest but not a controlling interest); and
- (j) any activity that will commit the University to expenditure of less than an amount significant to the University (having regard to relevant accounting standards) during the life of the activity, and will not expose the University to liability of more than that amount;

company means a company registered under the **Corporations Act 2001** and includes a company limited by guarantee;

controlled entity is one that satisfies the test of control in s.50AA of the **Corporations Act 2001**³;

¹ Section 3 of the **Audit Act 1994** defines the Auditor-General as ‘the Auditor-General appointed under section 94A of the **Constitution Act 1975**’.

² Consultancies, although not expressly excluded, are generally not considered to be a commercial activity.

³ Note: Protocol 2 of the national governance protocols for higher education providers requires the university to: (e) approve and monitor systems of control and accountability, including general overview of any controlled entities.

Section 50AA of the **Corporations Act 2001** states:

(1) For the purposes of this Act, an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity’s financial and operating policies.

(2) In determining whether the first entity has this capacity:

(a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and

(b) any practice or pattern of behaviour affecting the second entity’s financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

(3) The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity’s financial and operating policies.

entity has the meaning given in section 64A of the **Corporations Act 2001**,⁴

joint venture means an association of persons which includes the University for the purposes of a trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with the University agreeing to contribute money, property or skill,⁵

Minister means the Minister responsible for administering the Act;

partnership means the relation subsisting between persons carrying on business in common with a view to profit.⁶

Guideline 1 – prior to entering a commercial activity

5. No new commercial activity above may be entered into until Council is satisfied that the following assessments and measures have been undertaken, as appropriate to the nature of the activity:
- (a) that the activity is consistent with the mission or strategic direction of the University or its objects or functions;
 - (b) a financial analysis, that assesses the level of exposure of the University's resources and assets, and includes in that analysis any proposed or actual borrowings under section 45 by the University for the activity;
 - (c) a cost/benefit analysis including, as appropriate, the social costs and benefits;
 - (d) a risk assessment of the activity and development of associated risk management measures;
 - (e) whether the governance arrangements, legal structures and audit requirements are appropriate for the size, risk and type of activity;
 - (f) whether the terms and conditions of the arrangements and agreement are appropriate including those dealing with governance, representation of the University on any board or decision making group formed for the purpose of the undertaking, risk (including insurance), taxation, intellectual property, termination including the rights of the University to terminate its involvement in the activity, and any indemnities;
 - (g) a due diligence assessment in a form appropriate for/commensurate with the activity;
 - (h) whether there are any actual or potential conflicts of interest for University staff or University Council members that may arise from the activity, and measures to address those conflicts; and

(4) *If the first entity:*

- (a) *has the capacity to influence decisions about the second entity's financial and operating policies; and*
- (b) *is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members;*

the first entity is taken not to control the second entity.'

⁴ Section 64A of the **Corporations Act 2001** states a reference to an entity:

- (a) *is a reference to a natural person, a body corporate (other than an exempt public authority), a partnership or a trust; and*
- (b) *includes, in the case of a trust, a reference to the trustee of the trust.'*

⁵ *This definition is a modified version of the High Court's comments in United Dominions Corporation Ltd v Brian Pty Ltd (1985) 157 CLR at 10, per Mason, Brennan and Deane JJ – 'The term "joint venture" is not a technical one with a settled common law meaning. As a matter of ordinary language, it connotes an association of persons for the purposes of a particular trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with each participant usually (but not necessarily) contributing money, property or skill. Such a joint venture (or, under Scots' law, "adventure") will often be a partnership. The term is, however, apposite to refer to a joint undertaking or activity carried out through a medium other than a partnership: such as a company, a trust, an agency or joint ownership. The borderline between what can properly be described as a "joint venture" and what should more properly be seen as no more than a simple contractual relationship may, on occasion, be blurred.'*

⁶ **Partnership Act 1958**, s.5

- (i) in respect to activities conducted overseas, the laws that will apply.
See the footnote below on borrowings.⁷

Guideline 2 – indemnities

6. The University will consider whether any indemnity it provides which is considered significant by the University, having regard to relevant accounting standards, is or should be backed by an insurance policy, if available, which indemnifies the University to the same value where insurance coverage is available.

Guideline 3 – after entering a commercial activity

7. After entering a commercial activity, the University will regularly monitor the activity as appropriate to the scale and nature of the activity.

Guideline 4 – register of commercial activities and report

8. The University must –
- (a) maintain a register of its current commercial activities which discloses:
 - (i) all university commercial activity approved by the Council under section 8(3)(h) of the Act, and significant commercial activities of controlled entities;
 - (ii) other commercial activities which it considers sufficiently important or of interest to list on the register;
 - (iii) the University's involvement in each of those activities, and University staff or council members that occupy a board seat or some other office in connection with the activity and the directors' and officers' liability insurance or other insurance arrangements that apply to the activity;
 - (iv) the results of any assessment undertaken (if any) to determine whether the activity is meeting its purposes and objectives; and
 - (v) whether the activity is ongoing or its anticipated termination date; and
 - (b) provide a summary of the above matters in the annual report of its operations under section 45 of the **Financial Management Act 1994**, together with the matters listed under paragraph 11(c) of Guideline 6.

Guideline 5 – section 48 of the Act – corporations and joint ventures⁸

9. Before exercising any of the powers in section 48(1) of the Act to be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture (collectively referred to as the undertaking), the University will assess whether:
- (a) it will be doing so for a purpose (not necessarily the main purpose) of engaging in a commercial activity; and/or
 - (b) in the case of the University being a member of, forming, managing or participating in a company, the main object of the company is to engage in a commercial activity, despite whether the activity meets the definition of 'commercial activity' in paragraph 5.
10. If the assessment under paragraph 9 concludes that the University: –
- (a) will be engaging in a commercial activity, the University will comply with Guidelines 1 to 4;
 - (b) will be a member of, forming, managing or participating in a company not engaging in a commercial activity, the University will comply with Guideline 2;

⁷ Section 45 of the Act states Universities may borrow moneys, obtain financial accommodation or enter financial arrangements within the limits and upon the conditions as the Treasurer may approve after consultation with the Minister. If intending to seek the Treasurer's approval the University will first assess the application against those limits and conditions.

⁸ Section 48(1) of the Act states the University may be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture for the purpose of one or more of the objects in section 48(2). Not all the objects in section 48(2) involve a commercial activity, and the following Guideline 5 makes that distinction.

- (c) will be engaging in an undertaking other than through a limited company and will not be engaging in a commercial activity, the University will make an assessment of the University's exposure to liability and, if that exposure is greater than an amount deemed to be significant having regard to relevant accounting standards, will consider which, if any, of Guidelines 2 and 3, should apply to the undertaking.

Guideline 6 – University controlled entities

11. Where an entity is a controlled entity of the University, the University must:
 - (a) ensure that any amendment to the constitution has had the prior approval of the Council before its representative shareholder or member can vote in favour of that amendment (or where the entity is a trust, partnership, joint venture or other form of entity, similarly ensure that an amendments to the relevant constituent document or agreement governing that entity have the prior approval of the Council);
 - (b) ensure that where the entity's total annual income exceeds, or may reasonably be expected to exceed, \$1 million, a report by the Auditor-General if the Auditor-General approves a request under paragraph 12, or if not then by a registered company auditor, on the accounts of the entity is made every twelve months and is submitted to the Council within three months after the end of each twelve month period to which the report relates;
 - (c) state in the report referred to in paragraph 8(b) of Guideline 6, the name of any controlled entity formed or acquired in the year to which that report pertains, and the reasons the Council decided that the formation or acquisition was in the interests of the management or conduct of the affairs or concerns of the University;
 - (d) where it is required to comply with section 45 of the **Financial Management Act 1994**, include in its annual report under that section 45 a copy of the accounts of the entity prepared in accordance with the requirements of the **Financial Management Act 1994** as if the entity was a public body within the meaning of that Act in respect of the financial year ending during the period to which the University's annual report relates; and
 - (e) within 14 days of lodging any material report, statement or return in respect of the entity with the Australian Securities and Investments Commission under the Corporations Act or the Australian Taxation Office, other than a routine report of changes in company officers, minor change in a company's constitution or the like, submit a copy of the report, statement or return to the Minister and Treasurer.
12. Where the University forms, participates in the formation of or is a member of, an entity to which paragraph 11 applies, the University must:
 - (a) where the entity is a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor under the **Corporations Act 2001**; and
 - (b) where the entity is not a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor; and
 - (c) where the Auditor-General approves a request under sub-paragraph (a) or (b), ensure the entity appoints the Auditor General as its auditor⁹.

This paragraph 12 is subject to any contractual obligation which the entity has in relation to any other auditor prior to the entity becoming a controlled entity of the University.
13. The requirements of paragraph 12 are in addition to the requirements of the **Corporations Act 2001** or any other legislation governing the relevant controlled entity.

⁹ The Guideline does not authorise entities to breach current contracts.

14. The University must ensure the Auditor-General and any person assisting the Auditor-General under this Guideline –
 - (a) has right of access at all times to the books, securities, accounts and vouchers of an entity to which paragraph 11 applies; and
 - (b) is provided with any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
15. The University must regularly monitor the activities of controlled entities which are significant to the University, which will include regular reports to Council. Any such monitoring shall also include any proposals concerning the transfer of ownership or change in control of the University's controlled entities (whether the transfer is to a third party or pursuant to an internal University reorganisation).

Guideline 7 – section 47 of the Act – audit of income and expenditure of the university

16. The University will establish and keep full and complete books and accounts of all moneys received and paid by the University and ensure that an audit of the income and expenditure of the University is made at such intervals as the Council directs, or at least annually.

Nothing in Guideline 7 is intended to affect any responsibilities which may apply to the University and its employees under the **Financial Management Act 1994**, and in particular section 44 which requires the accountable officer of a public body to ensure that there are kept proper accounts and records of the transactions and affairs of the public body and such other records as sufficiently explain the financial operations and financial position of the public body.

Guideline 8 – making assessments

17. The University may determine the manner in which it makes any assessment required under any of the guidelines and the processes it undertakes to approach and complete the assessment, including the manner of recording the outcome of the assessment.

THE COMMON SEAL of MONASH UNIVERSITY

was hereto affixed on 5 October 2010

by direction of the Council and attested by:

Ed Byrne Vice-Chancellor and President

Peter Marshall Vice-President (Administration)

Signed and approved by
the Minister for Skills and Workforce
Participation on 29 October 2010

Royal Melbourne Institute of Technology Act 2010

RMIT UNIVERSITY

Guidelines concerning commercial activities in accordance with Part 6 Division 6 of the
Royal Melbourne Institute of Technology Act 2010

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1. Authorising provisions

These Guidelines:

- (i) are made pursuant to sections 53 to 56 and other provisions of the **Royal Melbourne Institute of Technology Act 2010** (the Act);
- (ii) are interim guidelines made by the Minister pursuant to section 55(2) of the Act pending the approval by the Minister of guidelines submitted by the University; and
- (iii) unless sooner revoked by the Minister, will operate until the Minister approves guidelines submitted by the University.

2. Purpose

The Guidelines provide a set of principles and outline processes for the development and conduct of commercial activities of the University, in order to maximise the benefits and to minimise the risks to the University of undertaking such activities.

Commencement

These Guidelines take effect on the date of their publication in the Government Gazette.

3. Application of other laws

The Guidelines:

- (a) are subject to:
 - (i) the **Higher Education Support Act 2003** (Comm.) and any conditions required by the Commonwealth in respect of funding agreements under that or other Acts;

- (ii) the provisions of and any directions or regulations under the **Financial Management Act 1994** (Vic) (or its equivalent) that apply to the University;
 - (iii) the provisions of the **Audit Act 1994** (Vic) (or its equivalent) that apply to the University; and,
 - (iv) other Acts or laws that apply to the University;
- (b) are consistent with University statutes or University regulations.

4. Definitions

Words or expressions defined in the Act have the same meaning for the purposes of these Guidelines. In these Guidelines, unless the contrary intention appears –

Auditor-General has the same meaning as in the **Audit Act 1994**¹;

commercial activity includes the provision or sale by the University (or the University in partnership, joint venture or association with others) of property, goods, services or things with a view to a profit, and the acquisition by the University of property, goods, services or things for that purpose, but does not include:

- (a) the supply of educational services to students including students whose enrolment is governed by the **Education Services for Overseas Students Act 2000**, or the awarding of qualifications, degrees or other awards;
- (b) an activity that is conducted by the University which primarily supplies goods and/or services to students and staff of the University;
- (c) an activity that is conducted on a not for profit basis;
- (d) an activity undertaken principally pursuant to a grant from or funding agreement with the Commonwealth, or a State or Territory;
- (e) research, or research that leads to the provision, sale or acquisition of the property, goods, services or things that are the result or product of that research;
- (f) the exercise of any of the investment powers in sections 40, 41, 42, 45 or 46 of the Act;
- (g) the sale of cars or other items that were purchased by the University principally for the purpose of conducting the non commercial functions of the University;
- (h) contracts for delivery of a service by the University for a fee;
- (i) leases or licenses on arms length commercial terms which relate to the provision of goods or services to students and staff of the University;
- (j) an activity undertaken by a legal entity that is not a controlled entity of the University, such as a company in which the University has an interest;
- (k) any activity the Council decides should be exempted on the grounds that the activity will commit the University to expenditure of less than an amount deemed to be significant having regard to relevant accounting standards during the life of the activity, and will not expose the University to liability of more than that amount.

company means a company registered under the **Corporations Act 2001** and includes a company limited by guarantee;

controlled entity is one that satisfies the test of control in s.50AA of the **Corporations Act 2001**²;

¹ Section 3 of the **Audit Act 1994** defines the Auditor-General as 'the Auditor-General appointed under section 94A of the **Constitution Act 1975**'.

² Note: Protocol 2 of the national governance protocols for higher education providers requires the university to: (e) approve and monitor systems of control and accountability, including general overview of any controlled entities.

Section 50AA of the **Corporations Act 2001** states:

'(1) For the purposes of this Act, an entity controls a second entity if the first entity has the capacity to determine the

corporation means a corporation as defined in s.57A of the **Corporations Act 2001**;

entity has the meaning given in section 64A of the **Corporations Act 2001**³;

joint venture means an association of persons which includes the University for the purposes of a trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with the University agreeing to contribute money, property or skill,⁴

Minister means the Minister responsible for administering the Act;

partnership means the relation subsisting between persons carrying on business in common with a view to profit.⁵

Guideline 1 — prior to entering a commercial activity

5. No new commercial activity above may be entered into until Council is satisfied that the following assessments and measures have been undertaken, as appropriate to the nature of the activity:
 - (a) that the activity is consistent with the mission or strategic direction of the University or its objects or functions;
 - (b) a financial analysis, that assesses the level of exposure of the University's resources and assets;
 - (c) a cost/benefit analysis including, as appropriate, the social costs and benefits;
 - (d) a risk assessment of the activity and development of associated risk management measures;
 - (e) whether the governance arrangements, legal structures and audit requirements are appropriate for the size, risk and type of activity;

outcome of decisions about the second entity's financial and operating policies.

(2) *In determining whether the first entity has this capacity:*

(a) *the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and*

(b) *any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).*

(3) *The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.*

(4) *If the first entity:*

(a) *has the capacity to influence decisions about the second entity's financial and operating policies; and*

(b) *is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members;*

the first entity is taken not to control the second entity.'

³ Section 64A of the **Corporations Act 2001** states a reference to an entity:

'(a) is a reference to a natural person, a body corporate (other than an exempt public authority), a partnership or a trust; and

(b) includes, in the case of a trust, a reference to the trustee of the trust.'

⁴ This definition is a modified version of the High Court's comments in *United Dominions Corporation Ltd v Brian Pty Ltd* (1985) 157 CLR at 10, per Mason, Brennan and Deane JJ – *'The term "joint venture" is not a technical one with a settled common law meaning. As a matter of ordinary language, it connotes an association of persons for the purposes of a particular trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with each participant usually (but not necessarily) contributing money, property or skill. Such a joint venture (or, under Scots' law, "adventure") will often be a partnership. The term is, however, apposite to refer to a joint undertaking or activity carried out through a medium other than a partnership: such as a company, a trust, an agency or joint ownership. The borderline between what can properly be described as a "joint venture" and what should more properly be seen as no more than a simple contractual relationship may, on occasion, be blurred.'*

⁵ **Partnership Act 1958**, s.5

- (f) whether the terms and conditions of the arrangements and agreement are appropriate including those dealing with governance, representation of the University on any board or decision making group formed for the purpose of the undertaking, risk (including insurance), taxation, intellectual property, the rights of the University to terminate its involvement in the activity and any indemnities;
- (g) a due diligence assessment in a form appropriate for/commensurate with the activity;
- (h) whether there are any actual or perceived conflicts of interest for University staff or University Council members that may arise from the activity, and measures to address those conflicts;
- (i) in respect to activities conducted overseas, appropriate legal advice in respect of relevant overseas laws, having regard to the nature of the arrangement; and
- (j) any consequences of termination of the commercial activity, including contractual arrangements.

Guideline 2 – indemnities

6. The University must consider whether any indemnity it provides which is considered significant by the University, having regard to relevant accounting standards, should be backed by an insurance policy which indemnifies the University to the same value where insurance coverage is available.

Guideline 3 – after entering a commercial activity

7. After entering a commercial activity, the University must regularly monitor the activity as appropriate to the scale and nature of the activity.

Guideline 4 – register of commercial activities and report

8. The University must –
- (a) maintain a register of its current commercial activities which discloses:
 - (i) all university commercial activity approved under section 8(3)(h) of the Act, and commercial activities of the University's controlled entities which it considers sufficiently important or of sufficient interest to list on the register;
 - (ii) other commercial activities which it considers sufficiently important or of interest to list on the register;
 - (iii) the University's involvement in each of those activities, and University staff or Council members that occupy a board seat or some other office in connection with the activity and the directors' and officers' liability insurance or other insurance arrangements that apply to the activity;
 - (iv) the results of any assessment undertaken (if any) to determine whether the activity is meeting its purposes and objectives;
 - (v) whether the activity is ongoing or its anticipated termination date; and
 - (b) provide a summary of the above matters in the annual report of its operations under section 45 of the **Financial Management Act 1994**, together with the matters listed under paragraph 12(c) of Guideline 6.

Guideline 5 – section 48 of the Act – corporations and joint ventures⁶

9. Before exercising any of the powers in section 48(1) of the Act to be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture (collectively referred to as an undertaking), the University must assess whether:
- (a) it will be doing so for a purpose (not necessarily the main purpose) of engaging in a commercial activity; and/or

⁶ Section 48(1) of the Act states the University may be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture for the purpose of one or more of the objects in section 48(2). Not all the objects in section 48(2) involve a commercial activity, and the following Guideline 5 makes that distinction.

- (b) in the case of the University being a member of, forming, managing or participating in a company, the main object of the company is to engage in a commercial activity, despite whether the activity meets the definition of ‘commercial activity’ in paragraph 4.
10. If the assessment under paragraph 9 concludes that the University –
- (a) will be engaging in a commercial activity, the University must comply with Guidelines 1 to 4;
 - (b) will be a member of, forming, managing or participating in a company not engaging in a commercial activity, the University must comply with Guideline 2;
 - (c) will be engaging in an undertaking other than through a limited company and will not be engaging in a commercial activity, the University must make an assessment of the University’s exposure to liability and, if that assessment is greater than an amount deemed to be significant having regard to relevant accounting standards, must consider which, if any, of Guidelines 2 to 3, should apply to the undertaking.
11. Before being a member of, forming, managing or participating in a company, the University should have regard to:
- (a) who will hold the shares or other interests in the company; and
 - (b) the legal relationship between the holders of shares and the Council.

Guideline 6 – University controlled entities

12. Where an entity is a controlled entity of the University, the University will:
- (a) ensure that any amendment to the entity’s constitution has had the prior approval of the Council before the University or its representative shareholder or member can vote in favour of that amendment (or where the entity is a trust, partnership, joint venture or other form of entity, similarly ensure that an amendments to the relevant constituent document or agreement governing that entity have the prior approval of the Council);
 - (b) ensure that a report by the Auditor-General or a registered company auditor (as appropriate) on the accounts of the entity is made every twelve months and is submitted to the Council within three months after the end of each twelve month period to which the report relates, where the entity’s total annual income exceeds, or may reasonably be expected to exceed, \$1million;
 - (c) state in the report referred to in paragraph 8(b) of Guideline 4, the name of any entity formed or acquired in the year to which that report pertains, and the reasons the Council decided that the acquisition was in the interests of the management or conduct of the affairs or concerns of the University;
 - (d) where it is required to comply with section 45 of the **Financial Management Act 1994**, include in its annual report under that section 45 a copy of the accounts of the entity prepared in accordance with the requirements of the **Financial Management Act 1994** as if the entity was a public body within the meaning of that Act in respect of the financial year ending during the period to which the University’s annual report relates, or if it is not required to comply with that section 45 to forward to the Minister a copy of those accounts by 30 June of each year; and
 - (e) within 14 days of lodging any material report, statement or return in respect of the entity with the Australian Securities and Investments Commission under the Corporations Act or the Australian Taxation Office, other than a routine report of changes in company officers, minor changes in a company’s constitution or the like, submit a copy of the report, statement or return to the Minister and Treasurer.
13. Where the University forms, participates in the formation of or is a member of, an entity to which paragraph 12 applies, the University will:

- (a) where the entity is a corporation, ensure the entity seeks the Auditor General's approval for the Auditor-General to be appointed as its auditor under the **Corporations Act 2001**; and
- (b) where the entity is not a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor; and
- (c) where the Auditor-General approves a request under sub-paragraph (a) or (b), ensure the entity appoints the Auditor-General as its auditor⁷.

This paragraph 13 is subject to any contractual obligation which the entity has in relation to any other auditor prior to the entity becoming a controlled entity of the University.

- 14. The requirements of paragraph 13 are in addition to the requirements of the **Corporations Act 2001** or any other legislation governing the relevant controlled entity.
- 15. The University must ensure the Auditor-General and any person assisting the Auditor-General under this Guideline –
 - (a) has right of access at all times to the books, securities, accounts and vouchers of an entity to which paragraph 12 applies; and
 - (b) is provided with any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
- 16. The University must regularly monitor the significant activities of controlled entities (being activities which it considers sufficiently important or of sufficient interest to list on the register kept under paragraph 8(a), or which it considers sufficiently important or of sufficient interest to monitor), which will include regular reports to Council. Any such monitoring shall also include any proposals governing the transfer of ownership of the University's controlled entities or investments in controlled entities (whether the transfer is to a third party or pursuant to an internal University reorganisation).

Guideline 7 – section 47 of the Act – audit of income and expenditure of the university

- 17. The University must establish and keep full and complete books and accounts of all moneys received and paid by the University and ensure that an audit of the income and expenditure of the University is made at such intervals as the Council directs, but not exceeding one year.

Nothing in Guideline 7 is intended to affect any responsibilities which may apply to the University and its employees under the **Financial Management Act 1994**, and in particular section 44 which requires the accountable officer of a public body to ensure that there are kept proper accounts and records of the transactions and affairs of the public body and such other records as sufficiently explain the financial operations and financial position of the public body.

Guideline 8 – financial risk

- 18. The University must establish policies or procedures for protecting itself against financial risks arising from 'financial arrangements' (as defined in the **Borrowing and Investment Power Act 1987** (Vic)), as appropriate to the nature of the University's operations and the risk tolerance of Council.

Guideline 9 – borrowing⁸

- 19. When considering whether to exercise its powers under section 45 of the Act, Council must ensure that an assessment is undertaken of the financial and operational impacts of the potential borrowings over the expected term of the loan and the university's ability to meet the required loan repayments.

⁷ The Guideline does not authorise entities to breach current contracts.

⁸ This section is intended to clarify the information the University is required to submit to the Victorian Department of Treasury and Finance in order to process a borrowing approval by the Treasurer. In undertaking this work, the University will be subject to appropriate consideration of its obligations over the term of the loan.

20. When submitting a request for borrowing approval to the Treasurer, Council must submit the following matters, subject to any additional matters or changes required by the Treasurer:
- (a) projected financial statements (operating statement, cash flow statement and balance sheet) over the life of the loan;
 - (b) assumptions underpinning the forecasts;
 - (c) information relating to the purpose of the borrowings (including, but not limited to project details, construction timelines, costs, risk and risk management measures);
 - (d) details of the proposed financial accommodation being sought (including interest rates, terms and conditions); and
 - (e) proposed drawdown and repayment schedule.

Guideline 10 – making assessments

21. The University may determine the manner in which it makes any assessment required under any of the guidelines and the processes it undertakes to approach and complete the assessment, including the manner of recording the outcome of the assessment.

Signed and approved by
the Minister for Skills and Workforce
Participation on 29 October 2010

University of Ballarat Act 2010

UNIVERSITY OF BALLARAT

Guidelines concerning commercial activities in accordance with Part 6 Division 6 of the
University of Ballarat Act 2010

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1. Authorising provisions

These Guidelines:

- (i) are made pursuant to sections 53 to 56 and other provisions of the **University of Ballarat Act 2010** (the Act);
- (ii) are interim guidelines made by the Minister pursuant to section 55(2) of the Act pending the approval by the Minister of guidelines submitted by the University; and
- (iii) unless sooner revoked by the Minister, will operate until the Minister approves guidelines submitted by the University.

2. Purpose

The Guidelines provide a set of principles and outline processes for the development and conduct of commercial activities of the University, in order to maximise the benefits and to minimise the risks to the University of undertaking such activities.

Commencement

These Guidelines take effect on the date of their publication in the Government Gazette.

3. Application of other laws

The Guidelines:

- (a) are subject to:
 - (i) the **Higher Education Support Act 2003** (Comm.) and any conditions required by the Commonwealth in respect of funding agreements under that or other Acts;

- (ii) the provisions of and any directions or regulations under the **Financial Management Act 1994** (Vic) (or its equivalent) that apply to the University;
 - (iii) the provisions of the **Audit Act 1994** (Vic) (or its equivalent) that apply to the University; and,
 - (iv) other Acts or laws that apply to the University;
- (b) are consistent with University statutes or University regulations.

4. Definitions

Words or expressions defined in the Act have the same meaning for the purposes of these Guidelines. In these Guidelines, unless the contrary intention appears –

Auditor-General has the same meaning as in the **Audit Act 1994**¹;

commercial activity includes the provision or sale by the University (or the University in partnership, joint venture or association with others) of property, goods, services or things with a view to a profit, and the acquisition by the University of property, goods, services or things for that purpose, but does not include:

- (a) the supply of educational services to students including students whose enrolment is governed by the Education Services for Overseas Students Act 2000, or the awarding of qualifications, degrees or other awards;
- (b) an activity that is conducted by the University which primarily supplies goods and/or services to students and staff of the University;
- (c) an activity that is conducted on a not for profit basis;
- (d) an activity undertaken principally pursuant to a grant from or funding agreement with the Commonwealth, or a State or Territory;
- (e) research, or research that leads to the provision, sale or acquisition of the property, goods, services or things that are the result or product of that research;
- (f) the exercise of any of the investment powers in sections 40, 41, 42, 45 or 46 of the Act;
- (g) the sale of cars or other items that were purchased by the University principally for the purpose of conducting the non commercial functions of the University;
- (h) contracts for delivery of a service by the University for a fee;
- (i) leases or licenses on arms length commercial terms which relate to the provision of goods or services to students and staff of the University;
- (j) an activity undertaken by a legal entity that is not a controlled entity of the University, such as a company in which the University has an interest;
- (k) any activity the Council decides should be exempted on the grounds that the activity will commit the University to expenditure of less than an amount deemed to be significant having regard to relevant accounting standards during the life of the activity, and will not expose the University to liability of more than that amount.

company means a company registered under the **Corporations Act 2001** and includes a company limited by guarantee;

controlled entity is one that satisfies the test of control in s.50AA of the **Corporations Act 2001**²;

¹ Section 3 of the **Audit Act 1994** defines the Auditor-General as ‘the Auditor-General appointed under section 94A of the **Constitution Act 1975**’.

² Note: Protocol 2 of the national governance protocols for higher education providers requires the university to: (e) approve and monitor systems of control and accountability, including general overview of any controlled entities.

Section 50AA of the **Corporations Act 2001** states:

corporation means a corporation as defined in s.57A of the **Corporations Act 2001**,³

entity has the meaning given in section 64A of the **Corporations Act 2001**;

joint venture means an association of persons which includes the University for the purposes of a trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with the University agreeing to contribute money, property or skill;⁴

Minister means the Minister responsible for administering the Act;

partnership means the relation subsisting between persons carrying on business in common with a view to profit.⁵

Guideline 1 – prior to entering a commercial activity

5. No new commercial activity above may be entered into until Council is satisfied that the following assessments and measures have been undertaken, as appropriate to the nature of the activity:
- (a) that the activity is consistent with the mission or strategic direction of the University or its objects or functions;
 - (b) a financial analysis, that assesses the level of exposure of the University's resources and assets;
 - (c) a cost/benefit analysis including, as appropriate, the social costs and benefits;
 - (d) a risk assessment of the activity and development of associated risk management measures;
 - (e) whether the governance arrangements, legal structures and audit requirements are appropriate for the size, risk and type of activity;

'(1) For the purposes of this Act, an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

(2) In determining whether the first entity has this capacity:

(a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and

(b) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

(3) The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

(4) If the first entity:

(a) has the capacity to influence decisions about the second entity's financial and operating policies; and

(b) is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members;

the first entity is taken not to control the second entity.'

³ Section 64A of the **Corporations Act 2001** states a reference to an entity:

'(a) is a reference to a natural person, a body corporate (other than an exempt public authority), a partnership or a trust; and

(b) includes, in the case of a trust, a reference to the trustee of the trust.'

⁴ This definition is a modified version of the High Court's comments in *United Dominions Corporation Ltd v Brian Pty Ltd* (1985) 157 CLR at 10, per Mason, Brennan and Deane JJ – *'The term "joint venture" is not a technical one with a settled common law meaning. As a matter of ordinary language, it connotes an association of persons for the purposes of a particular trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with each participant usually (but not necessarily) contributing money, property or skill. Such a joint venture (or, under Scots' law, "adventure") will often be a partnership. The term is, however, apt to refer to a joint undertaking or activity carried out through a medium other than a partnership: such as a company, a trust, an agency or joint ownership. The borderline between what can properly be described as a "joint venture" and what should more properly be seen as no more than a simple contractual relationship may, on occasion, be blurred.'*

⁵ **Partnership Act 1958**, s.5

- (f) whether the terms and conditions of the arrangements and agreement are appropriate including those dealing with governance, representation of the University on any board or decision making group formed for the purpose of the undertaking, risk (including insurance), taxation, intellectual property, the rights of the University to terminate its involvement in the activity and any indemnities;
- (g) a due diligence assessment in a form appropriate for/commensurate with the activity;
- (h) whether there are any actual or perceived conflicts of interest for University staff or University Council members that may arise from the activity, and measures to address those conflicts;
- (i) in respect to activities conducted overseas, appropriate legal advice in respect of relevant overseas laws, having regard to the nature of the arrangement; and
- (j) any consequences of termination of the commercial activity, including contractual arrangements.

Guideline 2 – indemnities

6. The University must consider whether any indemnity it provides which is considered significant by the University, having regard to relevant accounting standards, should be backed by an insurance policy which indemnifies the University to the same value where insurance coverage is available.

Guideline 3 – after entering a commercial activity

7. After entering a commercial activity, the University must regularly monitor the activity as appropriate to the scale and nature of the activity.

Guideline 4 – register of commercial activities and report

8. The University must –
- (a) maintain a register of its current commercial activities which discloses:
 - (i) all university commercial activity approved under section 8(3)(h) of the Act, and commercial activities of the University's controlled entities which it considers sufficiently important or of sufficient interest to list on the register;
 - (ii) other commercial activities which it considers sufficiently important or of interest to list on the register;
 - (iii) the University's involvement in each of those activities, and University staff or Council members that occupy a board seat or some other office in connection with the activity and the directors' and officers' liability insurance or other insurance arrangements that apply to the activity;
 - (iv) the results of any assessment undertaken (if any) to determine whether the activity is meeting its purposes and objectives;
 - (v) whether the activity is ongoing or its anticipated termination date; and
 - (b) provide a summary of the above matters in the annual report of its operations under section 45 of the **Financial Management Act 1994**, together with the matters listed under paragraph 12(c) of Guideline 6.

Guideline 5 – section 48 of the Act – corporations and joint ventures⁶

9. Before exercising any of the powers in section 48(1) of the Act to be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture (collectively referred to as an undertaking), the University must assess whether:
- (a) it will be doing so for a purpose (not necessarily the main purpose) of engaging in a commercial activity; and/or

⁶ Section 48(1) of the Act states the University may be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture for the purpose of one or more of the objects in section 48(2). Not all the objects in section 48(2) involve a commercial activity, and the following Guideline 5 makes that distinction.

- (b) in the case of the University being a member of, forming, managing or participating in a company, the main object of the company is to engage in a commercial activity, despite whether the activity meets the definition of 'commercial activity' in paragraph 4.
10. If the assessment under paragraph 9 concludes that the University –
- (a) will be engaging in a commercial activity, the University must comply with Guidelines 1 to 4;
 - (b) will be a member of, forming, managing or participating in a company not engaging in a commercial activity, the University must comply with Guideline 2;
 - (c) will be engaging in an undertaking other than through a limited company and will not be engaging in a commercial activity, the University must make an assessment of the University's exposure to liability and, if that assessment is greater than an amount deemed to be significant having regard to relevant accounting standards, must consider which, if any, of Guidelines 2 to 3, should apply to the undertaking.
11. Before being a member of, forming, managing or participating in a company, the University should have regard to:
- (a) who will hold the shares or other interests in the company; and
 - (b) the legal relationship between the holders of shares and the Council.

Guideline 6 – University controlled entities

12. Where an entity is a controlled entity of the University, the University will:
- (a) ensure that any amendment to the entity's constitution has had the prior approval of the Council before the University or its representative shareholder or member can vote in favour of that amendment (or where the entity is a trust, partnership, joint venture or other form of entity, similarly ensure that an amendments to the relevant constituent document or agreement governing that entity have the prior approval of the Council);
 - (b) ensure that a report by the Auditor-General or a registered company auditor (as appropriate) on the accounts of the entity is made every twelve months and is submitted to the Council within three months after the end of each twelve month period to which the report relates, where the entity's total annual income exceeds, or may reasonably be expected to exceed, \$1 million;
 - (c) state in the report referred to in paragraph 8(b) of Guideline 4, the name of any entity formed or acquired in the year to which that report pertains, and the reasons the Council decided that the acquisition was in the interests of the management or conduct of the affairs or concerns of the University;
 - (d) where it is required to comply with section 45 of the **Financial Management Act 1994**, include in its annual report under that section 45 a copy of the accounts of the entity prepared in accordance with the requirements of the **Financial Management Act 1994** as if the entity was a public body within the meaning of that Act in respect of the financial year ending during the period to which the University's annual report relates, or if it is not required to comply with that section 45 to forward to the Minister a copy of those accounts by 30 June of each year; and
 - (e) within 14 days of lodging any material report, statement or return in respect of the entity with the Australian Securities and Investments Commission under the Corporations Act or the Australian Taxation Office, other than a routine report of changes in company officers, minor changes in a company's constitution or the like, submit a copy of the report, statement or return to the Minister and Treasurer.
13. Where the University forms, participates in the formation of or is a member of, an entity to which paragraph 12 applies, the University will:

- (a) where the entity is a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor under the **Corporations Act 2001**; and
 - (b) where the entity is not a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor; and
 - (c) where the Auditor-General approves a request under sub-paragraph (a) or (b), ensure the entity appoints the Auditor-General as its auditor⁷.
- This paragraph 13 is subject to any contractual obligation which the entity has in relation to any other auditor prior to the entity becoming a controlled entity of the University.
14. The requirements of paragraph 13 are in addition to the requirements of the **Corporations Act 2001** or any other legislation governing the relevant controlled entity.
 15. The University must ensure the Auditor-General and any person assisting the Auditor-General under this Guideline –
 - (a) has right of access at all times to the books, securities, accounts and vouchers of an entity to which paragraph 12 applies; and
 - (b) is provided with any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
 16. The University must regularly monitor the significant activities of controlled entities (being activities which it considers sufficiently important or of sufficient interest to list on the register kept under paragraph 8(a), or which it considers sufficiently important or of sufficient interest to monitor), which will include regular reports to Council. Any such monitoring shall also include any proposals governing the transfer of ownership of the University's controlled entities or investments in controlled entities (whether the transfer is to a third party or pursuant to an internal University reorganisation).

Guideline 7 – section 47 of the Act – audit of income and expenditure of the university

17. The University must establish and keep full and complete books and accounts of all moneys received and paid by the University and ensure that an audit of the income and expenditure of the University is made at such intervals as the Council directs, but not exceeding one year.

Nothing in Guideline 7 is intended to affect any responsibilities which may apply to the University and its employees under the **Financial Management Act 1994**, and in particular section 44 which requires the accountable officer of a public body to ensure that there are kept proper accounts and records of the transactions and affairs of the public body and such other records as sufficiently explain the financial operations and financial position of the public body.

Guideline 8 – financial risk

18. The University must establish policies or procedures for protecting itself against financial risks arising from 'financial arrangements' (as defined in the **Borrowing and Investment Power Act 1987** (Vic)), as appropriate to the nature of the University's operations and the risk tolerance of Council.

Guideline 9 – borrowing⁸

19. When considering whether to exercise its powers under section 45 of the Act, Council must ensure that an assessment is undertaken of the financial and operational impacts of the potential borrowings over the expected term of the loan and the university's ability to meet the required loan repayments.

⁷ The Guideline does not authorise entities to breach current contracts.

⁸ This section is intended to clarify the information the University is required to submit to the Victorian Department of Treasury and Finance in order to process a borrowing approval by the Treasurer. In undertaking this work, the University will be subject to appropriate consideration of its obligations over the term of the loan.

20. When submitting a request for borrowing approval to the Treasurer, Council must submit the following matters, subject to any additional matters or changes required by the Treasurer:
- (a) projected financial statements (operating statement, cash flow statement and balance sheet) over the life of the loan;
 - (b) assumptions underpinning the forecasts;
 - (c) information relating to the purpose of the borrowings (including, but not limited to project details, construction timelines, costs, risk and risk management measures);
 - (d) details of the proposed financial accommodation being sought (including interest rates, terms and conditions); and
 - (e) proposed drawdown and repayment schedule.

Guideline 10 – making assessments

21. The University may determine the manner in which it makes any assessment required under any of the guidelines and the processes it undertakes to approach and complete the assessment, including the manner of recording the outcome of the assessment.

Signed and approved by
the Minister for Skills and Workforce
Participation on 29 October 2010

University of Melbourne Act 2009

THE UNIVERSITY OF MELBOURNE

Guidelines concerning commercial activities in accordance with Part 6 Division 6 of the
University of Melbourne Act 2009

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21. Guideline 10 – making assessments

1. Authorising provisions

These Guidelines:

- (i) are made pursuant to sections 53 to 56 and other provisions of the **University of Melbourne Act 2009** (the Act);
- (ii) are interim guidelines made by the Minister pursuant to section 55(2) of the Act pending the approval by the Minister of guidelines submitted by the University; and
- (iii) unless sooner revoked by the Minister, will operate until the Minister approves guidelines submitted by the University.

2. Purpose

The Guidelines provide a set of principles and outline processes for the development and conduct of commercial activities of the University, in order to maximise the benefits and to minimise the risks to the University of undertaking such activities.

Commencement

These Guidelines take effect on the date of their publication in the Government Gazette.

3. Application of other laws

The Guidelines:

- (a) are subject to:
 - (i) the **Higher Education Support Act 2003** (Comm.) and any conditions required by the Commonwealth in respect of funding agreements under that or other Acts;

- (ii) the provisions of and any directions or regulations under the **Financial Management Act 1994** (Vic) (or its equivalent) that apply to the University;
 - (iii) the provisions of the **Audit Act 1994** (Vic) (or its equivalent) that apply to the University; and,
 - (iv) other Acts or laws that apply to the University;
- (b) are consistent with University statutes or University regulations.

4. Definitions

Words or expressions defined in the Act have the same meaning for the purposes of these Guidelines. In these Guidelines, unless the contrary intention appears –

Auditor-General has the same meaning as in the **Audit Act 1994**¹;

commercial activity includes the provision or sale by the University (or the University in partnership, joint venture or association with others) of property, goods, services or things with a view to a profit, and the acquisition by the University of property, goods, services or things for that purpose, but does not include:

- (a) the supply of educational services to students including students whose enrolment is governed by the **Education Services for Overseas Students Act 2000**, or the awarding of qualifications, degrees or other awards;
- (b) an activity that is conducted by the University which primarily supplies goods and/or services to students and staff of the University;
- (c) an activity that is conducted on a not for profit basis;
- (d) an activity undertaken principally pursuant to a grant from or funding agreement with the Commonwealth, or a State or Territory;
- (e) research, or research that leads to the provision, sale or acquisition of the property, goods, services or things that are the result or product of that research;
- (f) the exercise of any of the investment powers in sections 40, 41, 42, 45 or 46 of the Act;
- (g) the sale of cars or other items that were purchased by the University principally for the purpose of conducting the non commercial functions of the University;
- (h) contracts for delivery of a service by the University for a fee;
- (i) leases or licenses on arms length commercial terms which relate to the provision of goods or services to students and staff of the University;
- (j) an activity undertaken by a legal entity that is not a controlled entity of the University, such as a company in which the University has an interest;
- (k) any activity the Council decides should be exempted on the grounds that the activity will commit the University to expenditure of less than an amount deemed to be significant having regard to relevant accounting standards during the life of the activity, and will not expose the University to liability of more than that amount.

company means a company registered under the **Corporations Act 2001** and includes a company limited by guarantee;

¹ Section 3 of the **Audit Act 1994** defines the Auditor-General as ‘the Auditor-General appointed under section 94A of the **Constitution Act 1975**’.

controlled entity is one that satisfies the test of control in s.50AA of the **Corporations Act 2001**²;

corporation means a corporation as defined in s.57A of the **Corporations Act 2001**;

entity has the meaning given in section 64A of the **Corporations Act 2001**;³

joint venture means an association of persons which includes the University for the purposes of a trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with the University agreeing to contribute money, property or skill;⁴

Minister means the Minister responsible for administering the Act;

partnership means the relation subsisting between persons carrying on business in common with a view to profit.⁵

Guideline 1 – prior to entering a commercial activity

5. No new commercial activity above may be entered into until Council is satisfied that the following assessments and measures have been undertaken, as appropriate to the nature of the activity:
 - (a) that the activity is consistent with the mission or strategic direction of the University or its objects or functions;
 - (b) a financial analysis, that assesses the level of exposure of the University's resources and assets;
 - (c) a cost/benefit analysis including, as appropriate, the social costs and benefits;

² Note: Protocol 2 of the national governance protocols for higher education providers requires the university to: (e) approve and monitor systems of control and accountability, including general overview of any controlled entities.

Section 50AA of the **Corporations Act 2001** states:

'(1) For the purposes of this Act, an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

(2) In determining whether the first entity has this capacity:

(a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and

(b) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).

(3) The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

(4) If the first entity:

(a) has the capacity to influence decisions about the second entity's financial and operating policies; and

(b) is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members;

the first entity is taken not to control the second entity.'

³ Section 64A of the **Corporations Act 2001** states a reference to an entity:

'(a) is a reference to a natural person, a body corporate (other than an exempt public authority), a partnership or a trust; and

(b) includes, in the case of a trust, a reference to the trustee of the trust.'

⁴ This definition is a modified version of the High Court's comments in *United Dominions Corporation Ltd v Brian Pty Ltd* (1985) 157 CLR at 10, per Mason, Brennan and Deane JJ – *'The term "joint venture" is not a technical one with a settled common law meaning. As a matter of ordinary language, it connotes an association of persons for the purposes of a particular trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with each participant usually (but not necessarily) contributing money, property or skill. Such a joint venture (or, under Scots' law, "adventure") will often be a partnership. The term is, however, apposite to refer to a joint undertaking or activity carried out through a medium other than a partnership: such as a company, a trust, an agency or joint ownership. The borderline between what can properly be described as a "joint venture" and what should more properly be seen as no more than a simple contractual relationship may, on occasion, be blurred.'*

⁵ **Partnership Act 1958**, s.5

- (d) a risk assessment of the activity and development of associated risk management measures;
- (e) whether the governance arrangements, legal structures and audit requirements are appropriate for the size, risk and type of activity;
- (f) whether the terms and conditions of the arrangements and agreement are appropriate including those dealing with governance, representation of the University on any board or decision making group formed for the purpose of the undertaking, risk (including insurance), taxation, intellectual property, the rights of the University to terminate its involvement in the activity and any indemnities;
- (g) a due diligence assessment in a form appropriate for/commensurate with the activity;
- (h) whether there are any actual or perceived conflicts of interest for University staff or University Council members that may arise from the activity, and measures to address those conflicts;
- (i) in respect to activities conducted overseas, appropriate legal advice in respect of relevant overseas laws, having regard to the nature of the arrangement; and
- (j) any consequences of termination of the commercial activity, including contractual arrangements.

Guideline 2 – indemnities

6. The University must consider whether any indemnity it provides which is considered significant by the University, having regard to relevant accounting standards, should be backed by an insurance policy which indemnifies the University to the same value where insurance coverage is available.

Guideline 3 – after entering a commercial activity

7. After entering a commercial activity, the University must regularly monitor the activity as appropriate to the scale and nature of the activity.

Guideline 4 – register of commercial activities and report**8. The University must –**

- (a) maintain a register of its current commercial activities which discloses:
 - (i) all university commercial activity approved under section 8(3)(h) of the Act, and commercial activities of the University's controlled entities which it considers sufficiently important or of sufficient interest to list on the register;
 - (ii) other commercial activities which it considers sufficiently important or of interest to list on the register;
 - (iii) the University's involvement in each of those activities, and University staff or Council members that occupy a board seat or some other office in connection with the activity and the directors' and officers' liability insurance or other insurance arrangements that apply to the activity;
 - (iv) the results of any assessment undertaken (if any) to determine whether the activity is meeting its purposes and objectives;
 - (v) whether the activity is ongoing or its anticipated termination date; and
- (b) provide a summary of the above matters in the annual report of its operations under section 45 of the **Financial Management Act 1994**, together with the matters listed under paragraph 12(c) of Guideline 6.

Guideline 5 – section 48 of the Act – corporations and joint ventures⁶

9. Before exercising any of the powers in section 48(1) of the Act to be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture (collectively referred to as an undertaking), the University must assess whether:

⁶ Section 48(1) of the Act states the University may be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture for the purpose of one or more of the objects in section 48(2). Not all the objects in section 48(2) involve a commercial activity, and the following Guideline 5 makes that distinction.

- (a) it will be doing so for a purpose (not necessarily the main purpose) of engaging in a commercial activity; and/or
 - (b) in the case of the University being a member of, forming, managing or participating in a company, the main object of the company is to engage in a commercial activity, despite whether the activity meets the definition of 'commercial activity' in paragraph 4.
10. If the assessment under paragraph 9 concludes that the University –
- (a) will be engaging in a commercial activity, the University must comply with Guidelines 1 to 4;
 - (b) will be a member of, forming, managing or participating in a company not engaging in a commercial activity, the University must comply with Guideline 2;
 - (c) will be engaging in an undertaking other than through a limited company and will not be engaging in a commercial activity, the University must make an assessment of the University's exposure to liability and, if that assessment is greater than an amount deemed to be significant having regard to relevant accounting standards, must consider which, if any, of Guidelines 2 to 3, should apply to the undertaking.
11. Before being a member of, forming, managing or participating in a company, the University should have regard to:
- (a) who will hold the shares or other interests in the company; and
 - (b) the legal relationship between the holders of shares and the Council.

Guideline 6 – University controlled entities

12. Where an entity is a controlled entity of the University, the University will:
- (a) ensure that any amendment to the entity's constitution has had the prior approval of the Council before the University or its representative shareholder or member can vote in favour of that amendment (or where the entity is a trust, partnership, joint venture or other form of entity, similarly ensure that an amendments to the relevant constituent document or agreement governing that entity have the prior approval of the Council);
 - (b) ensure that a report by the Auditor-General or a registered company auditor (as appropriate) on the accounts of the entity is made every twelve months and is submitted to the Council within three months after the end of each twelve month period to which the report relates, where the entity's total annual income exceeds, or may reasonably be expected to exceed, \$1 million;
 - (c) state in the report referred to in paragraph 8(b) of Guideline 4, the name of any entity formed or acquired in the year to which that report pertains, and the reasons the Council decided that the acquisition was in the interests of the management or conduct of the affairs or concerns of the University;
 - (d) where it is required to comply with section 45 of the **Financial Management Act 1994**, include in its annual report under that section 45 a copy of the accounts of the entity prepared in accordance with the requirements of the **Financial Management Act 1994** as if the entity was a public body within the meaning of that Act in respect of the financial year ending during the period to which the University's annual report relates, or if it is not required to comply with that section 45 to forward to the Minister a copy of those accounts by 30 June of each year; and
 - (e) within 14 days of lodging any material report, statement or return in respect of the entity with the Australian Securities and Investments Commission under the Corporations Act or the Australian Taxation Office, other than a routine report of changes in company officers, minor changes in a company's constitution or the like, submit a copy of the report, statement or return to the Minister and Treasurer.

13. Where the University forms, participates in the formation of or is a member of, an entity to which paragraph 12 applies, the University will:
 - (a) where the entity is a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor under the **Corporations Act 2001**; and
 - (b) where the entity is not a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor; and
 - (c) where the Auditor-General approves a request under sub-paragraph (a) or (b), ensure the entity appoints the Auditor-General as its auditor⁷.

This paragraph 13 is subject to any contractual obligation which the entity has in relation to any other auditor prior to the entity becoming a controlled entity of the University.
14. The requirements of paragraph 13 are in addition to the requirements of the **Corporations Act 2001** or any other legislation governing the relevant controlled entity.
15. The University must ensure the Auditor-General and any person assisting the Auditor-General under this Guideline –
 - (a) has right of access at all times to the books, securities, accounts and vouchers of an entity to which paragraph 12 applies; and
 - (b) is provided with any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
16. The University must regularly monitor the significant activities of controlled entities (being activities which it considers sufficiently important or of sufficient interest to list on the register kept under paragraph 8(a), or which it considers sufficiently important or of sufficient interest to monitor), which will include regular reports to Council. Any such monitoring shall also include any proposals governing the transfer of ownership of the University's controlled entities or investments in controlled entities (whether the transfer is to a third party or pursuant to an internal University reorganisation).

Guideline 7 – section 47 of the Act – audit of income and expenditure of the university

17. The University must establish and keep full and complete books and accounts of all moneys received and paid by the University and ensure that an audit of the income and expenditure of the University is made at such intervals as the Council directs, but not exceeding one year.

Nothing in Guideline 7 is intended to affect any responsibilities which may apply to the University and its employees under the **Financial Management Act 1994**, and in particular section 44 which requires the accountable officer of a public body to ensure that there are kept proper accounts and records of the transactions and affairs of the public body and such other records as sufficiently explain the financial operations and financial position of the public body.

Guideline 8 – financial risk

18. The University must establish policies or procedures for protecting itself against financial risks arising from 'financial arrangements' (as defined in the **Borrowing and Investment Power Act 1987** (Vic.)), as appropriate to the nature of the University's operations and the risk tolerance of Council.

Guideline 9 – borrowing⁸

19. When considering whether to exercise its powers under section 45 of the Act, Council must ensure that an assessment is undertaken of the financial and operational impacts of the potential borrowings over the expected term of the loan and the university's ability to meet the required loan repayments.

⁷ The Guideline does not authorise entities to breach current contracts.

⁸ This section is intended to clarify the information the University is required to submit to the Victorian Department of Treasury and Finance in order to process a borrowing approval by the Treasurer. In undertaking this work, the University will be subject to appropriate consideration of its obligations over the term of the loan.

20. When submitting a request for borrowing approval to the Treasurer, Council must submit the following matters, subject to any additional matters or changes required by the Treasurer:
- (a) projected financial statements (operating statement, cash flow statement and balance sheet) over the life of the loan;
 - (b) assumptions underpinning the forecasts;
 - (c) information relating to the purpose of the borrowings (including, but not limited to project details, construction timelines, costs, risk and risk management measures);
 - (d) details of the proposed financial accommodation being sought (including interest rates, terms and conditions); and
 - (e) proposed drawdown and repayment schedule.

Guideline 10 – making assessments

21. The University may determine the manner in which it makes any assessment required under any of the guidelines and the processes it undertakes to approach and complete the assessment, including the manner of recording the outcome of the assessment.

Signed and approved by
the Minister for Skills and Workforce
Participation on 29 October 2010

Victoria University Act 2010

VICTORIA UNIVERSITY

Guidelines concerning commercial activities in accordance with Part 6 Division 6
of the **Victoria University Act 2010**

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1. Authorising provisions

These Guidelines:

- (i) are made pursuant to sections 53 to 56 and other provisions of the **Victoria University Act 2010** (the Act);
- (ii) are interim guidelines made by the Minister pursuant to section 55(2) of the Act pending the approval by the Minister of guidelines submitted by the University; and
- (iii) unless sooner revoked by the Minister, will operate until the Minister approves guidelines submitted by the University.

2. Purpose

The Guidelines provide a set of principles and outline processes for the development and conduct of commercial activities of the University, in order to maximise the benefits and to minimise the risks to the University of undertaking such activities.

Commencement

These Guidelines take effect on the date of their publication in the Government Gazette.

3. Application of other laws

The Guidelines:

- (a) are subject to:
 - (i) the **Higher Education Support Act 2003** (Comm.) and any conditions required by the Commonwealth in respect of funding agreements under that or other Acts;

- (ii) the provisions of and any directions or regulations under the **Financial Management Act 1994** (Vic) (or its equivalent) that apply to the University;
 - (iii) the provisions of the **Audit Act 1994** (Vic) (or its equivalent) that apply to the University; and,
 - (iv) other Acts or laws that apply to the University;
- (b) are consistent with University statutes or University regulations.

4. Definitions

Words or expressions defined in the Act have the same meaning for the purposes of these Guidelines. In these Guidelines, unless the contrary intention appears –

Auditor-General has the same meaning as in the **Audit Act 1994**¹;

commercial activity includes the provision or sale by the University (or the University in partnership, joint venture or association with others) of property, goods, services or things with a view to a profit, and the acquisition by the University of property, goods, services or things for that purpose, but does not include:

- (a) the supply of educational services to students including students whose enrolment is governed by the **Education Services for Overseas Students Act 2000**, or the awarding of qualifications, degrees or other awards;
- (b) an activity that is conducted by the University which primarily supplies goods and/or services to students and staff of the University;
- (c) an activity that is conducted on a not for profit basis;
- (d) an activity undertaken principally pursuant to a grant from or funding agreement with the Commonwealth, or a State or Territory;
- (e) research, or research that leads to the provision, sale or acquisition of the property, goods, services or things that are the result or product of that research;
- (f) the exercise of any of the investment powers in sections 40, 41, 42, 45 or 46 of the Act;
- (g) the sale of cars or other items that were purchased by the University principally for the purpose of conducting the non commercial functions of the University;
- (h) contracts for delivery of a service by the University for a fee;
- (i) leases or licenses on arms length commercial terms which relate to the provision of goods or services to students and staff of the University;
- (j) an activity undertaken by a legal entity that is not a controlled entity of the University, such as a company in which the University has an interest;
- (k) any activity the Council decides should be exempted on the grounds that the activity will commit the University to expenditure of less than an amount deemed to be significant having regard to relevant accounting standards during the life of the activity, and will not expose the University to liability of more than that amount.

company means a company registered under the **Corporations Act 2001** and includes a company limited by guarantee;

¹Section 3 of the **Audit Act 1994** defines the Auditor-General as ‘the Auditor-General appointed under section 94A of the **Constitution Act 1975**’.

controlled entity is one that satisfies the test of control in s.50AA of the **Corporations Act 2001**,²

corporation means a corporation as defined in s.57A of the **Corporations Act 2001**;

entity has the meaning given in section 64A of the **Corporations Act 2001**³;

joint venture means an association of persons which includes the University for the purposes of a trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with the University agreeing to contribute money, property or skill;⁴

Minister means the Minister responsible for administering the Act;

partnership means the relation subsisting between persons carrying on business in common with a view to profit.⁵

Guideline 1 – prior to entering a commercial activity

5. No new commercial activity above may be entered into until Council is satisfied that the following assessments and measures have been undertaken, as appropriate to the nature of the activity:
- (a) that the activity is consistent with the mission or strategic direction of the University or its objects or functions;
 - (b) a financial analysis, that assesses the level of exposure of the University's resources and assets;

² Note: Protocol 2 of the national governance protocols for higher education providers requires the university to: (e) approve and monitor systems of control and accountability, including general overview of any controlled entities.

Section 50AA of the **Corporations Act 2001** states:

'(1) For the purposes of this Act, an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

(2) In determining whether the first entity has this capacity:

- (a) the practical influence the first entity can exert (rather than the rights it can enforce) is the issue to be considered; and*
- (b) any practice or pattern of behaviour affecting the second entity's financial or operating policies is to be taken into account (even if it involves a breach of an agreement or a breach of trust).*

(3) The first entity does not control the second entity merely because the first entity and a third entity jointly have the capacity to determine the outcome of decisions about the second entity's financial and operating policies.

(4) If the first entity:

- (a) has the capacity to influence decisions about the second entity's financial and operating policies; and*
- (b) is under a legal obligation to exercise that capacity for the benefit of someone other than the first entity's members;*
the first entity is taken not to control the second entity.'

³ Section 64A of the **Corporations Act 2001** states a reference to an entity:

'(a) is a reference to a natural person, a body corporate (other than an exempt public authority), a partnership or a trust; and

(b) includes, in the case of a trust, a reference to the trustee of the trust.'

⁴ This definition is a modified version of the High Court's comments in *United Dominions Corporation Ltd v Brian Pty Ltd* (1985) 157 CLR at 10, per Mason, Brennan and Deane JJ – *'The term "joint venture" is not a technical one with a settled common law meaning. As a matter of ordinary language, it connotes an association of persons for the purposes of a particular trading, commercial, mining or other financial undertaking or endeavour with a view to mutual profit, with each participant usually (but not necessarily) contributing money, property or skill. Such a joint venture (or, under Scots' law, "adventure") will often be a partnership. The term is, however, apposite to refer to a joint undertaking or activity carried out through a medium other than a partnership: such as a company, a trust, an agency or joint ownership. The borderline between what can properly be described as a "joint venture" and what should more properly be seen as no more than a simple contractual relationship may, on occasion, be blurred.'*

⁵ **Partnership Act 1958**, s.5

- (c) a cost/benefit analysis including, as appropriate, the social costs and benefits;
- (d) a risk assessment of the activity and development of associated risk management measures;
- (e) whether the governance arrangements, legal structures and audit requirements are appropriate for the size, risk and type of activity;
- (f) whether the terms and conditions of the arrangements and agreement are appropriate including those dealing with governance, representation of the University on any board or decision making group formed for the purpose of the undertaking, risk (including insurance), taxation, intellectual property, the rights of the University to terminate its involvement in the activity and any indemnities;
- (g) a due diligence assessment in a form appropriate for/commensurate with the activity;
- (h) whether there are any actual or perceived conflicts of interest for University staff or University Council members that may arise from the activity, and measures to address those conflicts;
- (i) in respect to activities conducted overseas, appropriate legal advice in respect of relevant overseas laws, having regard to the nature of the arrangement; and
- (j) any consequences of termination of the commercial activity, including contractual arrangements.

Guideline 2 – indemnities

6. The University must consider whether any indemnity it provides which is considered significant by the University, having regard to relevant accounting standards, should be backed by an insurance policy which indemnifies the University to the same value where insurance coverage is available.

Guideline 3 – after entering a commercial activity

7. After entering a commercial activity, the University must regularly monitor the activity as appropriate to the scale and nature of the activity.

Guideline 4 – register of commercial activities and report

8. The University must –
- (a) maintain a register of its current commercial activities which discloses:
 - (i) all university commercial activity approved under section 8(3)(h) of the Act, and commercial activities of the University's controlled entities which it considers sufficiently important or of sufficient interest to list on the register;
 - (ii) other commercial activities which it considers sufficiently important or of interest to list on the register;
 - (iii) the University's involvement in each of those activities, and University staff or Council members that occupy a board seat or some other office in connection with the activity and the directors' and officers' liability insurance or other insurance arrangements that apply to the activity;
 - (iv) the results of any assessment undertaken (if any) to determine whether the activity is meeting its purposes and objectives;
 - (v) whether the activity is ongoing or its anticipated termination date; and
 - (b) provide a summary of the above matters in the annual report of its operations under section 45 of the **Financial Management Act 1994**, together with the matters listed under paragraph 12(c) of Guideline 6.

Guideline 5 – section 48 of the Act – corporations and joint ventures⁶

9. Before exercising any of the powers in section 48(1) of the Act to be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture (collectively referred to as an undertaking), the University must assess whether:
 - (a) it will be doing so for a purpose (not necessarily the main purpose) of engaging in a commercial activity; and/or
 - (b) in the case of the University being a member of, forming, managing or participating in a company, the main object of the company is to engage in a commercial activity, despite whether the activity meets the definition of ‘commercial activity’ in paragraph 4.
10. If the assessment under paragraph 9 concludes that the University –
 - (a) will be engaging in a commercial activity, the University must comply with Guidelines 1 to 4;
 - (b) will be a member of, forming, managing or participating in a company not engaging in a commercial activity, the University must comply with Guideline 2;
 - (c) will be engaging in an undertaking other than through a limited company and will not be engaging in a commercial activity, the University must make an assessment of the University’s exposure to liability and, if that assessment is greater than an amount deemed to be significant having regard to relevant accounting standards, must consider which, if any, of Guidelines 2 to 3, should apply to the undertaking.
11. Before being a member of, forming, managing or participating in a company, the University should have regard to:
 - (a) who will hold the shares or other interests in the company; and
 - (b) the legal relationship between the holders of shares and the Council.

Guideline 6 – University controlled entities

12. Where an entity is a controlled entity of the University, the University will:
 - (a) ensure that any amendment to the entity’s constitution has had the prior approval of the Council before the University or its representative shareholder or member can vote in favour of that amendment (or where the entity is a trust, partnership, joint venture or other form of entity, similarly ensure that an amendments to the relevant constituent document or agreement governing that entity have the prior approval of the Council);
 - (b) ensure that a report by the Auditor-General or a registered company auditor (as appropriate) on the accounts of the entity is made every twelve months and is submitted to the Council within three months after the end of each twelve month period to which the report relates, where the entity’s total annual income exceeds, or may reasonably be expected to exceed, \$1 million;
 - (c) state in the report referred to in paragraph 8(b) of Guideline 4, the name of any entity formed or acquired in the year to which that report pertains, and the reasons the Council decided that the acquisition was in the interests of the management or conduct of the affairs or concerns of the University;
 - (d) where it is required to comply with section 45 of the **Financial Management Act 1994**, include in its annual report under that section 45 a copy of the accounts of the entity prepared in accordance with the requirements of the **Financial Management Act 1994** as if the entity was a public body within the meaning of that Act in respect of the financial year ending during the period to which the University’s annual report relates, or if it is not required to comply with that section 45 to forward to the Minister a copy of those accounts by 30 June of each year; and

⁶ Section 48(1) of the Act states the University may be a member of, form, manage or participate in a company, association, trust, partnership, or enter into a joint venture for the purpose of one or more of the objects in section 48(2). Not all the objects in section 48(2) involve a commercial activity, and the following Guideline 5 makes that distinction.

- (e) within 14 days of lodging any material report, statement or return in respect of the entity with the Australian Securities and Investments Commission under the Corporations Act or the Australian Taxation Office, other than a routine report of changes in company officers, minor changes in a company's constitution or the like, submit a copy of the report, statement or return to the Minister and Treasurer.
13. Where the University forms, participates in the formation of or is a member of, an entity to which paragraph 12 applies, the University will:
- where the entity is a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor General to be appointed as its auditor under the **Corporations Act 2001**; and
 - where the entity is not a corporation, ensure the entity seeks the Auditor-General's approval for the Auditor-General to be appointed as its auditor; and
 - where the Auditor-General approves a request under sub-paragraph (a) or (b), ensure the entity appoints the Auditor-General as its auditor.⁷
- This paragraph 13 is subject to any contractual obligation which the entity has in relation to any other auditor prior to the entity becoming a controlled entity of the University.
14. The requirements of paragraph 13 are in addition to the requirements of the **Corporations Act 2001** or any other legislation governing the relevant controlled entity.
15. The University must ensure the Auditor-General and any person assisting the Auditor-General under this Guideline –
- has right of access at all times to the books, securities, accounts and vouchers of an entity to which paragraph 12 applies; and
 - is provided with any information, assistance and explanations necessary for the performance of the duties of the Auditor-General or person in relation to the audit.
16. The University must regularly monitor the significant activities of controlled entities (being activities which it considers sufficiently important or of sufficient interest to list on the register kept under paragraph 8(a), or which it considers sufficiently important or of sufficient interest to monitor), which will include regular reports to Council. Any such monitoring shall also include any proposals governing the transfer of ownership of the University's controlled entities or investments in controlled entities (whether the transfer is to a third party or pursuant to an internal University reorganisation).

Guideline 7 – section 47 of the Act – audit of income and expenditure of the university

17. The University must establish and keep full and complete books and accounts of all moneys received and paid by the University and ensure that an audit of the income and expenditure of the University is made at such intervals as the Council directs, but not exceeding one year.

Nothing in Guideline 7 is intended to affect any responsibilities which may apply to the University and its employees under the **Financial Management Act 1994**, and in particular section 44 which requires the accountable officer of a public body to ensure that there are kept proper accounts and records of the transactions and affairs of the public body and such other records as sufficiently explain the financial operations and financial position of the public body.

Guideline 8 – financial risk

18. The University must establish policies or procedures for protecting itself against financial risks arising from 'financial arrangements' (as defined in the **Borrowing and Investment Power Act 1987** (Vic.)), as appropriate to the nature of the University's operations and the risk tolerance of Council.

Guideline 9 – borrowing⁸

19. When considering whether to exercise its powers under section 45 of the Act, Council must ensure that an assessment is undertaken of the financial and operational impacts of the

⁷ The Guideline does not authorise entities to breach current contracts.

⁸ This section is intended to clarify the information the University is required to submit to the Victorian Department of Treasury and Finance in order to process a borrowing approval by the Treasurer. In undertaking this work, the University will be subject to appropriate consideration of its obligations over the term of the loan.

potential borrowings over the expected term of the loan and the university's ability to meet the required loan repayments.

20. When submitting a request for borrowing approval to the Treasurer, Council must submit the following matters, subject to any additional matters or changes required by the Treasurer:
- (a) projected financial statements (operating statement, cash flow statement and balance sheet) over the life of the loan;
 - (b) assumptions underpinning the forecasts;
 - (c) information relating to the purpose of the borrowings (including, but not limited to project details, construction timelines, costs, risk and risk management measures);
 - (d) details of the proposed financial accommodation being sought (including interest rates, terms and conditions); and
 - (e) proposed drawdown and repayment schedule.

Guideline 10 – making assessments

21. The University may determine the manner in which it makes any assessment required under any of the guidelines and the processes it undertakes to approach and complete the assessment, including the manner of recording the outcome of the assessment.

Signed and approved by
the Minister for Skills and Workforce
Participation on 29 October 2010

Planning and Environment Act 1987

CARDINIA PLANNING SCHEME

Notice of Approval of Amendment

Amendment C130

The Minister for Planning has approved Amendment C130 to the Cardinia Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment:

- updates Clause 21.08 to make reference to the Cardinia Road Employment Precinct Structure Plan (September 2010);
- rezones part of Parish of Pakenham CA2009 from Public Use Zone 1 (PUZ1) to Urban Growth Zone;
- applies Schedule 2 to the Urban Growth Zone (UGZ2) to land zoned Urban Growth Zone within the Cardinia Road Employment Precinct Structure Plan (September 2010) area;
- rezones part (two portions) of Parish of Pakenham CA2009 from Public Use Zone (PUZ1) to Special Use Zone (SUZ4);
- rezones that portion of land along Toomuc Creek, along Gum Scrub Creek, along the Transmission line and the Cardinia Road Drain within the Cardinia Road Employment Precinct Structure Plan (September 2010) area from Urban Growth Zone to Special Use Zone (SUZ4);
- reduces the extent of the Heritage Overlay (HO90) applying to Kaduna Park;
- replaces the existing Floodway Overlay (FO) along Gum Scrub Creek within the Cardinia Road Employment Precinct Structure Plan (September 2010) area with a Land Subject to Inundation Overlay (LSIO);
- introduces Schedule 3 to the Development Contributions Plan Overlay (DCPO3) at Clause 45.06, and applies it to land within the Cardinia Road Employment Precinct Structure Plan (September 2010) area;

- updates the schedule to Clause 52.16 to introduce the Cardinia Road Employment Precinct Native Vegetation Precinct Plan (included in the Cardinia Road Employment Precinct Structure Plan, September 2010) (September 2010); and
- incorporates the Cardinia Road Employment Precinct Structure Plan (including the Cardinia Road Employment Precinct Native Vegetation Precinct Plan, September 2010) (September 2010) at Clause 81.01.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Cardinia Shire Council, Henty Way, Pakenham.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987

DAREBIN PLANNING SCHEME

Notice of Approval of Amendment

Amendment C107

The Minister for Planning has approved Amendment C107 to the Darebin Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment applies interim Heritage Overlays to land throughout the City of Darebin.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Darebin City Council, 274 Gower Street, Preston.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987GREATER DANDENONG
PLANNING SCHEMENotice of Approval of Amendment
Amendment C121

The Minister for Planning has approved Amendment C121 to the Greater Dandenong Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment makes the following changes:

- In the schedule to Clause 61.01 in regard to the ‘Declared Project Area – Central Dandenong’:
 - insert use and development threshold limits for which the Minister for Planning is the responsible authority;
 - insert a new Figure 1 which realigns the south-western boundary of the Declared Project Area; and
 - provides that the Greater Dandenong City Council as the responsible authority for administering and enforcing the scheme for applications for subdivision.
- In the schedules to Clause 52.03 and Clause 81.01 replace the Incorporated Document titled: ‘Declared Project Area, April 2006’ with an updated version (August 2010) that incorporates the revised Declared Project Area boundary.
- In Clause 37.02 Schedule 2 (Central Dandenong) insert the following bullet point into the series of objectives under the heading ‘Precinct A’:
 - To facilitate the creation of an active, pedestrian focused ‘City Street’ from Lonsdale Street to Dandenong Railway Precinct, which will significantly enhance connectivity of the city centre with the main public transport interchange
- In subclause 8.0 – Exemption from notice and appeal; insert ‘use’, which corrects an administrative error.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the City of Greater Dandenong, 39 Clow Street, Dandenong, Vic. 3175.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987GREATER GEELONG PLANNING SCHEME
Notice of Approval of Amendment

Amendment C195

The Minister for Planning has approved Amendment C195 to the Greater Geelong Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment applies a Heritage Overlay on an interim basis to five heritage precincts and six individual heritage places in Geelong West as identified in the Ashby Heritage Review Stage 2 (2010). The Amendment also includes five new local planning policies to address the Ballinasloe, Great Western Road, Milton, Pineville and Waterloo heritage areas, updates Clause 22.09 Cultural Heritage, and corrects errors in the schedule to the Heritage Overlay.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Greater Geelong City Council, 131 Myers Street, Geelong.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987**HUME PLANNING SCHEME**Notice of Approval of Amendment
Amendment C145

The Minister for Planning has approved Amendment C145 to the Hume Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment rezones the land at 400 Mahoneys Road, Campbellfield, from the Business 2 Zone to the Business 4 Zone, deletes the Heritage Overlay (HO220) from the site and redefines the boundaries of the Environmental Significance Overlay Schedule 2 applying to the site.

The Minister has granted the following permit under Division 5 Part 4 of the Act:

Permit No.	Description of land
P14695	400 Mahoneys Road, Campbellfield

A copy of the Amendment and permit can be inspected, free of charge, at the Department of Planning and Community Development website at: www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the office of the Hume City Council, 1079 Pascoe Vale Road, Broadmeadows.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987**MANNINGHAM PLANNING SCHEME**Notice of Approval of Amendment
Amendment C91

The Minister for Planning has approved Amendment C91 to the Manningham Planning Scheme.

The Amendment comes into operation the date this notice is published in the Government Gazette.

The Amendment rezones land at 360–368 Springvale Road, Donvale, from Public Use Zone – Schedule 2 (PUZ2) to Public Use Zone – Schedule 6 (PUZ6).

The land affected is 360–368 Springvale Road, Donvale.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Manningham City Council, 699 Doncaster Road, Doncaster 3108.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987**MELBOURNE PLANNING SCHEME**Notice of Approval of Amendment
Amendment C164

The Minister for Planning has approved Amendment C164 to the Melbourne Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment proposes to introduce an interim heritage overlay (the ‘Little Lon Heritage Precinct’, HO 984) over five properties at 116–131 Little Lonsdale Street, Melbourne.

The Amendment also includes an administrative correction to the heritage overlay schedule at clause 43.01. The correction affects 20 properties that are currently included in the planning scheme maps and on the Victorian Heritage Register but are missing from the heritage overlay schedule.

A copy of the Amendment can be inspected, free of charge, during office hours, at the Department of Planning and Community Development, Level 9, 8 Nicholson Street, East Melbourne 3002 and at the offices of the Melbourne City Council, 3rd Floor, Council House 2, 242 Little Collins Street, Melbourne.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987

MOONEE VALLEY PLANNING SCHEME

Notice of Approval of Amendment

Amendment C103

The Minister for Planning has approved Amendment C103 to the Moonee Valley Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment removes Interim Heritage Overlays from Strathmore and North Essendon Precincts and three individual properties at 33 Bourmian Avenue, Strathmore and 49 Royal Avenue, Essendon North (houses), and 551–553 Keilor Road, Niddrie (Fox–Lane Motor Garage).

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Moonee Valley City Council.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987

MORELAND PLANNING SCHEME

Notice of Approval of Amendment

Amendment C109

The Minister for Planning has approved Amendment C109 to the Moreland Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment:

- introduces a new local planning policy, Clause 22.16 (Glenroy Activity Centre), into the Moreland Planning Scheme on an interim basis;
- applies a Design and Development Overlay (Schedule 17) to the Glenroy Activity Centre on an interim basis; and
- updates the Schedule to Clause 61.03.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Moreland City Council, 90 Bell Street, Coburg.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987

MOYNE PLANNING SCHEME

Notice of Approval of Amendment

Amendment C45

The Minister for Planning has approved Amendment C45 to the Moyne Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment:

- updates Clause 21.01–3 to include a reference to the Feasibility Study for the Industrial Park Port Fairy, March 2009 and updates the Port Fairy Framework Plan to identify the Port Fairy Industrial Precinct;
- rezones land in the vicinity of the Hamilton – Port Fairy Highway and Blackwood Road, Port Fairy, to Industrial 1 Zone;
- introduces Clause 43.04 (Development Plan Overlay) and a new Schedule (DPO1) into the Moyne Planning Scheme;
- applies DPO1 to the land rezoned to Industrial 1 Zone; and
- updates the Schedule to Clause 61.03.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Moyne Shire Council, Princes Street Port Fairy.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

Planning and Environment Act 1987
MURRINDINDI PLANNING SCHEME

Notice of Approval of Amendment
Amendment C33

The Minister for Planning has approved Amendment C33 to the Murrindindi Planning Scheme.

The Amendment comes into operation on the date this notice is published in the Government Gazette.

The Amendment rezones Lot 2 PS445388M from Farming Zone to Public Use Zone 7 (other public use), to enable the replacement of the Kinglake National Park office and depot, and the development of the Kinglake Ranges Cultural and Community Facility.

A copy of the Amendment can be inspected, free of charge, at the Department of Planning and Community Development website at www.dpcd.vic.gov.au/planning/publicinspection and free of charge, during office hours, at the offices of the Murrindindi Shire Council: Murrindindi Shire Council, Perkins Street, Alexandra 3714; Murrindindi Shire Council Civic Centre, Semi Circle, Yea 3717; Murrindindi Shire Council, Kinglake Service Centre, 19 Kinglake Whittlesea Road, Kinglake 3763.

PETER ALLEN
Executive Director
Statutory Planning Systems Reform
Department of Planning
and Community Development

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**SUBORDINATE LEGISLATION ACT 1994
NOTICE THAT STATUTORY RULES ARE
OBTAINABLE**

Notice is hereby given under section 17(3) of the **Subordinate Legislation Act 1994** that the following Statutory Rules were first obtainable from Information Victoria, 505 Little Collins Street, Melbourne on the date specified:

- | | |
|--|--|
| <p>117. <i>Statutory Rule:</i> Victorian Civil and Administrative Tribunal (Amendment No. 3) Rules 2010</p> <p><i>Authorising Act:</i> Victorian Civil and Administrative Tribunal Act 1998</p> <p><i>Date first obtainable:</i> 1 November 2010
<i>Code A</i></p> | <p>122. <i>Statutory Rule:</i> Magistrates' Court General Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Magistrates' Court Act 1989</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code B</i></p> |
| <p>118. <i>Statutory Rule:</i> Fisheries Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Fisheries Act 1995</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> | <p>123. <i>Statutory Rule:</i> Legal Profession Practising Certificate Fees Interim Regulations 2010</p> <p><i>Authorising Act:</i> Legal Profession Act 2004</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> |
| <p>119. <i>Statutory Rule:</i> Working with Children Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Working with Children Act 2005</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> | <p>124. <i>Statutory Rule:</i> Fair Trading Amendment and Revocation Regulations 2010</p> <p><i>Authorising Act:</i> Fair Trading Act 1999</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> |
| <p>120. <i>Statutory Rule:</i> Crown Proceedings Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Crown Proceedings Act 1958</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> | <p>125. <i>Statutory Rule:</i> Liquor Control Reform Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Liquor Control Reform Act 1998</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code B</i></p> |
| <p>121. <i>Statutory Rule:</i> Bail Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Bail Act 1977</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> | <p>126. <i>Statutory Rule:</i> Metropolitan Fire Brigades (General) Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Metropolitan Fire Brigades Act 1958</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code A</i></p> |
| | <p>127. <i>Statutory Rule:</i> Victorian Energy Efficiency Target Amendment Regulations 2010</p> <p><i>Authorising Act:</i> Victorian Energy Efficiency Target Act 2007</p> <p><i>Date first obtainable:</i> 4 November 2010
<i>Code D</i></p> |

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|-------------------------------|---|-------------------------------|---|
| 128. <i>Statutory Rule:</i> | Accident Compensation Further Amendment Regulations 2010 | 133. <i>Statutory Rule:</i> | Transport (Passenger Vehicles) and Transport (Infringements) Amendment Regulations 2010 |
| <i>Authorising Act:</i> | Accident Compensation Act 1985 | <i>Authorising Act:</i> | Transport (Compliance and Miscellaneous) Act 1983 |
| <i>Date first obtainable:</i> | 4 November 2010 | <i>Date first obtainable:</i> | 4 November 2010 |
| <i>Code A</i> | | <i>Code B</i> | |
| 129. <i>Statutory Rule:</i> | Gambling Regulation (Pre-commitment) Interim Regulations 2010 | 134. <i>Statutory Rule:</i> | Road Safety (General) Further Amendment Regulations 2010 |
| <i>Authorising Act:</i> | Gambling Regulation Act 2003 | <i>Authorising Act:</i> | Road Safety Act 1986 |
| <i>Date first obtainable:</i> | 4 November 2010 | <i>Date first obtainable:</i> | 4 November 2010 |
| <i>Code A</i> | | <i>Code A</i> | |
| 130. <i>Statutory Rule:</i> | Drugs, Poisons and Controlled Substances (Precursor Supply) Regulations 2010 | 135. <i>Statutory Rule:</i> | Road Safety (Drivers) Amendment (Drug-Driving) Regulations 2010 |
| <i>Authorising Act:</i> | Drugs, Poisons and Controlled Substances Act 1981 | <i>Authorising Act:</i> | Road Safety Act 1986 |
| <i>Date first obtainable:</i> | 4 November 2010 | <i>Date first obtainable:</i> | 4 November 2010 |
| <i>Code A</i> | | <i>Code A</i> | |
| 131. <i>Statutory Rule:</i> | Drugs, Poisons and Controlled Substances Amendment Regulations 2010 | 136. <i>Statutory Rule:</i> | Road Safety (Vehicles) Amendment (Fees) Regulations 2010 |
| <i>Authorising Act:</i> | Drugs, Poisons and Controlled Substances Act 1981 | <i>Authorising Act:</i> | Road Safety Act 1986 |
| <i>Date first obtainable:</i> | 4 November 2010 | <i>Date first obtainable:</i> | 4 November 2010 |
| <i>Code B</i> | | <i>Code A</i> | |
| 132. <i>Statutory Rule:</i> | Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Amendment Regulations 2010 | 137. <i>Statutory Rule:</i> | Road Safety Road Rules Amendment (Exemption and Other Matters) Rules 2010 |
| <i>Authorising Act:</i> | Residential Tenancies Act 1997 | <i>Authorising Act:</i> | Road Safety Act 1986 |
| <i>Date first obtainable:</i> | 4 November 2010 | <i>Date first obtainable:</i> | 4 November 2010 |
| <i>Code A</i> | | <i>Code A</i> | |

138. *Statutory Rule:* First Home Owner
Grant Amendment
Regulations 2010
Authorising Act: First Home Owner
Grant Act 2000
Date first obtainable: 4 November 2010
Code A
139. *Statutory Rule:* Water (Resource
Management)
Amendment
Regulations 2010
Authorising Act: Water Act 1989
Date first obtainable: 4 November 2010
Code A
-

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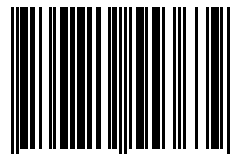
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