

7 March 2018

**MAYOR
COUNCILLORS
CITY OF MOUNT GAMBIER**

NOTICE is given that the Operational Standing Committee will meet in the following Meeting Room on the day, date and time as follows:

Operational Standing Committee
(Conference Room - Level 1):

Tuesday, 13 March 2018 at 7:30 a.m.

An agenda for the meeting is enclosed.



Mark McSHANE
CHIEF EXECUTIVE OFFICER

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AGENDA OF ORDINARY OPERATIONAL STANDING COMMITTEE MEETING

Meeting to be held in the Conference Room, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday, 13 March 2018 at 7:30 a.m.

PRESENT

Mayor Andrew Lee

Cr Mark Lovett (Presiding Member)
Cr Christian Greco
Cr Ian Von Stanke
Cr Steven Perryman
Cr Des Mutton

COUNCIL OFFICERS

Chief Executive Officer	- Mr M McShane
General Manager Community Wellbeing	- Ms B Cernovskis
General Manager Council Business Services	- Mrs P Lee
General Manager City Growth	- Dr J Nagy
General Manager City Infrastructure	- Mr N Serle
Manager Governance and Property	- Mr M McCarthy
Team Leader Administration (City Infrastructure)	- Ms S Wilson

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

1. APOLOGY(IES)

Apology(ies) received from Cr

That the apology from Cr _____ be received.

Moved: _____ Seconded: _____

2. CONFIRMATION OF OPERATIONAL STANDING COMMITTEE MINUTES

Meeting held on 13 February 2018.

That the minutes of the Operational Standing Committee meeting held on 13 February 2018 be confirmed as an accurate record of the proceedings of that meeting.

Moved: _____ Seconded: _____

3. QUESTIONS

3.1. With Notice

Nil submitted.

3.2. Without Notice

4. DEPUTATIONS

Nil



5. COMMITTEE MINUTES AND RECOMMENDATIONS

5.1. Minutes of Community Engagement and Social Inclusion Sub-Committee - 1 March 2018

That the minutes of the Community Engagement and Social Inclusion Sub-Committee meeting held 1 March 2018 be noted.

Moved:

Seconded:

5.2. City of Mount Gambier Reconciliation Action Plan Yerkalapata - Leading the Way: Community Update - Report No. AR18/7309

(a) That Community Engagement and Social Inclusion Sub Committee Report No. AR18/7309 titled '*City of Mount Gambier Reconciliation Action Plan. Yerkalapata - Leading the Way: Community Update*' as presented to the Community Engagement and Social Inclusion on 1 March 2018 be noted.

Moved:

Seconded:

5.3. Suicide Prevention Network Action Plan Report Card - Report No. AR18/4304

(a) That Community Engagement and Social Inclusion Sub-Committee Report No. AR18/4304 titled '*Suicide Prevention Network Action Plan Report Card*' as presented to the Community Engagement and Social Inclusion Sub-Committee on 1 March 2018 be noted.

Moved:

Seconded:

5.4. Minutes of Heritage Sub-Committee - 28 February 2018

That the minutes of the Heritage Sub-Committee meeting held 28 February 2018 be noted.

Moved:

Seconded

5.5. Heritage Advisor Reports - December 2017 and January 2018 - Report No. AR18/6706

(a) That Heritage Sub-Committee Report No. AR18/6706 titled '*Heritage Advisor Reports - December 2017 and January 2018*' as presented to the Heritage Sub-Committee on 28 February 2018 be noted.

Moved:

Seconded:



5.6. Rook Walk Celebrations - Proposed Plans - Report No. AR18/6716

- (a) That Heritage Sub-Committee Report No. AR18/6716 titled '*Rook Walk Celebrations - Proposed Plans*' as presented to the Heritage Sub-Committee on 28 February 2018 be noted.

Moved:

Seconded:

5.7. Heritage Committee - Further Development of Work Plan - Ref. AF17/294

- (a) The attached *Work Plan (AR18/8695)* be noted and Project Plans be prepared for prioritising to determine stages and budgets for presentation at Council.
- (b) Lynn Lowe and Brian Brooksby be included in the planning committee for the Rook Walk Celebration.

Moved:

Seconded:

5.8. Minutes of Audit Committee - 14 February 2018

That the minutes of the Audit Committee meeting held 14 February 2018 be noted.

Moved:

Seconded:

5.9. Presiding Member Nomination - Report No. AR18/5041

- (a) That Audit Committee Report No. AR18/5041 titled '*Presiding Member Nomination*' as presented to the Audit Committee on 14 February 2018 be noted.
- (b) That the Meeting be open to nominations for Presiding Member of the Audit Committee.
- (c) That the Audit Committee recommend that Council appoint Cr Sonya Mezinec to the position of Presiding Member of the Audit Committee, effective from the date of Council approval or such date as the nominee is no longer eligible to be the Presiding Member.

Moved:

Seconded:

5.10. Control Track Implementation Update 2- Report No. AR18/4747

- (a) That Audit Committee Report No. AR18/4747 titled '*Control Track Implementation Update 2*' as presented to the Audit Committee on 14 February 2018 be noted.

Moved:

Seconded:



5.11. LGAWCS and WHS/IM One System Model Framework - Report No. AR18/2353

- (a) That Audit Committee Report No. AR18/2353 titled '*LGAWCS and WHS/IM One System Model Framework*' as presented to the Audit Committee on 14 February 2018 be noted.

Moved:

Seconded:

5.12. Audit Committee Annual Work Program Update - Report No. AR18/2352

- (a) That Audit Committee Report No. AR18/49264 titled '*Audit Committee Annual Work Program Update*' as presented to the Audit Committee on 14 February 2018 be noted.

Moved:

Seconded:

5.13. Long Term Financial Plan 2018/2019 to 2027/20278 Progress Update - Report No. AR18/5008

- (a) That Audit Committee Report No. AR18/5008 titled '*Long Term Financial Plan 2018/2019 to 2027/2028 Progress Update*' as presented to the Audit Committee on 14 February 2018 be noted.

Moved:

Seconded:



6. OPERATIONAL STANDING COMMITTEE REPORTS

Operational Standing Committee Reports commence on the following page.



6.1. Works in Progress - City Infrastructure - Report No. AR18/7764

COMMITTEE	Operational Standing Committee
MEETING DATE:	13 March 2018
REPORT NO.	AR18/7764
RM8 REFERENCE	AF17/243
AUTHOR	Daryl Morgan
SUMMARY	Update of works that are currently being undertaken and/or completed by the City Infrastructure Department.
COMMUNITY PLAN REFERENCE	Goal 2: Our Location

REPORT RECOMMENDATION

- (a) That Operational Standing Committee Report No. AR18/7764 titled '*Works in Progress - City Infrastructure*' as presented to the Operational Standing Committee on 13 March 2018 be noted.

Moved:

Seconded:



Background

Works in progress and works completed are reported on a monthly basis to Council as part of the governance process to ensure planned and budgeted infrastructure works are completed in a timely manner.

Discussion

The following projects have field work currently in progress:

Commenced Tasks	% Completed
• Reuse Market site - shed construction	80%
• Bailey Street road reconstruction	30%
• Rail Trail (stage 2) shared path	60%
• Valley Lakes Disc Golf	90%
• Carpark resurfacing program	60%
• Caldwell Street road reconstruction	30%
• CBD redevelopment - Helen Street paving	95%
• Commercial Street West road reconstruction	90%
• Wireless Road East concrete footpath construction	10%

Completed Tasks

- Road reseals
- Railway Terrace reconstruction
- Hotmix intersections
- Caroline Landfill (cell 2 capping)
- Playground construction - Hanson Street and AF Sutton Reserve

Conclusion

It is recommended that this report be received and noted for information by Council.

Attachments

Nil



Daryl MORGAN
MANAGER ENGINEERING DESIGN & CONTRACTS



Nick SERLE
GENERAL MANAGER CITY INFRASTRUCTURE

2 March 2018
SW



6.2. Cunningham Reserve Dog Park Shelters - Report No. AR18/6002

COMMITTEE	Operational Standing Committee
MEETING DATE:	13 March 2018
REPORT NO.	AR18/6002
RM8 REFERENCE	AF11/138
AUTHOR	Andrew Thompson
SUMMARY	This report is put before Council to consider the construction of two simple shade shelters at Cunningham Reserve Dog Park as a result of numerous informal requests.
COMMUNITY PLAN REFERENCE	Goal 2: Our Location

REPORT RECOMMENDATION

- (a) That Operational Standing Committee Report No. AR18/6002 titled '*Cunningham Reserve Dog Park Shelters*' as presented to the Operational Standing Committee on 13 March 2018 be noted.
- (b) That Council endorse the construction of two simple shade sail shelters at Cunningham Reserve Dog Park with associated costs booked to Parks and Gardens Reserve account.

Moved:

Seconded:



Background

Since the opening of Cunningham Reserve Dog Park in August 2015, there has been positive ongoing feedback from the community. The surrounding trees planted throughout the dog park are still growing and provide limited shade for users. Two shelters in the dog park, one structure for the large and small dog areas respectively, should be considered.

Council Officers visited the park on three occasions between hours 3pm and 5pm to consult with members of the community who use this facility. All users of the dog park that were approached provided feedback and suggestions on enhancements to the park and more specifically, acknowledged the need for additional shade. The most frequent feedback was requests for the shelters to be waterproof rather than a simple shade cloth structure.

Discussion

The benefits of the proposed shelters include:

- UV Protection
- Rain shelter
- Backed seating for elderly

The two structures will be 3 x 5 metre waterproof shade sail structures with four treated pine posts. Additionally, backed seating underneath the shelters would be suitable as there are a number of elderly regulars.

Two users of the dog park provided a sketch of their ideas for the shelter. The sketch suggested a wind break on one side of the structure. However, this idea is not recommended in order to keep the area open and maintain good sightlines.

The dog park was constructed using mostly recycled materials. Similarly, the two shelters will also be constructed from recycled materials, effectively reducing the cost. The only materials that need to be purchased for the structures are the waterproof shade sail and the concrete at an estimated cost of \$3,700. The funding of the shelters will be booked to *Parks and Gardens Reserve account funds*.

Conclusion

Council approves the construction of two simple shade shelters at Cunningham Reserve Dog Park to provide shade for users until the surrounding trees grow.

Attachments

[Attachment 1 \(AR18/6010\): Concept sketch provided by dog park users](#)





Andrew THOMPSON
DESIGN ENGINEER



Nick SERLE
GENERAL MANAGER CITY INFRASTRUCTURE

5 March 2018
AT



6.3. Planning and Development Fund Grant for Stage 3 Rail Trail Development - Report No. AR18/7767

COMMITTEE	Operational Standing Committee
MEETING DATE:	13 March 2018
REPORT NO.	AR18/7767
RM8 REFERENCE	AF15/344
AUTHOR	Daryl Morgan
SUMMARY	This report is intended to update Members on the grant funding recently received through the planning and development fund for the development of stage 3 of the rail trail for the 2018/2019 financial year.
COMMUNITY PLAN REFERENCE	Goal 2: Our Location

REPORT RECOMMENDATION

- (a) That Operational Standing Committee Report No. AR18/7767 titled *'Planning and Development Fund Grant for Stage 3 Rail Trail Development'* as presented to the Operational Standing Committee on 13 March 2018 be noted.
- (b) That Council accept the \$250,000 funding offer made via the 2017/2018 planning and development fund grant and sign the deed agreement to make this effective.
- (c) That Council make an allocation of \$250,000 in the 2018/2019 budget as a matching contribution to the funds offered as required under the terms of the offer.

Moved:

Seconded:



Background

Council has recently been notified of its success in securing \$250,000 through the Planning and Development fund grant for the development of stage 3 of the Rail Trail project (i.e. from Jubilee Highway West to Wandilo Road - 1.4km and Pick Avenue to Jubilee Highway East, via Telford Street rail corridor and the easement behind the showgrounds - 1.2km).

In late 2017, Council Officers submitted an application to the State Government for funding assistance to further build on the successful work on the Rail Trail project. Members would recall that in 2016/2017 Council received \$250,000 funding from the State Government to assist with the first stage of this project but Council missed out on funding for the 2017/2018 financial year due to a highly competitive number of other Council applications across the State. However, Council has now been lucky enough to receive a further \$250,000 to assist with completion of the final stage of this project.

Discussion

More specifically, the 3rd stage will build on the current extension on the rail that is occurring on the section between White Avenue to Jubilee Highway West and also a link trail to Shepherdson Road via Hastings Cunningham Reserve, which is scheduled to be completed by June 30, 2018.

Stage 3 will follow shortly after the completion of the current works as part of the 2018/2019 works program.

A condition of Council accepting the funding offer is for Council to provide a matching contribution of \$250,000 for the project. Accordingly, Council's draft 2018/2019 budget has set aside an amount of \$500,000 for this project (with \$250,000 being from the revenue created from this funding grant).

Should Council wish to accept the grant offer of \$250,000 then it will need to lock in the additional \$250,000 for the 2018/2019 budget to fulfill the obligation of the deed of agreement.

Conclusion

It will be recommended to Council that:

- (a) Council accept the \$250,000 funding offer made via the 2017/2018 planning and development fund grant and sign the deed agreement to make this effective.
- (b) Council make an allocation of \$250,000 in the 2018/2019 budget as a matching contribution to the funds offered as required under the terms of the offer.

Attachments

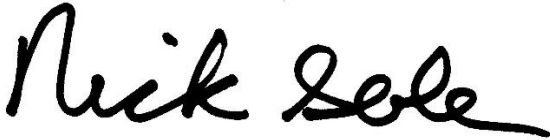
[Attachment 1 \(AR18/6742\) - Letter to Mayor of grant offer](#)

[Attachment 2 \(AR18/7759\) - Deed agreement for funding offer](#)





Daryl Morgan
MANAGER ENGINEERING DESIGN AND CONTRACTS



Nick Serle
GENERAL MANAGER CITY INFRASTRUCTURE

27 February 2018
SW



7. MOTION(S)

7.1. With Notice

Nil Submitted

7.2. Without Notice

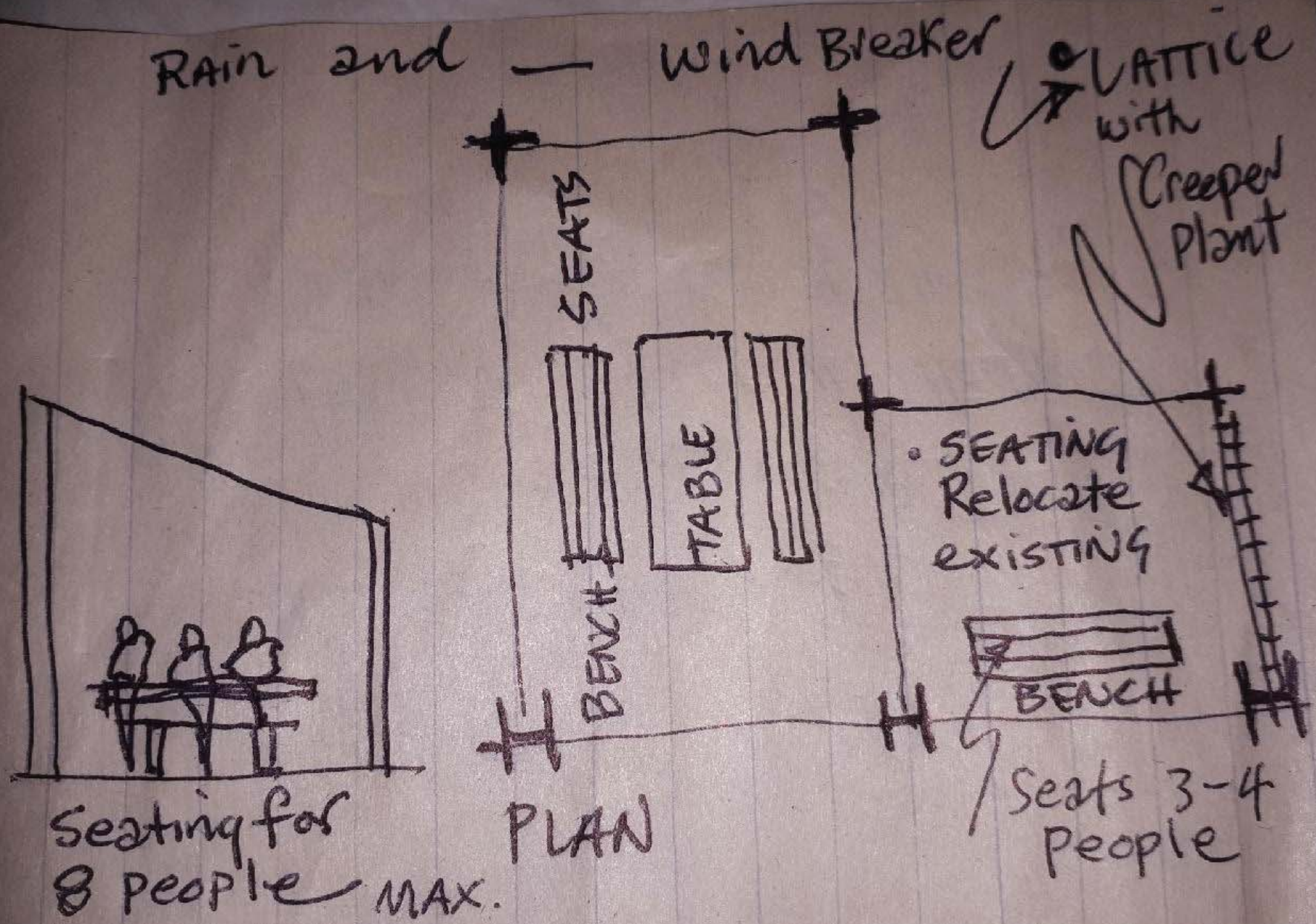
Meeting closed at a.m.

AR18/9323



8. REPORT ATTACHMENTS





The Hon John Rau MP



2017/15679/01

**Government
of South Australia**

**Deputy Premier
Attorney-General
Minister for Justice Reform
Minister for Planning
Minister for Industrial Relations
Minister for Child Protection
Reform
Minister for the Public Sector
Minister for Consumer and
Business Services
Minister for the City of
Adelaide**
45 Pirie Street
ADELAIDE SA 5000
GPO Box 464
Adelaide SA 5001
Tel 08 8207 1723
Fax 08 8207 1736

14 February 2018

Mayor Andrew Lee
City of Mount Gambier
PO Box 56
MOUNT GAMBIER SA 5290

Dear Mayor Lee,

2017-18 Planning and Development Fund Grant Application

I refer to Council's application for funding under the Planning and Development Fund.

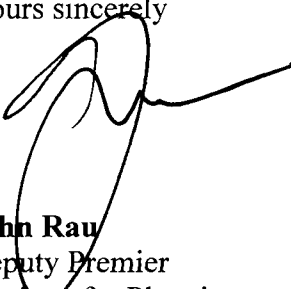
After consideration I am pleased to advise Council that I have approved funding for the following project, as outlined in your application.

- \$250,000 for the Rail Trail (Stage 3) project

The formalisation of the funding agreement between Council and the Department of Planning, Transport and Infrastructure, including the establishment of key outcomes, funding conditions and time lines for progress reports, is being arranged with Council staff.

If you require any further information please do not hesitate to contact Mr Matthew Lang, on 7109 7090 at the Department of Planning, Transport and Infrastructure.

Yours sincerely


John Rau
Deputy Premier
Minister for Planning

DATED _____ **DAY OF** _____ **2018**

DEED OF CONDITIONS OF GRANT

BETWEEN

MINISTER FOR PLANNING
("Minister")

-AND-

The Council named and described in Item 1 of the Schedule
("Council")

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SCHEDULE

ANNEXURE A - COUNCIL APPLICATION/PROJECT TARGET TABLE

ANNEXURE B - MANNER OF PAYMENT

ANNEXURE C – FINAL REPORT

THIS DEED is made the _____ day of _____ 2018

BETWEEN:

MINISTER FOR PLANNING a body corporate under the *Administrative Arrangements Act 1994* of Level 11, 45 Pirie Street, Adelaide, South Australia 5000 ("**Minister**")

AND

The Council named and described in Item 1 of the Schedule (the "**Council**").

BACKGROUND

- A. The Minister through the Department of Planning, Transport and Infrastructure has agreed to pay to the Council the Grant for the purpose of the Project on the following terms and conditions set out in this Deed.
- B. The purpose of the Project is for the Council to extend existing shared use trail an additional 2.6km, as per Council's application.

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Deed unless the contrary intention appears:

- 1.1.1 "**ANTS GST Act**" means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- 1.1.2 "**Business Day**" means any day that is not a Saturday, Sunday or public holiday in South Australia;
- 1.1.3 "**Commencement Date**" means the date specified in Item 2 of the Schedule;
- 1.1.4 "**Completion Date**" means the date specified in Item 3 of the Schedule;
- 1.1.5 "**Council's Representative**" means the representative of the Council specified in Item 7 of the Schedule;
- 1.1.6 "**Deed**" means this Deed of Conditions of Grant between the parties and includes the Schedule;
- 1.1.7 "**Fund**" means the Council's open space trust fund established under section 50 subsection 10 of the *Development Act 1993*

- 1.1.8 **“Grant”** means the amount specified in Item 5 of the Schedule, which is exclusive of GST;
- 1.1.9 **“Grant Account”** means the Fund or other interest bearing account in the name of the Council;
- 1.1.10 **“GST”** means the tax imposed by the GST Law;
- 1.1.11 **“GST Law”** has the meaning attributed in the ANTS GST Act;
- 1.1.12 **“Intellectual Property Rights”** means any patent, copyright, trademark, tradename, design, trade secret, know how or other form of confidential information, or any right to registration of such rights and any other form of intellectual property right whether arising before or after the execution of this Deed;
- 1.1.13 **“Minister”** means the Minister for Planning;
- 1.1.14 **“The Department of Planning, Transport and Infrastructure’s Representative”** means the representative of the Department of Planning, Transport and Infrastructure specified in Item 7 of the Schedule;
- 1.1.15 **“Project”** means the project described briefly in Item 4 of the Schedule and in detail in Annexure A;
- 1.1.16 **“Repayment Amount”** means:
- (a) all amounts paid by the Minister to the Council under this Deed up to the Repayment Date; and
 - (b) interest on each of those amounts (or so much of it as remains unpaid for the time being) calculated at the common Public Sector Interest Rate applicable over the relevant period, from the date or dates on which the Minister pays the Grant to the Council, to the date on which the amount is paid in full;
- 1.1.17 **“Repayment Date”** means the date upon which the Minister demands payment of the Repayment Amount from the Council;
- 1.1.18 **“Repayment Events”**
- The occurrence of any of the following events are Repayment Events:
- (a) if the Council breaches any of its warranties or undertakings under this Deed; or
 - (b) any of its obligations under this Deed and has not rectified such breach within the time frame specified in a

notice given in writing by the Minister to the Council requiring rectification of the breach;

- (c) if the Council breaches its undertaking to commit its own funds to the Project in the amount specified in Item 5 of the Schedule.

1.1.19 “**State**” means the State of South Australia;

1.1.20 “**Tax Invoice**” has the meaning attributed in the GST Law;

1.1.21 “**Taxable Supply**” has the meaning attributed to that expression in the GST Law;

1.1.22 “**Term**” means the period commencing on the Commencement Date and expiring on the Completion Date; and

1.1.23 “**Termination Date**” means the earlier of the following:

- (a) the Completion Date; or
- (b) if the Minister terminates this Deed pursuant to clause 6.1, the date on which notice of such termination is given to the Council.

1.2 Interpretation

In this Deed unless the contrary intention appears:

1.2.1 any word importing the plural includes the singular and vice versa;

1.2.2 any word importing a gender includes all other genders;

1.2.3 a reference to a person includes a corporation;

1.2.4 headings do not affect the interpretation or construction; and

1.2.5 a reference to a clause, Schedule or Item in a Schedule is a reference to a clause, Schedule or Item in a Schedule of this Deed.

1.3 Background Information

The parties acknowledge and agree that the Background is true and correct in every particular, and shall be read with and form part of this Deed.

2. GRANT

2.1 The Minister will make the Grant to the Council and the Council must apply the Grant for the purposes of the Project.

2.2 The Minister's obligation to make the Grant is subject to the provisions of this Deed.

2.3 The Minister shall not be obliged to make the Grant unless and until all authorisations, approvals, consents, licenses, exemptions, registrations and other requirements which are necessary for the undertaking of the Project have been obtained by or satisfied by the Council.

2.4 The Minister shall provide the Grant in the manner specified in Annexure B.

3. GST

3.1 The parties acknowledge that compliance with obligations or the grant of rights under this Deed by the Council is a Taxable Supply and the Council is liable to pay GST on this Taxable Supply.

3.2 The Minister will pay in addition to the Grant an amount ("GST payment") calculated by multiplying the Grant by the rate at which GST is levied at the time of this Deed.

3.3 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless the Council has delivered to the Minister a valid Tax Invoice under the GST Law, referable to the Grant and associated GST payment.

4. STEERING COMMITTEE

The Council shall invite a representative of the Department of Planning, Transport and Infrastructure to participate in the steering (or other agreed project control mechanism) committee which shall be formed by the Council to control and manage the Project.

5. VARIATION TO SCOPE OF PROJECT

5.1 The Council may at any time during the Term propose in writing to the Minister a variation in the scope of the Project and give details of any associated change in funding (i.e. budgetary) requirements.

5.2 The Minister may in his/her absolute discretion accept or reject the proposed variation and agree or refuse to increase the amount of the Grant to cover any related increase in funding requirements.

5.3 If the Minister's accepts the Council's proposal to vary the scope of the Project and any associated request for additional funding:

- 5.3.1 the Council will carry out the Project as varied;
- 5.3.2 the Minister will provide the additional funding requested; and
- 5.3.3 the terms and conditions of this Deed will apply to the Project as varied.

6. REPAYMENT

- 6.1 If a Repayment Event occurs, the Minister may immediately terminate this Deed by notice in writing given to the Council then any obligation of the Minister to make any further payment to the Council shall cease and the Council may, in the Minister's absolute discretion, be required to pay the Repayment Amount to the Minister.
- 6.2 The Council enters into the obligation to pay the Repayment Amount pursuant to this clause 6 with the intention that it is a legally binding, valid and enforceable contractual provision against the Council.
- 6.3 The parties intend to exclude, to the extent permissible, the application and operation of any legal rule or norm, whether statutory or common law, relating to:
 - 6.3.1 the characterisation as penalties of liquidated amounts payable under a contract on a breach occurring; or
 - 6.3.2 the enforceability or revocability of such liquidated amounts.
- 6.4 Nothing in this clause prevents the Minister from recovering from the Council any other amount to which the Minister is or becomes entitled under this Deed.
- 6.5 If at the Completion Date, or the date of any earlier termination of this Deed, any part of the Grant or interest earned thereon remains in the Council's Grant Account pursuant to this Deed the Council must immediately repay this amount to the Minister.

7. COUNCIL'S WARRANTIES AND UNDERTAKINGS

- 7.1 The Council undertakes to the Minister:-
 - 7.1.1 that except with the prior consent in writing of the Minister, it will not use the Grant for purposes other than the Project;
 - 7.1.2 that at the Commencement Date no Repayment Event has occurred or is occurring;

- 7.1.3 that it will inform him/her in writing immediately on the Council becoming aware of or when the Council ought reasonably to have become aware of the happening of a Repayment Event;
- 7.1.4 that it will comply with Treasurer's Instruction 15 which can be accessed online at:
http://www.treasury.sa.gov.au/__data/assets/pdf_file/0014/3227/TI-15-Grant-Funding-Jan-2015.pdf
- 7.1.5 that it will keep separate accounts and financial records in relation to the Grant to which this Deed relates;
- 7.1.6 that it will provide the Minister with those reports specified in Item 6 of the Schedule and such other information as the Minister may reasonably require to enable him/her to monitor the Council's performance of its undertakings and obligations under this Deed;
- 7.1.7 that all records and other documentation required to be kept by the Council under this Deed and under any other legislation or statutory instrument will upon the giving of fourteen (14) days notice be available to the Minister for inspection at Adelaide at all times during normal business hours;
- 7.2 The Council must commence undertaking the Project within thirty (30) Business Days of the Commencement Date and must complete the Project by not later than the Completion Date.
- 7.3 The Council acknowledges that the warranties and undertakings made in this clause 7 have induced the Minister to agree to make the Grant to which this Deed relates.
- 7.4 The Council must disclose to the Minister the source and amount of any funding or financial assistance apart from the Grant that it has or does receive for the purpose of the Project.

8. INSURANCE

The Council warrants that it is a member of the Local Government Association Mutual Liability Scheme ("Scheme") and is bound by the rules of the Scheme pursuant to section 34(a) of the *Local Government Act* and in the event that the Council ceases to be a member of the Scheme it will forthwith pursuant to section 166(a) of the *Local Government Act*, effect public liability insurance to a minimum level of cover of \$50,000,000.00.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The Council warrants that in undertaking the Project the Council is not infringing the Intellectual Property Rights of any person.

9.2 The Council shall indemnify and shall keep the Minister and the Crown in right of the State indemnified from and against all costs, expenses and liabilities whatsoever arising out of or in connection with any claim that in undertaking the Project the Council infringes the Intellectual Property Rights of any person.

10. AUTHORISATION AND APPROVALS

10.1 The Minister may authorise any person whom he/she selects to exercise any of his/her powers or rights under this Deed and may vary or revoke an authorisation at will.

10.2 The Minister may conditionally or unconditionally give or withhold his/her approval or consent in his/her absolute discretion unless this Deed expressly provides otherwise.

11. PUBLICITY

11.1 The Council must ensure that any media release or publicity material issued by the Council in relation to the Project or the Grant acknowledges the contribution made by the Minister.

11.2 The Council shall consult the Department of Planning, Transport and Infrastructure before initiating any publicity, such as an official opening or similar ceremony and the content of any signage or other written publication must acknowledge the contribution of the Department of Planning, Transport and Infrastructure in the manner specified by the Minister.

12. GENERAL

12.1 No Assignment by the Council

The Council's rights and obligations under this Deed are not assignable.

12.2 Entire Agreement

This Deed contains the entire agreement between the parties with respect to its subject matter and it supersedes any prior agreement or understanding of the parties on the subject matter.

12.3 **Governing Law**

12.3.1 This Deed is governed by the laws in the State.

12.3.2 The courts of the State have exclusive jurisdiction in connection with this Deed.

12.4 **No Waivers by the Minister**

The Minister waives a right under this Deed only by written notice to that effect. Nothing else done or omitted to be done by the Minister in relation to the Minister's rights under this Deed will have the effect of a waiver.

12.5 **Modification**

12.5.1 It is acknowledged by the parties that the terms and conditions of this Deed may by agreement of the parties be modified.

12.5.2 Any modification of this Deed must be in writing and signed by each party.

12.6 **Severability**

If any part of this Deed is or becomes void or unenforceable or if this Deed would, if any part were not omitted, be or become void or unenforceable then:-

12.6.1 that part will be severable without affecting the remainder of this Deed and this Deed will then be read as if that part were not contained in it; and

12.6.2 the parties will attempt to renegotiate that part in good faith.

12.7 **Costs**

Each party will bear its own costs of and incidental to the negotiation, preparation and execution of this Deed.

12.8 **No Mutual Liability**

Nothing in this Deed constitutes a partnership, joint venture or association of any kind between the Council and the Minister or renders them liable for the debts or liabilities incurred by each other.

12.9 **Notice**

12.9.1 Notice must be in writing and signed either by the party or by the agent of that party.

12.9.2 Notice can be given to a party:-

(a) personally;

- (b) by pre-paid post to the recipient's address set out in this Deed, in which case the notice is deemed to be received at the time at which it would be delivered in the ordinary course of the post; or
- (c) as permitted by the Corporations Law or any other statute or regulation.

12.9.3 The addresses and numbers for service are:-

The Minister

(The Department of Planning, Transport and Infrastructure)
50 Flinders Street
Adelaide SA 5000

The Council

To the Council at the address or number specified in Item 1 of the Schedule.

12.9.4 A party may from time to time change its address or number for service by notice to the other party.

12.10 **Rectification of Defects in the Deed**

If any provision of this Deed is, or becomes defective, and the Minister consequently is unable to enforce any of the Council's obligations under this Deed, and the defect is capable of remedy, the Council must do all things and sign all documents which the Minister may reasonably require the Council to do or sign to remedy the defect.

12.11 **Comply with Laws**

12.11.1 When carrying out any activity in connection with the Project, the Council must comply with all applicable laws relating to that activity, including (but not limited to) laws requiring the obtaining of approvals, consents, licences and registrations.

12.11.2 Where the Council becomes aware of any breach by it of any law or laws in force in the State which breach arises out of or occurs or in respect of any activity carried out by the Council in connection with its use of the Grant, the Council must forthwith notify The Department of Planning, Transport and Infrastructure's Representative in writing of the occurrence of that breach and as to the particulars of that breach.

12.12 **Auditor-General**

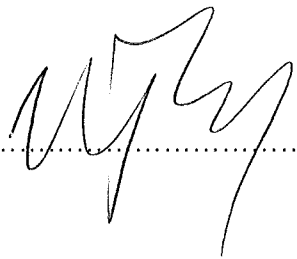
Nothing in this Agreement derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987 (South Australia)*.

12.13 **Time is of the Essence**

Time is of the essence in respect of any time, date or period specified either in this Deed or in any notice served under this Deed.

EXECUTED AS A DEED

SIGNED by MATT LANG)
for and on behalf of the **MINISTER FOR**)
PLANNING)
as its duly authorised delegate in the presence of:)



Melan)
Witness)
(Print Name: MELAN SCHWARZ)

SIGNED by)
for and on behalf of)
.....)
being a person duly authorised in that regard)
in the presence of:)

.....)
Witness)
(Print Name:)

SCHEDULE

Item 1

Council

City of Mount Gambier

10 Watson Terrace

MOUNT GAMBIER SA 5290

PH: (08) 8721 2555

Item 2

Commencement Date

Upon execution of this Deed or such other date as is mutually agreed in writing by the parties

Item 3

Completion Date

31 August 2019

Item 4

Project

Rail Trail (Stage 3)

Item 5

Total Amount of Grant

The total amount of the Grant will not exceed 50% of the total cost of the Project listed in Annexure A, and in no circumstances will the total amount of the Grant exceed \$250,000.

The Minister has made this funding commitment in granting approval for the Project based on Council's undertaking that when applying for the Grant that:

- the Council will pay \$250,000, being 50% of the total cost of the Project listed in Annexure A;

Item 6

Reports

1. The Council must provide the Department of Planning, Transport and Infrastructure's Representative with the following reports:
 - a. such reports as the Minister may by notification in writing require from time to time;
 - b. a report no later than 30 Business Days following the Completion Date.
2. The reports must contain:
 - a. in relation to the report referred to in 1(a), such material or information as the Minister may specify in the written notice given to the Council requiring provision of that report; and
 - b. in relation to the report referred to in 1(b), a signed Final Report as specified in Annexure C.
3. At the request of the Department of Planning, Transport and Infrastructure's representative, Council may be required to provide a report on the expenditure of the Grant including evidence of actual expenses incurred in relation to the project. At the Minister's option that report may be referred to an independent external auditor.

Item 7

The Department of Planning, Transport and Infrastructure's Representative

Matthew Lang

Council's Representative

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ANNEXURE A
PROJECT TARGET TABLE

ACTIVITY	TARGET OUTCOMES <i>(brief description of activity)</i>	QTY	COST P&D FUND	COST COUNCIL	COST TOTAL
Detailed design and documentation	Detailed design plans, contract documentation & construction details			\$6,000	\$6,000
Negotiation of lease	Secure lease over land with DPTI			\$11,000	\$11,000
Environmental management	Prepare EMPs & control environmental aspects during construction			\$70,000	\$70,000
Construction of shared path	Bulk earthworks, crushed rocks & asphalt path		\$240,000	\$145,000	\$385,000
Link marking and signage	Install line marking & signage (as per Stage 1 & 2)			\$18,000	\$18,000
Crossing treatments	Installation of additional crossing features		\$10,000		\$10,000
TOTAL			\$250,000	\$250,000	\$500,000

Note: project to be completed as per Council's application

ANNEXURE B

MANNER OF PAYMENT

Manner of Payment of Grant

Upfront payment

The Grant shall be paid on receipt of:

- A signed deed of conditions of Grant which is to the satisfaction of the Department of Planning, Transport and Infrastructure;
- A tax invoice in accordance with the GST Act for the amount of the Grant

Following receipt of the Grant, the Council must:

- pay the Grant into the Grant Account;
- apply the grant solely towards the Project specified in Annexure A;
- retain in the Grant Account all interest earned on the Grant and apply this money solely towards the Project specified in Annexure A;
- provide a Final Report on completion of the Project as specified in Item 6 of the Schedule.

ANNEXURE C – FINAL REPORT

OPEN SPACE AND PLACES FOR PEOPLE GRANT FUNDING PROGRAM 2018

Council: City of Mount Gambier

Project: Rail Trail (Stage 3)

TOTAL PLANNING AND DEVELOPMENT FUND CONTRIBUTION	\$250,000
Council contribution	\$
Contributions from other sources* (please specify)	\$
TOTAL PROJECT FUNDING	\$
TOTAL PROJECT EXPENDITURE	\$

* Including interest accrued (see Annexure B).

Certification

I hereby certify in accordance with the conditions under which this Grant was accepted that:

- The expenditure shown in this report and any attachments have been incurred.
- The expenditure relates solely to the work covered by the Grant.
- The rates, computations and costs shown in this Report are correct.
- None of the payments or any part thereof has been included on any previous Report.
- None of the payments or any part thereof has been sought from, or paid by any funding source other than those listed on this Report or attached table.

Project Manager

Chief Executive Officer

Signature

Signature

Name

Name

Date

Date