

CONFIDENTIAL AGENDA

Ordinary Council Meeting Tuesday 17 September 2024

CONFIDENTIAL

I hereby give notice that a Confidential Ordinary Meeting of Council will be held on:

Time: 6:00 pm
Date: Tuesday 17 September 2024
Location: Council Chamber - Civic Centre
10 Watson Terrace, Mount Gambier



Sarah Philpott
CHIEF EXECUTIVE OFFICER
13 September 2024

22 NEW CONFIDENTIAL ITEMS

22.1 MICROMOBILITY (E-SCOOTER) UPDATE

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except the Mayor, Councillors and (Council Officers) be excluded from attendance at the meeting for the receipt and consideration in confidence of Micromobility (e-scooter) Update.

The Council is satisfied that, pursuant to section 90(3) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- (b) information the disclosure of which -
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest.
- (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information regarding mobility devices contains commercial information of a confidential nature provided to Council in-confidence, and the consideration of which if conducted in open could prejudice the position of Council or the party that provided the information or confer a commercial advantage on a third party.

Author: Aaron Izzard, Environmental Sustainability Officer

Authoriser: Barbara Cernovskis, General Manager City Infrastructure

RECOMMENDATION

1. That Council report titled 'Micromobility (e-scooter) Update' as presented on Tuesday 17 September 2024 be noted.
2. That the existing unsolicited proposal no longer be pursued in accordance with Council Policy U900 Unsolicited Proposals and the proponent be formally advised that the matter is now closed.
3. That subject to the *Statutes Amendment (Personal Mobility Devices) Bill 2024* being passed, Council test the market by progressing with an Expression of Interest (EOI), to seek an operator for a 12-month e-scooter fleet trial.

PURPOSE

The purpose of this report is to provide an update regarding the e-scooter trial, giving the background and possible options moving forward.

SUMMARY OF IMPLICATIONS AND BENEFITS

Implications

- Potential misplacement issues.
- Potential misuse issues.

Benefits

- Increase in sustainable transport options for residents and visitors.
- Increase visitation of major tourist sites.
- Alternative public transport option.
- Increase patronage of local businesses.
- Gather micromobility transport data.
- Increase in attractiveness of Mount Gambier as a visitation destination.
- Strategically contribute to CBD Activation.
- Position Mount Gambier as a willing collaborator in the test and trial of transformative urban ideas and concepts, particularly for regional areas.

BACKGROUND / OPTIONS

Following receipt of an unsolicited proposal, a confidential report was presented to Council at the 14 December 2021 meeting. The following resolutions from the Micromobility Device Proposal – Report No. AR21/73765 were passed:

1. *That Council Report No. AR21/73765 titled 'Micromobility Device Proposal' as presented on 14 December 2021 be noted.*
2. *That Council resolve for City of Mount Gambier staff and Beam Mobility work with the South Australian State Government for approval for micromobility devices (electric scooters) operations in Mount Gambier.*
3. *That on approval from the South Australian Government, Council resolve to enable a 12-month trial of micromobility devices (electric scooters) to be made available for hire in Mount Gambier."*

Following this resolution, Council staff worked with Beam and the Department for Infrastructure and Transport (DIT) on putting together the application required by DIT, working towards establishing a 12-month trial of an e-scooter fleet. This application is required as it is currently illegal to use an e-scooter on public land in South Australia. Through this process the Minister grants an exemption for specific trials. This is the procedure utilised by metro councils to allow e-scooter fleets to operate in their municipalities.

The application was submitted in May 2022. DIT took some time to assess the application, and then required further information and edits. In early December 2022 DIT advised that they were preparing a briefing and associated paperwork to go to the Minister. They could not advise exactly how long the approval process would take from that point.

In mid-2023 the State Government undertook a community-wide consultation on privately owned personal mobility devices (PMDs) - e-scooters etc. In July 2023, DIT advised Council staff *"please be advised that the Department is currently investigating some specific issues identified around the operation of the current trials. New proposals are not being considered*

until that investigation is completed. Once the Department's investigation is complete, we will make contact with you".

Council did not hear anything further from DIT apart from "*nothing has changed*" when staff contacted them over the following months.

In mid-March 2024 the Mayor and CEO had a meeting with the Minister for Infrastructure and Transport, the Hon. Tom Koutsantonis MP. During the meeting the issue of the e-scooter trial was raised. Following this meeting DIT staff contacted Council and advised that the application is again ready to proceed to the Minister, pending the provision of updated insurance information from Beam. When Beam were contacted, they advised that they no longer had any spare e-scooters available to deploy in Mount Gambier and would not be in a position to do so until early 2025. As such, the application was put on hold until late 2024.

On 19 June 2024 the State Government introduced legislation to parliament that will pave the way for e-scooters to be used on public roads and paths. The *Statutes Amendment (Personal Mobility Devices) Bill 2024* will allow privately-owned e-scooters and other personal mobility devices to be ridden on roads and in other public areas. On passage of the Bill, there will be no requirement to register a personal mobility device or for the rider to hold a licence.

Under the legislation a personal mobility device is a small-wheeled motorised vehicle designed to be used by a single person over short to medium distances. There are several personal mobility devices currently available on the market, including e-scooters, e-skateboards and unicycles or solo wheels.

Personal Mobility Devices (PMD) will be treated like bicycles. This means they can be provided similar network access as for bicycles, and the same road rules will apply, meaning that the conditions of use should be easily understood.

The legislation will permit use on footpaths and pedestrian infrastructure, as well as in bike lanes and on roads where the default speed limit is a maximum of 50km/h. It is proposed that a speed limit of 25km/h will apply on roads, bike lanes and separated paths, and a lower speed limit of no more than 15km/h on footpaths and shared paths with pedestrians. Helmet use will be compulsory, PMDs cannot be used under the influence of alcohol or drugs and riders must be aged 16 and older to ride PMDs unsupervised.

Following commencement of the Bill, PMD fleet hire operations are expected to continue and possibly expand. There will be no need for approval to be granted by the Minister for Infrastructure and Transport. However, operators will still require local government permits for storage or parking of devices on footpaths. Local councils will be able to enforce any restrictions on where commercial fleet devices can be stored and whether any geofencing technology is required. Any insurance requirements on commercial operators can be assessed by local governments through the issue of a business permit.

The next step is that the Bill will need to be debated in Parliament. Due to the nature of Parliament, there is no current available timeframe for this process. If the Bill is passed through Parliament, the Department's next step is to consult with key stakeholders, including City of Mount Gambier, on the detail for the regulations.

Given this development, Council could still seek to pursue an e-scooter fleet trial with Beam, or another operator, but it would be solely a matter between the two organisations and would not require an exemption from the Minister.

If Council wish to pursue an e-scooter fleet trial then it could control performance through a permit. An agreement would need to clearly articulate council's risk expectations and be for a 12-month period followed by a performance review.

Transportation throughout Mount Gambier is currently heavily reliant on private motor vehicle usage with limited alternative options. Introducing micromobility to the Mount Gambier area would provide an alternative form of transport that is environmentally friendly, efficient and affordable.

Given the limitations of the local public transport system, in terms of coverage and frequency, e-scooters could provide a convenient option for visitors to explore Mount Gambier's natural and built assets, and may also provide an additional sustainable transport option for locals.

Operators are also able to support local businesses through their apps. For example, Beam have a "Booster" campaign, which aims to showcase local businesses to the rider base in the app. Through the creation of parking spaces near eligible businesses, Beam encourages riders to visit these stores, with the Auckland program seeing a 40% increase in footfall for CBD businesses. This program is free of charge for business to participate.

Public e-scooter fleets in metropolitan areas are not without controversy. This mainly relates to e-scooters being left in unsightly or hazardous manners, and users operating the e-scooters in inappropriate areas or in a dangerous manner.

Misplacement

This relates to e-scooters being left in unsightly or hazardous manners, or being littered e.g. thrown into waterways etc.

Possible solutions:

Geofencing of the devices can be very precise and can also be changed at any time. The geofencing controls exactly where the units will operate. If a user crosses the boundary, then the device slows down and stops. It will not work again until the unit is back in the operational zone. Also, the units can be programmed so that they must be left at specified parking nodes. If they are not left in one of these areas, then the user is charged (significantly) more.

The obvious major littering possibility in Mount Gambier is e-scooters being thrown into the Cave Garden/Thugi sinkhole. To minimise this, the parking nodes could be located >50m from the sinkhole area. If someone wanted to throw an e-scooter into the sinkhole then they would need to carry the 25 kg unit over 50m to throw it in. Of course, if a user hired an e-scooter they could ride it along the Bay Road footpath adjacent to the sinkhole, then they would have to carry the 25 kg device around 10 m to throw it in. However, the device would be hired under the person's name, and so be very easily tracked. The cost of the e-scooter, and costs for retrieving it from the sinkhole, could be charged to the user.

One of the conditions of the permit between Council and the operator would be that the company must have local staff, and a local depot, to ensure that any units left in an inappropriate area or manner are promptly dealt with. Required timeframes could also be a permit condition.

In the event that e-scooters are littered into the sinkhole, or other locations like the Rail Lands pond, the permit would articulate Council's expectations regarding timeframes and the manner that these must be dealt with.

Dangerous Operation

This relates to users operating the devices in a manner that endangers other people or themselves, particularly on footpaths and shared paths.

Possible solutions:

Mount Gambier has a much smaller population and lower traffic volumes than the large cities. With significantly fewer people the risk of incidents is reduced.

Geofencing can be employed to restrict e-scooter use from undesirable areas. For example, if Council did not want e-scooters operating in certain sections of Commercial Street, then these areas could be geofenced off. An alternative is that the speed can be restricted to say 5-10 km/h in more sensitive areas.

Parking nodes can be situated away from licenced venues, and users can be required to undergo a test utilising their mobile phone, which would ascertain whether the user is under the influence of alcohol or not.

At least one company has announced a plan to roll out AI-powered safety cameras on its fleet. Every e-scooter will be equipped with a front-facing camera that uses advanced AI computer vision technology to detect and correct footpath riding. It will also be used to identify and warn riders of pedestrians in their path and collect valuable data on road surfaces.

A 12-month trial, followed by a review, presents an opportunity to expand sustainable transport options in Mount Gambier. It would enable visitors to explore a greater extent of the town and also give another option for locals to travel without relying on a car. This is especially important given the limitations of local public transport.

A trial would enable Council to collect data on who uses the devices - locals and/or visitors, demographics, locations of use e.g. just between public locations, or from residences into the centre of town, what routes are the most well utilised etc. It would be very useful information about the movements of visitors and locals alike.

With the enforcement of strict permit conditions, the issues of misplacement and dangerous operation can be managed. An example permit is attached to this report. The end of a trial review would inform Council as to whether the arrangement should continue post the 12-month period.

Recommendations / Options

Since receipt of the original unsolicited proposal in 2021:

1. The proponent has demonstrated its inability to continue with the project at this time based upon a lack of available fleet.
2. The State Government are exploring the potential to relax the restrictions on the use of personal mobility devices on public roads and paths.
3. There is potential for Council to obtain more beneficial outcomes from an open EOI process.

Given the above, yet acknowledging the potential benefits of a 12-month trial of an e-scooter fleet in Mount Gambier, it is recommended that:

1. The existing proposal is not pursued further and Council writes to the proponent to advise of this position, in line with Policy 'U900 Unsolicited Proposals'.
2. Subject to the *Statutes Amendment (Personal Mobility Devices) Bill 2024* being passed, Council commences a market sounding process through an Expression of Interest (EOI), seeking an operator for a 12-month e-scooter fleet trial. The EOI should specify Council's minimum conditions, especially relating to potential misplacement and dangerous operation.

DETAILED IMPLICATIONS

Legal	The e-scooter fleet operator would be responsible for any incidents involving e-scooters.
Financial and Budget	The proposed e-scooter trial does not involve any direct costs to Council. However, some staff time would be required to administer the permit with the operator, including ensuring conditions regarding misplacement are adhered to.
Other Resources	The e-scooter fleet operator must have local staff and a local depot to ensure prompt response to any issues.

RISK ANALYSIS

Consequence	Consequence Rating:	Risk Likelihood Rating:	Risk Rating	Risk Controls and effectiveness	Risk Mitigation Plan
Finance	Minor (2)	Unlikely (2)	Low	N/A	N/A
Reputation	Moderate (3)	Possible (3)	Moderate	Implementation and enforcement of permit conditions.	Implementation and enforcement of permit conditions.
Legal / Regulatory / Policy	Minor (2)	Unlikely (2)	Low	N/A	N/A
Service Delivery	Minor (2)	Unlikely (2)	Low	N/A	N/A
People	Major (4)	Possible (3)	Moderate	Implementation and enforcement of permit conditions.	Implementation and enforcement of permit conditions.
Infrastructure	Minor (2)	Unlikely (2)	Low	N/A	N/A
Environmental	Minor (2)	Rare (1)	Low	N/A	N/A

APPLICATION OF MOUNT GAMBIER 2035

Environment and Liveability

Increase in sustainable transport options for residents and visitors.

Infrastructure and Services

Alternative public transport option.

Economic and Business Growth

Increase visitation of major tourist sites.

Increase patronage of local businesses.

Increase in attractiveness of Mount Gambier as a visitation destination.

Strategically contribute to CBD Activation.

APPLICATION OF STRATEGIC PLAN

Goal 1 Our People

1.4.2 Providing integrated services and facilities that encourage active living to improve health and wellbeing [Service Provider (Direct) and (Indirect)].

Goal 2 Our Location

- 2.3.3 Better understanding the constraints and seeking innovative solutions to overcome long-standing challenges through effective partnerships [Partnership].
- 2.5 Focusing on activation, revitalisation and placemaking in our CBD - We will look to create opportunity in our CBD for all year-round activation through effective placemaking and place shaping, making it a vibrant, cohesive and safe place.
- 2.5.4 Establish a collaborative activation strategy with CBD traders that delivers a mix of hospitality, cultural and boutique offerings [Partnership, Service Provider (Part Funder)].

Goal 3 Our Diverse Economy

- 3.2.4 Working with operators to deliver a public transport network that connects people to essential services, leisure activities and employment [Advocate, Initiator / Facilitator, Information Provider / Promoter].
- 3.4 Tourism is contributing to a diverse economy and creating opportunity - Mount Gambier, its surrounding townships and the tourism region are positioned as an unique and desirable activity-based destination for travellers from Adelaide and Melbourne.
- 3.4.5 Working with other tourism stakeholders to develop dispersal strategies that bring tourists into the region from across South Australia, Victoria and further afield [Service Provider (Direct) and (Indirect), Partnership].

Goal 4 Our Climate, Natural Resources, Arts, Culture and Heritage

- 4.1.1 Working in partnership with relevant organisations to ensure a sustainable environment [Service Provider (Direct) and Partnership].
- 4.2.2 Ensuring opportunities exist to access and experience natural areas [Owner / Custodian, Service Provider (Direct)].
- 4.2.3 Enhancing and promoting environmental experiences to encourage the involvement of our residents and attract visitors [Owner / Custodian, Service Provider (Indirect)].
- 4.2.4 Seeking to improve connectivity between our reserves and the CBD by non-motorised forms of transport [Owner / Custodian, Advocate].
- 4.4.1 Delivering a network of safe and convenient walking trails and cycle paths linking relevant land uses and recreation opportunities [Owner / Custodian, Information Provider / Promoter].

RELEVANT COUNCIL POLICY

[Unsolicited Proposals - U900](#)

IMPLEMENTATION, COMMUNICATION AND ENGAGEMENT

If Council chooses to pursue a 12-month e-scooter fleet trial, details of implementation, communication and engagement would be worked on with the successful operator.

CONCLUSION

A 12-month trial of an e-scooter fleet presents an opportunity to expand sustainable transport options for visitors and residents of Mount Gambier. This is especially important given the limitations of the local public transport system. The trial has the potential to increase understanding of how people move throughout the town, whilst benefitting tourism and local business. Potential issues can be controlled through the enforcement of strict conditions contained on the permit that would be issued by Council to the successful operator.

Shared Mobility Device Permit

Under sections 200 / 202 / 221 / 222 of the
Local Government Act 1999.



Application Form

SCHEDULE	
ITEM 1 Permit Holder	Name of Operator: ABN: Postal address: Contact details for Permit Holder: <ul style="list-style-type: none">• Name:• Email:• Phone:• 24-hour phone number:
ITEM 2 Location	<p>The City of Mount Gambier local government area, as shown on the attached Location Plan.</p> <p>Designated Parking Zones: To be determined in accordance with clause 5.4.</p> <p>Preferred Parking Zones To be determined in accordance with clause 5.4</p> <p>No Parking Zones:<ul style="list-style-type: none">• John Watson Drive.• Bay Rd (adjacent to Blue Lake/Warwar).• Adjacent to Cave Garden/Thugi sinkhole (refer to Location Plan)• Any areas temporarily closed for Events, in accordance with clause 4.4• Any other locations determined in accordance with clause 5.4</p> <p>Exclusion Zones:<ul style="list-style-type: none">• All local educational facilities.• All local skate parks.• BMX track.• Pump tracks.• Tara Raceway.• Any areas temporarily closed for Events, in accordance with clause 4.4• Any other locations determined in accordance with clause 5.4</p> <p>Go Slow Zone (10km/hr):</p>

	<p>On Council roads that experience high pedestrian demand (and/or support a business precinct):</p> <ul style="list-style-type: none"> • Penola Road & Commercial Street West intersection. • Commercial Street commercial sector – from Wehl Street to Crouch Street. • Lake Terrace Cemetery. • Carinya Gardens Cemetery. <p>On roads under the care, control and management of the Commissioner of Highways, namely:</p> <ul style="list-style-type: none"> • Bay Road • Penola Road • White Avenue • Sutton Avenue (but not Suttontown Avenue) • Jubilee Highway east and west • Pick Avenue
ITEM 3 Term	Twelve (12) months commencing on 23 January 2025 (Commencement Date) and expiring at midnight on 22 January 2026.
ITEM 4 Permit Fee	\$1,500.00 (GST exclusive) per twelve months (subject to clause 5.16)
ITEM 5 Times of Operation	<p>All hours*</p> <p>*Areas within 30m of licensed premises such as pubs and clubs are to be slow zones and no parking zones from 9:30pm to 6am on Fridays and Saturdays.</p>
ITEM 6 Business Activity	Operation of a commercial shared mobility device scheme comprising dockless e-scooters.
	<p>Maximum number of Shared Mobility Devices (i.e. fleet size):</p> <p>One hundred and fifty (150) (subject to clauses 5.15 and 5.17)</p>
ITEM 7 Permit Holder's Equipment	<p>Description of Shared Mobility Device:</p> <p>E-scooter as per the attached Specifications for Shared Mobility Devices.</p> <p>Description of Associated Equipment:</p> <p>One helmet per e-scooter, as per the attached Specifications for Associated Equipment.</p>
ITEM 8 Insurances	<p>Public Liability</p> <p>Twenty Million Dollars (\$20,000,000.00)</p> <p>Personal Accident</p> <p>Five Million Dollars (\$5,000,000.00)</p>

Please attach the following documents to your Application:

- ☐ Device / Equipment Specifications
- ☐ Plan of Operations
- ☐ Public Liability Insurance Certificate of Currency
- ☐ Personal Accident Insurance Certificate of Currency
- ☐ Complaint Handling Process
- ☐ Re-distribution and Re-balance Plan

By signing below, you agree to be bound by the terms of this Permit and you warrant that you have authority to sign on behalf of the Permit Holder.

EXECUTED by in accordance with section 127)
of the *Corporations Act 2001* (Cth) by:)
)

.....
Director Signature

.....
Director / Secretary Signature

.....
Print Name

.....
Print Name

.....
Date

.....
Date

This Permit is granted pursuant to and by force of sections 220, 221 and 222 of the Act (to the extent applicable) and the Council's Permits and Penalties By-law and is **EXECUTED by THE CORPORATION OF THE CITY OF MOUNT GAMBIER** in accordance with section 44(1) of the *Local Government Act 1999* (SA) under delegated authority:

.....
Signed for the Council

.....
Name

.....
Title

.....
Date

Shared Mobility Device Permit

Under sections 200 / 202 / 221 / 222 of the
Local Government Act 1999.



Conditions

BETWEEN The Corporation of the City of Mount Gambier of 10 Watson Terrace (**Council**)

AND

The party described in Item 1 of the Schedule (**Permit Holder**).

TERMS

1. DEFINITIONS

In this Permit:

Act means the *Local Government Act 1999* (SA) and includes the Act as substituted, modified, repealed, replaced and includes all by laws, regulations and rules issued under it.

Approved Location means any public road or land approved for use by the Permit Holder for the Business Activity outside of the Location under a separate permit or agreement with another local government entity.

Business Activity means the use described in Item 6.

Commencement Date means the date stated as the Commencement Date in Item 3 or such other date as the Council notifies the Permit Holder.

Council means the party described as the "Council" in this Permit and where the context permits includes the employees, contractors, agents and other invitees of the Council.

Council's Equipment means all fixtures and fittings, plant, equipment, services, chattels and other goods installed or situated in or on the Location and made available for use by the Council to the Permit Holder (if any).

Designated Parking Zone means an area within the Location designated as a set parking zone for parking of Shared Mobility Devices, as set out in Item 2, or as otherwise designated by the Council in accordance with this Permit.

Exclusion Zone means an area within the Location designated as an exclusion zone for the use of Shared Mobility Devices, as set out in Item 2, or as otherwise designated by the Council in accordance with this Permit.

Fee means the Permit Fee set out in Item 4.

Go Slow Zone means an area within the Location designated as a go slow zone for the use of Shared Mobility Devices, as set out in Item 2, or as otherwise designated by the Council in accordance with this Permit.

Item means an Item in the Schedule to this Permit.

Location means any public road or Council land within the area described in Item 2 and includes the Council's Equipment.

Legislation includes any relevant Statute or Act of Parliament (whether State or Federal) and any regulation or by-law including by-laws issued by any local government body or authority, including the Council in its separate capacity as a local government authority.

No Parking Zone means an area within the Location designated as a no parking zone for parking of Shared Mobility Devices, as set out in Item 2, or as otherwise designated by the Council in accordance with this Permit.

Permit Holder means the party described in Item 1 and where the context permits includes the employees, contractors, agents, authorised representatives, Users and other invitees of the Permit Holder.

Permit Holder's Equipment means any and all fixtures and fittings and other equipment installed in, brought on to, used at or kept at the Location by the Permit Holder (including, without limitation, Shared Mobility Devices, helmets and Shared Mobility Device storage and charging infrastructure), and includes any items listed in Item 7.

Preferred Parking Zone means an area within the Location designated as a preferred parking zone for parking of Shared Mobility Devices, as set out in Item 2, or as otherwise designated by the Council in accordance with this Permit.

Regulations mean the *Local Government (General) Regulations 2013 (SA)*.

Schedule means the Schedule to this Permit.

Shared Mobility Device means a shared mobility device deployed by the Permit Holder as described in Item 7.

Special Conditions means the Special Conditions (if any) attached to this Permit.

Statutory Requirements means all relevant and applicable Legislation and all lawful conditions, requirements, notices and directives issued or applicable under any such Legislation.

Term means the term of this Permit described in Item 3 and commencing on the Commencement Date and any period during which the Permit Holder holds over or remains in occupation of the Location in accordance with this Permit.

Times of Operation means the times set out in Item 5.

User means a user and/or rider of a Shared Mobility Device.

2. GRANT OF PERMIT

2.1 The Council:

- 2.1.1 to the extent that the Location is community land within the Council's area – approves and grants a licence to the Permit Holder under section 200 and section 202 of the Act to use the Location for the Business Activity in accordance with this Permit; and
- 2.1.2 to the extent the Location is Council owned road – grants a permit to the Permit Holder under section 222 of the Act to use the Location for the Business Activity in accordance with this Permit; and
- 2.1.3 to the extent the Location is Council owned road and to the extent that this Permit authorises an alteration being made as defined in section 221 of the Act – grants an authorisation under section 221 of the Act.

- 2.2 To the extent that the Business Activity is regulated under a By-law made by the Council as an activity that requires the Council's permission. This Permit constitutes permission for the activity granted under the Council's *Permits and Penalties By-law No. 1*.

- 2.3 The Permit Holder may only use the Location for the Business Activity for the duration of the Term and during the Times of Operation.
- 2.4 The rights conferred by this Permit are (where relevant) conferred by force of the Act. This Permit does not confer upon the Permit Holder any exclusive right, entitlement or proprietary interest in any public road or Council land within the Location.
- 2.5 The grant of this Permit is subject to the Permit Holder providing to the Council the following documentation (to the Council's satisfaction in all respects):
 - 2.5.1 Device / Equipment Specifications – relating to the Permit Holder's Shared Mobility Devices;
 - 2.5.2 Plan of Operations – demonstrating how the Permit Holder will comply with the conditions of this Permit;
 - 2.5.3 Re-distribution and Re-Balance Plan – demonstrate how the Permit Holder will comply with the conditions of this Permit;
 - 2.5.4 Public Liability Insurance Certificate of Currency and Personal Accident Insurance Certificate of Currency – in accordance with clause 12.3; and
 - 2.5.5 Complaint Handling Process – in accordance with clause 7.2.

3. FEE

- 3.1 The Permit Holder must pay to the Council the Fee prior to the Commencement Date and upon receipt of an invoice from the Council.
- 3.2 Payment of the Fee is required in full and no amount of the Fee is refundable.

4. USE OF LOCATION

4.1 Business Activity

- 4.1.1 The Permit Holder must use the Location only for the Business Activity and must not use or allow the Location to be used for any other use (without the Council's permission).
- 4.1.2 The Permit Holder must only operate at the Location identified in Item 2.
- 4.1.3 The Permit Holder must use its best endeavours to ensure that its Users only start and end journeys on Shared Mobility Devices within the Location or in another Approved Location, including (albeit not limited to) through establishing a geo-fence around the Location.

4.2 Prohibited activities

- 4.2.1 Notwithstanding clause 4.1, the Permit Holder must not cause or permit any offensive or dangerous activities or behaviour on or from the Location or create, cause or permit a nuisance or disturbance to the Council, the public or other owners or occupiers of nearby land.
- 4.2.2 The Permit Holder must ensure that its conduct of the Business Activity does not compromise or have a negative impact on other users of public roads and Council land.
- 4.2.3 The Permit Holder must ensure at all times that all activities conducted on or from the Location will not discredit the Council (in the Council's opinion).
- 4.2.4 The Permit Holder must not offer to sell goods, solicit, attempt to attract trade or business, tout or spruik on the Location or any area owned or

controlled by the Council surrounding the Location, other than directly related to the Business Activity.

- 4.2.5 Except to the extent expressly permitted under this Permit, the Permit Holder must not carry out any alterations or additions to the Location without the Council's prior written approval and, if necessary, authorisation pursuant to section 221 of the Act.

4.3 Comply with directions

The Permit Holder must comply with all reasonable directions given to the Permit Holder by the Council in relation to this Permit or the Business Activity.

4.4 Events within the Location

- 4.4.1 The Permit Holder acknowledges and agrees that if any area within the Location is being used for another organised purpose (Event), which has been approved or authorised by the Council and notified to the Permit Holder in advance, that area will comprise an Exclusion Zone under this Permit and the Permit Holder will cooperate with the organisers of the Event and the Council and will cease operation of the Business Activity within that Exclusion Zone area for the duration of the Event.

- 4.4.2 The Permit Holder acknowledges and agrees that the Council will not be liable for any claims or costs suffered by the Permit Holder due to any disruption of the Business Activity by any actions of the Council, including authorising or approving the Event.

5. OPERATIONS

- 5.1 The Permit Holder must provide the Council with up to date and relevant locally based contact details for the operational point of contact for the purposes of this Permit.
- 5.2 The Permit Holder must enable easy 24/7 reporting of faulty or damaged Shared Mobility Devices, missing helmets and Shared Mobility Devices in inappropriate locations, through their app, website, email and a fully dedicated phone number.
- 5.3 Upon receiving notice or a report from the Council or a member of the public, the Permit Holder must disable from service any faulty or damaged Shared Mobility Device and repair it before it is returned to service.
- 5.4 The Council will consult with the Permit Holder to determine the location of Preferred Parking Zones, Designated Parking Zones, No Parking Zones, Go Slow Zones and Exclusion Zones, however the Council's right to determine such locations will not be fettered by the Permit Holder.
- 5.5 All Preferred Parking Zones, Designated Parking Zones, No Parking Zones, Go Slow Zones and Exclusion Zones must be clearly displayed on the Permit Holder's service maps for Users.
- 5.6 The Permit Holder must actively promote and enforce Preferred Parking Zones, Designated Parking Zones, No Parking Zones, Go Slow Zones and Exclusion Zones and must have systems in place to incentivise good riding and parking behaviour and to penalise User non-compliance. This includes (without limitation) the requirement to have geo-fencing capabilities and the imposition of additional charge in accordance with the terms of this Permit.
- 5.7 The Permit Holder may install infrastructure or undertake alterations to the Council Equipment or property to indicate Preferred Parking Zones, Designated Parking Zones, No Parking Zones, Go Slow Zones and Exclusion Zones within the Location (including, e.g., signage, line marking, bike racks), subject to the Council consent and in accordance with the Council's specifications and requirements.

- 5.8 Shared Mobility Devices must not be used within Exclusion Zones at any time, and the Permit Holder must ensure that the motor of the Shared Mobility Device immediately turns off when the Device enters an Exclusion Zone.
- 5.9 The Permit Holder can penalise Users for using a Shared Mobility Device within an Exclusion Zone. It is at the Permit Holder's discretion whether a penalty is imposed to improve User behaviour.

Parking of Shared Mobility Devices

- 5.10 Shared Mobility Devices must be parked in an upright position beside bicycle parking stands where possible. If this is not possible, they should be parked on wide footpaths, in areas of low pedestrian activity, and positioned kerbside; away from the building line. This information must be conveyed clearly to each User.
- 5.11 Shared Mobility Devices must not be parked or allowed to remain on or in No Parking Zones or in dangerous or inappropriate locations including (without limitation):
- a) within the pedestrian zone of a footpath (i.e. within 1.5 metres of the building line);
 - b) where they could pose a safety hazard; or
 - c) where they could interfere with pedestrian access generally or access to amenities.
- 5.12 Any Shared Mobility Device that is parked in a No Parking Zone or outside of the Location or another Approved Location must be relocated or removed by the Permit Holder within the timeframes specified in clause 5.23, or the Shared Mobility Device may be removed by the Council at the expense of the Permit Holder.
- 5.13 In order to manage the introduction of Shared Mobility Devices in the Location over time, parking requirements, including Preferred Parking Zones, Designated Parking Zones, No Parking Zones, Go Slow Zones and Exclusion Zones, will be subject to change as the Council adapts to the conduct of the Business Activity by the Permit Holder. The Council will provide reasonable written notice to the Permit Holder of any change to relevant requirements within the Location.

Deployment and density requirements

- 5.14 The Permit Holder's fleet of Shared Mobility Devices must not exceed the maximum number of Shared Mobility Devices specified in Item 6 of the Schedule, except in accordance with clause 5.15. The Permit Holder may deploy less than the maximum number of Shared Mobility Devices specified in Item 6 at its discretion.
- 5.15 The Permit Holder may increase the number of Shared Mobility Devices specified in Item 6 to a maximum of 200 **Shared Mobility Devices**, if the average daily usage recorded by the Permit Holder is **1 trip per device per day or higher**, upon provision of satisfactory evidence and subject to Council's consent (which may be withheld in its absolute discretion).
- 5.16 In the event that the Permit Holder increases the number of Shared Mobility Devices in accordance with clause 5.15, the Permit Fee will increase by **\$10 per device per 12 months** (including part thereof) **(GST exclusive)**.
- 5.17 If the average daily usage recorded by the Permit Holder is **less than 0.3 trips per device per day**, the Council may require the Permit Holder to reduce the total number of Shared Mobility Devices specified in Item 6, to ensure that the average daily usage remains between 0.3 trips and 1 trip per device per day.
- 5.18 In the event that the Permit Holder decreases the number of Shared Mobility Devices in accordance with clause 5.18, there will be no reduction to the Fee.

- 5.19 The Permit Holder must deploy Shared Mobility Devices in a manner consistent with the provisions of this Permit relating to the parking of Shared Mobility Devices in clauses 5.10 to 5.14.
- 5.20 The Council may determine the appropriate Shared Mobility Device distribution and densities in consultation with the Permit Holder, from time to time. This may vary by location as determined by the Council from time to time during the Term.
- 5.21 The Permit Holder must monitor the location of all Shared Mobility Devices daily to avoid clutter or clustering of Shared Mobility Devices in any one location and adhere to the fleet size, distribution zones and density limits set by the Council from time to time.
- 5.22 The Permit Holder must prepare and maintain a plan to manage the redistribution of Shared Mobility Device to ameliorate clustering, in advance of any Event, or at the request of the Council.

Faulty, damaged or misplaced Shared Mobility Devices

- 5.23 If the Council or a member of the public reports a damaged, faulty, abandoned or inappropriately parked or located Shared Mobility Device, the Permit Holder must comply with the following timeframes for relocation, from receipt of notification:

ISSUE	EXAMPLES	RESPONSE TIME
Dangerously located	Parked on a roadway, traffic island Parked on main path of Rail Trail	Within 30 minutes
Damaged/Faulty	Missing Wheels Reported as unsafe to ride Reported as abandoned Reported as missing helmet	Immediately deactivated and removed within 24 hours
Inappropriately located	Parked in an Exclusion Zone Parked outside of the Location or Approved Location (including adjacent council areas that currently do not operate any Shared Mobility Device) On private property (subject to agreement with the property owner) Parked in an engineered drainage reserve.	Within 1 hour
Impacting a geographical, cultural, civic or tourism related asset.	Within perimeter fencing of <ul style="list-style-type: none"> Cave Garden/Thugi Blue Lake/Warwar. 	Immediately deactivated and removed within 48 hours.
Impacting a geographical, cultural, civic or tourism related asset.	Within perimeter fencing of Engelbrecht Cave Within lower level of Umpherston Sinkhole/Balumbul. Within geographical features such as blowholes/vents on O'Halloran Terrace and Boandik Tce.	Immediately deactivated and removed within 24 hours.
Impeding access	Impeding property access or parked across pedestrian kerb ramp Creating a barrier or hazard to pedestrian access	Within 1 hour
Inappropriate density	Clustering and breaching density limit set by the Council	Within 4 hours
Unused	Unused for more than 3 days	Within 24 hours

Fallen over	Not parked in a standing position	Within 3 hours
Uncharged	Flat or low battery	Immediately deactivated and removed within 24 hours

- 5.24 If the Permit Holder fails to relocate a Shared Mobility Device, as advised by the Council, within the response time specified in clause 5.23, the Council may remove or relocate the Shared Mobility Device at the expense of the Permit Holder, such expense to be recoverable from the Permit Holder as a debt, including a surcharge of 10%.
- 5.25 The Council may impound Shared Mobility Devices if they are not removed within the listed response times above and will be entitled to deal with such Shared Mobility Devices as abandoned goods in accordance with clause 16.3.

6. PERMIT HOLDER'S EQUIPMENT

- 6.1 Any Permit Holder's Equipment installed in, brought on to, used at or kept at the Location (including Shared Mobility Devices) by the Permit Holder under this Permit is subject to prior Council approval (which the Council may approve or refuse at its discretion).
- 6.2 The Permit Holder must maintain the Permit Holder's Equipment and keep the Permit Holder's Equipment in good, safe and proper repair and condition in accordance with all relevant legislative requirements and Australian Standards, and to the Council's satisfaction, during the Term.
- 6.3 Without limiting clause 6.2, at a minimum, the Permit Holder must give all Shared Mobility Devices a full service every six (6) months, with regular checks and repairs throughout the year. All mechanical services and repairs must be logged and available for review by the Council at least every month or whenever requested.
- 6.4 All Permit Holder's Equipment must be of sufficiently high quality to withstand constant public use, while meeting rider safety and comfort standards. All Shared Mobility Devices must include smart technology with an active global positioning system (GPS) and wireless connectivity to enable maintenance and proactive device re-distribution.
- 6.5 The Permit Holder must have a system in place to ensure that all Shared Mobility Devices and all Permit Holder's Equipment (including without limitation, all helmets) continue to comply with all relevant legislative requirements and standards, including AS 15194 and EN 15194 for electrically power assisted cycles and AS/NZS 1927 for pedal bicycle-safety (as amended from time-to-time).
- 6.6 All Shared Mobility Devices must be supplied with a helmet that meets Australian Standards at all times and must have sturdy kickstands.
- 6.7 Shared Mobility Devices must be limited in mass, speed and power levels as required by the *Road Traffic (Electric Personal Transporters) Notice No. 5 of 2021* issued under Section 161A of the *Road Traffic Act 1961* (SA) including as amended or replaced by any other notice issued under that Act from time-to-time, or as required by any other relevant legislative requirements.

7. COMMUNICATION AND USER EXPERIENCE

- 7.1 The Permit Holder must provide 24/7 communication and reporting channels for Users, including a clearly advertised telephone number provided on their website, apps and on all Shared Mobility Devices.

- 7.2 The Permit Holder must have a clear plan in place to respond to queries and complaints to minimise escalation to the Council, including a complaint handling process, and must provide a copy of this plan to the Council.
- 7.3 The Permit Holder must ensure that Users do not use the Permit Holder's devices unless they have agreed to the Permit Holder's terms and conditions of use which must be consistent with the conditions of this Permit, legislative requirements and the Australian Road Rules under the *Road Traffic Act 1961* (SA), and which must promote responsible and legal use, public safety and good parking behaviour.

8. DATA REQUIREMENTS

- 8.1 All personal information of Users must be collected, processed and stored by the Permit Holder in accordance with all relevant legislative requirements.
- 8.2 Upon request, the Permit Holder must provide to the Council anonymised data collected by the Permit Holder and micromobility insights regarding the operation of the Permit Holder in the Location, to assist with ongoing network and infrastructure planning and cycle facility improvements.
- 8.3 The Permit Holder must provide the Council with the following data and information on a monthly basis, or otherwise as requested:
- 8.3.1 key metrics regarding the operation of the Permit Holder in the Location, including total numbers of trips and total kilometres travelled (per Device, and in total), fleet availability, utilisation and mode shift;
- 8.3.2 the data outlined in the following table for each trip recorded by a User of a Shared Mobility Device anonymised in a data spreadsheet (excel and/or other agreed format) containing information on all trips undertaken in the reporting month:

	FORMAT	DESCRIPTION
Company Name	[company name]	n/a
Trip record number	Xxx00001, xxx00002, xxx00003, ...	3-letter company acronym + consecutive trip #
Unique, hashed and persistent ID of the User		So the Council can understand one-time vs regular Users.
User Demographics as available		For example, post code, country of origin (from mobile phone or app store), gender and age (if collected).
Trip duration	MM:SS	n/a
Trip distance	KM	n/a
Trip waypoints to track the route (at least every minute)	An XML file format to be agreed	n/a
Start date	MM, DD, YYYY	n/a
Start time	HH:MM:SS (00:00:00 – 23:59:59)	n/a
End date	MM, DD, YYYY	n/a
End time	HH:MM:SS (00:00:00 – 23:59:59)	n/a
Start location	GPS location	n/a
End location	GPS location	n/a

Bicycle or e-scooter ID number	xxxx1, xxxx2, ...	Unique identifier for every Shared Mobility Device, determined by the Permit Holder
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- 8.3.3 data regarding public complaints and feedback received and categorised;
- 8.3.4 response times (including average) to resolved public complaints, maintenance and repair activities (including an overview of average life of Shared Mobility Devices with percentage / count lost to vandalism verse expected depreciation);
- 8.3.5 data regarding known total number of incidents, collisions, near misses, injuries (minor, serious and third party), fatalities, property damage involving Shared Mobility Devices. Information to include location, time contributing factors and severity and summary of changes made to policy, requirements or procedures as a result of any of the above;
- 8.3.6 notify and report on any known incidents and injuries resulting in hospitalisation or paramedic attendance of a User or any third party as the result (or alleged result) of an incident with a Shared Mobility Device within the Location, within 24 hours of the incident time;
- 8.3.7 any available carbon emission reporting including the estimated total kWh consumed to charge the Shared Mobility Devices for the period and the number of kilometres travelled by the Permit Holder vehicles and whether those vehicles were internal-combustion vs. electric;
- 8.3.8 an overview of the average life of Shared Mobility Device fleet and percentage / count lost to vandalism vs. normal depreciation;
- 8.3.9 any data available that is relevant to ride quality and braking coefficients; and
- 8.3.10 other relevant insights relating to the Business Activity in the Location.
- 8.3.11 Weekly Reporting – The operator is to provide weekly reports on each Tuesday covering reported safety incidents, accidents and near misses.
- 8.3.12 Monthly and Quarterly Reporting – The operator is to provide monthly and quarterly reports that include anonymised trip data to support the e-scooter evaluation process. This data will be used to better understand people movement within the City of Mount Gambier.

Monthly and quarterly reports will include, but not limited to:

- Patronage on each vehicle type.
- Trip information with vehicle identification including start time, total trip time, total trip distance, start/end/route info.
- A rolling summary of fleet deployment numbers, fleet age and maintenance performed.
- Reported safety incidents, accidents and near misses.
- Key Sustainability information such as energy consumption used by operations vehicles.
- Feedback and complaints.

- 8.4 The Permit Holder must have the capacity to provide the Council with real-time device status and trip information through a documented application program interface (API) of the Council's choosing (such as the Mobility Data Specification (MDS) Provider API outlined at <https://github.com/openmobilityfoundation/mobility-data-specification/tree/dev/provider>) and:

- 8.4.1 Data management services may be provided by a third party software company contracted by the Council, so access to an API such as MDS must be provided to the third party specified by Council.
- 8.4.2 At a minimum, all required fields in the Provider API and the parking_verification_url field must be populated.
- 8.4.3 Implementation of changes to the required fields, as formalized through the MDS Github Repository, will be required within 30 business days of being provided formal notice by the Council.
- 8.4.4 The Permit Holder must have the capacity to update the MDS status endpoint at least every 10 minutes during operation;
- 8.4.5 the Council may use a third party vendor to conduct an audit on the MDS API of each micromobility service to ensure compliance with the specification as a condition of launch of service; and
- 8.4.6 an overview of data provided in the MDS Provider API (including each specific region identified).
- 8.5 The Permit Holder must have the capacity to provide the Council with real-time information on all of its Shared Mobility Devices through a documented application program interface (API) upon request. The data that is required to be published to the Council API must include the following information in real time for every parked Shared Mobility Device in the Location:
 - a) Identification number;
 - b) GPS Co-ordinates;
 - c) Availability start date;
 - d) Availability start time;
 - e) Power level;
 - f) Date of last service;
 - g) Time to next service; and
 - h) Service status.
- 8.6 The Permit Holder will support the General Bikeshare Feed Specification (GBFS), an open data standard for cycle share which makes real-time data feeds publicly available online in a uniform format so that map and transportation-based apps can easily incorporate this data into their platforms.
- 8.7 The Permit Holder must provide the Council with access to any user surveys and responses undertaken by the Permit Holder or any of its Users. This data must be in an anonymised format, including removal of email addresses or unique user identifiers.
- 8.8 Subject to clause 8.9, the Council reserves the right to display information about the Permit Holder and the operation of the Business Activity under this Permit on its website, and may with the Permit Holder's consent display data obtained from the Permit Holder under this clause 8 on its website or in publicly-available Council reports.
- 8.9 The Council acknowledges that the data provided by the Permit Holder under this clause 8 is regarded as confidential information. The Council will maintain the confidentiality of all such data and shall not disclose any of this confidential information to any third parties, except for information that:
 - 8.9.1 is or will be in the public domain (other than through the Council's unauthorised disclosure);

8.9.2 is under the obligation to be disclosed pursuant to the applicable laws or regulations or orders of the court or other government authorities; or

8.9.3 the Permit Holder has consented to being shared.

9. SUSTAINABILITY REQUIREMENTS

9.1 The Permit Holder must use its best endeavours to charge all Shared Mobility Devices using certified renewable energy.

9.2 The Permit Holder must use its best endeavours to ensure that any vehicle trip undertaken by the Permit Holder's operational team (including sub-contractors) in connection with the maintenance, inspection, collection or relocation of Shared Mobility Devices utilises electrical vehicles or otherwise has its emissions offset.

10. STATUTORY REQUIREMENTS

10.1 The Permit Holder must, at all times during the Term, comply with:

10.1.1 all Statutory Requirements; and

10.1.2 all applicable Australian Standards and European Committee for Standardization Standards, occupational health and safety, and public health standards,

10.1.3 in relation to the Business Activity.

10.2 The Permit Holder must, prior to using the Location for the Business Activity, obtain all required permits, consents, approvals, certificates and any other authorisations which may be required by a Statutory Authority or pursuant to any Statutory Requirement (including under section 221 of the Act for any alteration or addition to the road) and provide copies of the same to the Council.

10.3 Without limiting clauses 10.1 or 10.2, the Permit Holder must, at all times during the Term, comply with the *Road Traffic (Electric Personal Transporters) Notice No. 5 of 2021* issued under Section 161A of the *Road Traffic Act 1961 (SA)* including as amended or replaced by any other notice issued under that Act from time to time.

11. USER SAFETY

11.1 The Permit Holder shall advise all Users of the requirement to comply with the South Australian Road Rules and all other Acts, Regulations, By-laws and Policies applicable to the use of the Shared Mobility Devices, and of the requirement to consider the safety and comfort of other people on the road and footpaths.

11.2 The Permit Holder must advise Users of risks and insurances applicable to Users; requirement for Users of Shared Mobility Devices to be over 18 years of age and ensure a wearable bike helmet that can be securely fitted is provided with every Shared Mobility Device.

11.3 The Permit Holder must provide to South Australian Police upon written request information relating to the use of a Shared Mobility Device under this Permit where it is required:

11.3.1 for law enforcement purposes; and

11.3.2 to assist in investigating a crash or incident involving a Shared Mobility Device.

12. INSURANCE

12.1 **Permit Holder must insure**

- 12.1.1 The Permit Holder must keep current at all times during the Term:
- 12.1.2 public risk insurance for at least the amount in Item 8 for each claim;
- 12.1.3 personal accident insurance for at least the amount in Item 8 for each claim;
and
- 12.1.4 other insurances required by any Statutory Requirement or which the Council reasonably requires.

12.2 Requirements for policies

Each policy the Permit Holder takes out under this clause 12 must:

- 12.2.1 be with an Australian-based insurer and on terms approved by the Council;
- 12.2.2 be in the name of the Permit Holder and note the interest of the Council and any other person the Council requires (except User personal accident and third party insurance);
- 12.2.3 cover events occurring during the policy's currency regardless of when claims are made; and
- 12.2.4 note that despite any similar policies of the Council, the Permit Holder's policies will be primary policies.

12.3 Evidence of insurance

The Permit Holder must give the Council certificates evidencing the currency of the policies the Permit Holder has taken out under this clause 12. During the Term of the Permit, the Permit Holder must keep each policy valid and enforceable at all times.

13. INDEMNITY AND RELEASE

- 13.1 The Permit Holder is liable for and indemnifies the Council from and against all actions, costs, claims and damages, which may be brought or claimed against the Council arising out of or in relation to the granting of the Permit or the undertaking of the Business Activity except where any action, cost claim or damage is caused by the negligence or default of the Council.
- 13.2 The Permit Holder releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in, on, over or in the vicinity of the Location except to the extent that they are caused by the Council's negligence or default. This clause does not limit any release the Council may have from any actions, liabilities, penalties, claims or demands pursuant to any Legislation.
- 13.3 Each indemnity is independent from the Permit Holder's other obligations and continues during this Permit and after this Permit ends.

14. DAMAGE

- 14.1 The Permit Holder must not permit, cause or contribute to damage to the Location, including the road, footpath, Council owned or controlled land or property in the immediate vicinity of the Location or any of the Council's Equipment in carrying out the Business Activity or otherwise in connection with this Permit.
- 14.2 If the Permit Holder does cause any damage to the Location, including the road, footpath, Council owned or controlled land or property, or any of the Council's Equipment, the Permit Holder must immediately notify the Council and at its own cost and expense immediately rectify the damage and reinstate the Location to the satisfaction of the Council and in accordance with all directions and requirements of Council.

- 14.3 If the Permit Holder fails to promptly rectify and repair any such damage to the Location pursuant to clause 14.1, or alternatively if the Council elects in its discretion, the Council may undertake the rectification and repairs itself, without notice having been given to the Permit Holder and the Council shall be entitled to recover from the Permit Holder as a liquidated debt any costs incurred in doing so.

15. COUNCIL'S RIGHTS AND OBLIGATIONS

15.1 Right to enter and inspect

The Council may inspect conduct of the Business Activity by the Permit Holder or the Permit Holder's Equipment to do repairs or other works or to satisfy any Statutory Requirements at any time during the Term.

15.2 Emergencies

In an emergency the Council may close or prevent access to the Location or any part of the Location by the Permit Holder without prior notice.

16. RIGHTS AND OBLIGATIONS ON EXPIRY & BREACH

16.1 Termination of Permit

The Permit will immediately cancel on the earlier of:

- 16.1.1 the expiration of the Term;
- 16.1.2 the termination of the Permit by the Council as permitted under this Permit.

16.2 Vacating the Location

On or before the expiry of the Term, the Permit Holder must:

- 16.2.1 cease using the Location for the Business Activity;
- 16.2.2 remove any Permit Holder's Equipment, including all Shared Mobility Devices from the Location; and
- 16.2.3 repair any damage caused by such removal in accordance with clause 14.

16.3 Abandoned goods

Without limiting the obligations in clause 5 in any way, if the Permit Holder leaves any Shared Mobility Devices, any Permit Holder's Equipment or any other goods or equipment on the Location except where authorised under this Permit, such goods will vest in the Council and the Council will be entitled to deal with and dispose of those goods at its discretion, and may recover the costs of doing so from the Permit Holder as a debt, including a surcharge of 10%.

16.4 Council's rights on breach

In the event that:

- 16.4.1 the Permit Holder is in breach of any of its obligations under this Permit;
- 16.4.2 any moneys (or part of any moneys) payable under this Permit are unpaid for seven (7) days after any day on which the same was due and payable (although no formal or legal demand has been made); or
- 16.4.3 in the case of the Permit Holder being a company or association:

- 16.4.3.1 a meeting of the directors or members of the Permit Holder is convened to pass a resolution that an administrator of the Lessee be appointed or that the Permit Holder be wound up voluntarily;
- 16.4.3.2 any person appoints an administrator of the Permit Holder;
- 16.4.3.3 an application is made to any court to wind up the Permit Holder;
- 16.4.3.4 an application is made pursuant to section 411 of the *Corporations Act 2001* (Cth);
- 16.4.3.5 a Controller, Managing Controller, Receiver or Receiver and Manager is appointed to the Permit Holder or in respect of any property of the Permit Holder; or
- 16.4.3.6 the Permit Holder is deregistered or dissolved;

then the Council and anybody authorised by the Council for that purpose may:

- 16.4.3.7 if capable of remedy, give notice specifying the breach and requiring the Permit Holder to remedy the breach within a reasonable period of time, being at least one (1) month, and may suspend the Permit for this duration, unless the Council determines that a shorter period should apply to protect the health or safety of the public;
 - 16.4.3.8 at any time thereafter come onto the Location without notice and do all things necessary to remedy that breach; and
 - 16.4.3.9 if the Permit Holder fails to remedy the breach in accordance with clause 16.4.3.7, or is the breach is not capable of remedy, the Council may immediately terminate this Permit by written notice to the Permit Holder and the Permit shall come to an end on the date specified in that notice.
- 16.4.4 The Permit Holder will be liable to pay or reimburse the Council for all costs and expenses incurred in connection with any breach by the Permit Holder under this clause 16.4 that regard which the Council may recover from the Permit Holder as a debt.
 - 16.4.5 The Permit Holder must immediately notify the Council if it breaches any provision of this Permit.
 - 16.4.6 This clause 16 does not limit or prevent Council's powers or obligations under sections 224A and 225 of the Act.

17. GENERAL

17.1 Execution of Permit

This Permit is not effective until the Permit Holder has received a copy of the Permit signed by the Council.

17.2 Permit not transferable

17.2.1 This Permit is not transferable.

17.2.2 The Permit Holder must notify the Council in writing prior to entering into any binding contract for sale, transfer or to lease, licence or franchise the business of the Permit Holder to which this Permit relates, that the Permit Holder intends to enter into such contract. Council must be in agreement.

17.3 Waiver

If the Council accepts or waives any breach, that acceptance or waiver cannot be taken as an acceptance or waiver of any future breach.

17.4 Amendment of Permit

The Council may amend any term of this Permit with thirty (30) days' notice to the Permit Holder, and the parties may otherwise agree to amend the terms of this Permit at any time with mutual agreement.

17.5 Duty of cooperation

The parties acknowledge and agree to cooperate with one another in relation to the performance of this Permit.

17.6 Severance

If any part of this Permit is found to be invalid or void or unenforceable, then that part will be severed from this Permit and the remainder of this Permit will continue to apply.

17.7 Special Conditions

The Permit Holder acknowledges and agrees that the Special Conditions (if any) form part of this Permit and bind the Permit Holder, and to the extent there is any inconsistency between the Special Conditions and any other term of this Permit, the Special Conditions shall prevail.

17.8 Entire Permit

The Council and the Permit Holder acknowledge and agree that this Permit contains and represents the entire agreement reached between them with regard to the Location and that no promises, representations or undertakings, other than those contained in this Permit, were made or given or relied upon.

17.9 Notices

A notice given under this Permit must be in writing and may be given by post, by email, or by delivery:

17.9.1 to the Council at:

17.9.1.1 its office;

17.9.1.2 the address or email address of the Council appearing in this Permit; or

17.9.1.3 any other address or email address of which written notification has been given;

17.9.2 to the Permit Holder at:

17.9.2.1 its address or email address appearing in this Permit; or

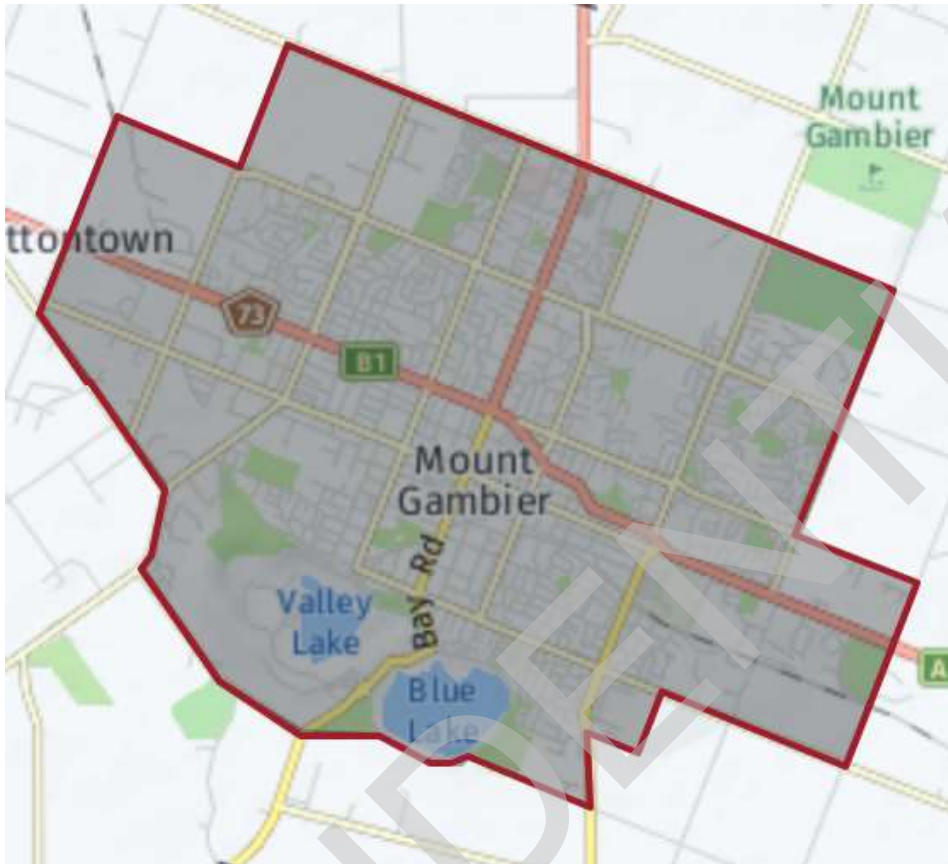
17.9.2.2 any other address or email address of which written notification has been given.

17.9.3 Where more than one person comprises a party, notice to one of those persons is effective notice to all of those persons and to that party.

17.9.4 Posted notices will be taken to have been received 2 Business Days after posting with postage prepaid.

- 17.9.5 Notices delivered by hand will be taken to have been received when delivered.
- 17.9.6 Notices sent by email will be taken to have been received 4 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered.
- 17.9.7 However notices delivered by hand after 5.00 p.m. will be taken to have been received at 9.00 a.m. on the next Business Day at the place where it is received.
- 17.9.8 Notices will be regarded as effective if signed for and on behalf of a party by its lawyers or, if the party is a corporation, by a director or duly authorised officer of the corporation.

LOCATION PLAN [update]



CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the Local Government Act 1999 the Council orders that the report Micromobility (e-scooter) Update and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under:
 - (b) information the disclosure of which -
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest.
 - (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

be kept confidential and not available for public inspection until such time as the proponent has been formally advised of the outcome of their Unsolicited Proposal and Council has been released from its duty of confidence.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the Local Government Act 1999.

CONFIDENTIAL MINUTES

Ordinary Council Meeting

Tuesday 17 September 2024



Minutes of City of Mount Gambier Confidential Ordinary Council Meeting held at:

Time: 6:00 pm

Date: Tuesday 17 September 2024

Location: Council Chamber - Civic Centre
10 Watson Terrace, Mount Gambier

PRESENT: Mayor Lynette Martin (OAM)
Cr Kate Amoroso
Cr Max Bruins
Cr Paul Jenner
Cr Mark Lovett
Cr Josh Lynagh
Cr Sonya Meziniec
Cr Frank Morello

OFFICERS IN ATTENDANCE:	Chief Executive Officer	- Mrs S Philpott
	General Manager City Infrastructure	- Ms B Cernovskis
	General Manager Corporate and Regulatory Services	- Mrs J Fetherstonhaugh
	Manager Governance and Property	- Ms B Shelton
	Media and Communications Coordinator	- Ms S McLean
	Manager Economy, Strategy and Engagement	- Mrs B Shearing
	Director Riddoch Arts and Cultural Centre	- Ms A Whatling
	Economy, Strategy and Engagement Project Officer	- Miss M Brookes
	Manager Operations Infrastructure	- Mr K Manarangi
	Councillor Support Officer	- Mrs M Telford
	Executive Administrator	- Ms S Wilson
	Executive Administrator	- Miss T Chant

22 NEW CONFIDENTIAL ITEMS

22.1 MICROMOBILITY (E-SCOOTER) UPDATE

RESOLUTION OCM 2024/131

Moved: Cr Frank Morello
Seconded: Cr Josh Lynagh

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except the Mayor, Councillors and S Philpott, B Cernovskis, J Fetherstonhaugh, B Shelton, S McLean, B Shearing, A Whatling, M Brookes, K Manarangi, M Telford, S Wilson and T Chant be excluded from attendance at the meeting for the receipt and consideration in confidence of Micromobility (e-scooter) Update).

The Council is satisfied that, pursuant to section 90(3) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- (b) information the disclosure of which -
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and

- (ii) would, on balance, be contrary to the public interest.
- (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information regarding mobility devices contains commercial information of a confidential nature provided to Council in-confidence, and the consideration of which if conducted in open could prejudice the position of Council or the party that provided the information or confer a commercial advantage on a third party.

CARRIED

Cr Mark Lovett left the meeting at 7:19 pm and did not return.

RESOLUTION OCM 2024/132

Moved: Cr Josh Lynagh
Seconded: Cr Max Bruins

1. That Council report titled 'Micromobility (e-scooter) Update' as presented on 17 September 2024 be noted.
2. That the existing unsolicited proposal no longer be pursued in accordance with Council Policy U900 Unsolicited Proposals and the proponent be formally advised that the matter is now closed.
3. That subject to the *Statutes Amendment (Personal Mobility Devices) Bill 2024* being passed, Council test the market by progressing with an Expression of Interest (EOI), to seek an operator for a 12-month e-scooter fleet trial.

CARRIED

RESOLUTION OCM 2024/133

Moved: Cr Max Bruins
Seconded: Cr Sonya Meziniec

CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the Local Government Act 1999 the Council orders that the report Micromobility (e-scooter) Update and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under:
 - (b) information the disclosure of which -
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest.

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest.
 - (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

be kept confidential and not available for public inspection until such time as the proponent has been formally advised of the outcome of their Unsolicited Proposal and Council has been released from its duty of confidence.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the Local Government Act 1999.

CARRIED