

MEMORANDUM OF UNDERSTANDING
Activating Gravel Cycling in Victoria’s High Country

Date:	26 February, 2024
Parties:	NORTH EAST VICTORIAN TOURISM BOARD ABN: 84715244593 of Level 1, 19-23 Camp Street, Beechworth VIC 3747 <p style="text-align: right;">(TNE)</p>
	MANSFIELD SHIRE COUNCIL of 33 Highett Street, Mansfield VIC 3722 <p style="text-align: right;">(MSC)</p>

BACKGROUND

- A. The Activating Gravel Cycling Project is an initiative that forms part of the Victorian High Country’s cycling product offering and is activated through the areas of control of the Stakeholders.
- B. The parties wish to enhance the cycling product offering in the High Country and are parties to the Activating Gravel Cycling Project (**The Project**).
- C. TNE received funding to commission trailhead signage and infrastructure to support a newly developed gravel cycling network, which will be placed in mutually agreed locations within the Stakeholder's boundary.
- D. TNE will donate the commissioned signage and trailhead infrastructure that is within each of the Stakeholder's areas of control to that LGA/ Alpine Resort.
- E. The parties established a Project Steering Group (**PSG**) to implement The Project.
- F. The memorandum of understanding (**MOU**) governs the commission, establishment, and donation of the trailhead signage and artwork.

1. STATEMENT OF INTENT

- 1.1 The Stakeholders, in collaboration with TNE, aspire to own cycling tourism in Australia. The parties developed the Activating Gravel Cycling Project to assist the Victorian High Country region in realising this vision by developing a comprehensive network of gravel cycling trails catering to cyclists of all levels. Differentiating the regional cycling offering from its competitors and

acting as a key tourism driver for the Region. The project, which includes the development of a new network of gravel cycling trails, improved amenity options and a world-first gravel cycling difficulty standard rating system, will effectively establish the gravel rail trail network as an authentic hero tourism product that will be central to delivering strong outcomes for the local visitor economy.

- 1.2 The Activating Gravel Cycling Project aims to:
 - 1.2.1 Make the High Country the pre-eminent **Gravel Cycling Destination** in the Southern Hemisphere.
 - 1.2.2 Drive repeat visitation and advocacy for **Gravel Cycling** through enhancing the visitor experience.
 - 1.2.3 Inspire, delight, and encourage talk-ability and social media shareability to position the High Country's **Gravel Cycling offer** as a 'must do' accessible cycling experience to Australian and international audiences.

2. INTERPRETATION

2.1. Definitions

In this MOU, including the recitals, unless the context otherwise requires:

Area of control means the area that falls within the geographic boundaries of each LGA and /or participating Alpine Resort.

Signage means the Signage commissioned by Tourism North East.

Business Day means a day on which the trading banks are open for general business in Melbourne.

Commissioned Work means the finished cycling infrastructure commissioned by TNE.

Stakeholders include Alpine Shire Council, Indigo Shire Council, Rural City of Wangaratta, Towong Shire Council, Mansfield Shire Council, Mt Hotham Alpine Resort, Mt Buller Alpine Resort and Falls Creek Alpine Resort.

Maintenance Requirements mean the maintenance of the Signage and Infrastructure in good condition considering the nature of the material used and the area where the Signage and Infrastructure are erected and includes, but is not limited to, any written Maintenance Manual provided by any manufacturer.

LGA means Local Government Area and refers to the Shire Council or Alpine Resort Victoria stakeholder.

Maintenance Manual means any written maintenance instructions of a manufacturer.

MOU means this memorandum of understanding.

Gravel Cycling Trail means the routes designed for use by cyclists.

Gravel Cycling Project means that part of the project that runs through the areas controlled by the Stakeholders.

PSG means the Project Steering Group, which consists of representatives of TNE and the Stakeholders.

Region means the Victorian High Country through which the Gravel Cycling Project runs with specific reference to the areas of the Stakeholders who are parties to the MOU.

TNE means NORTH EAST VICTORIAN TOURISM BOARD ABN: 84715244593 of Level 1, 19-23 Camp Street, Beechworth VIC 3747.

Trailhead means the beginning of each Gravel Cycling Trail in each of the LGA's areas.

Trailhead Infrastructure refers to the tools, bike racks, and other infrastructure installed at the Trailhead.

Trailhead Signage means the signs TNE will commission to be installed at various Gravel Cycling Trailheads.

2.2 General

In this MOU, including the recitals, unless the context otherwise requires:

- 2.2.1 a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or any legislative provision substituted for and any subordinate legislation under, that legislation or legislative provision;
- 2.2.2 the singular includes the plural and vice versa;
- 2.2.3 a reference to an individual or person includes a corporation, firm, partnership, joint venture, association, authority, trust, state or government and vice versa;
- 2.2.4 a reference to any gender includes all genders;

- 2.2.5 a reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this MOU;
- 2.2.6 a schedule or annexure forms part of this MOU;
- 2.2.7 a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, restated or replaced from time to time;
- 2.2.8 a reference to any party to this MOU or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns; and
- 2.2.9 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.
- 2.2.10 Headings are for convenience of reference only and do not affect its interpretation.

3 Trailhead Signage and Infrastructure

- 3.1 TNE will commission Trailhead Signage and Infrastructure from manufacturers it has identified as being able to deliver Trailhead Signage and Infrastructure that complies with TNE and is approved by the PSG.
- 3.2 TNE will consult with the PSG concerning the design and other physical qualities of the Trailhead Signage and Infrastructure before commissioning any such Trailhead Signage and Infrastructure.
- 3.3 The Trailhead Signage and Infrastructure must comply with the relevant stakeholders' infrastructure requirements, provided that if a stakeholder does not have specific requirements, TNE and the PSG representative from each stakeholder will agree on the requirements.
- 3.4 TNE will only commission the Trailhead Signage and Infrastructure once it has received the funding from the Australian Federal Government.
- 3.5 Each LGA will be responsible for arranging the delivery and installation of the Trailhead Signage and Infrastructure at each Trailhead.
- 3.6 TNE may arrange for the Trailhead Signage and Infrastructure installation at the various Trailheads by mutual agreement.
- 3.7 The risk in and to the Trailhead Signage and Infrastructure will pass directly from the manufacturer to each respective LGA, and each LGA will indemnify and hold harmless TNE against any claims or losses.

4 Donation

TNE donates the **Trailhead Signage and Infrastructure** to the Stakeholder whose area of control the **Trailhead Signage and Infrastructure** is situated, and the LGA accepts the gift.

5 Regulatory Requirements

The Stakeholders must ensure that the **Trailhead Signage and Infrastructure** complies with all relevant permits and regulations to ensure community safety.

6 Maintenance

TNE will:

- 6.1 Request the Manufacturer to prepare a Maintenance Manual, and
- 6.2 At the completion of the **Trailhead Signage and Infrastructure** hand the Maintenance Manual to the Stakeholders.
- 6.3 The Stakeholders will maintain the **Trailhead Signage and Infrastructure** for its life in accordance with good practice, including, but not limited to, the Maintenance Requirements.

7 Indemnity

In consideration of the donation of the **Trailhead Signage and Infrastructure** to the LGA, each LGA releases and indemnifies TNE from all claims for losses, damages, injury or death arising out of the **Trailhead Signage and Infrastructure**.

8 Insurance

Each LGA will:

- 8.1 Insure and keep the **Trailhead Signage and Infrastructure** insured against destruction or damage, and
- 8.2 Obtain appropriate public liability insurance.

9 Binding Effect

This MOU is binding on each party and their respective successors in title and permitted assigns.

10 Dispute Resolution

- 10.1 If any dispute arises out of or in connection with this MOU or the interpretation of its terms, no party may commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.
- 10.2 A party claiming that a dispute has arisen under or in relation to this MOU must give written notice to the other party or parties specifying the nature of the dispute.
- 10.3 On receipt of the notice by the other party or parties, the parties between whom the dispute exists must use their best endeavours to resolve the dispute expeditiously.

11 Mediation

- 11.1 If the parties have yet to resolve the dispute within seven days of receipt of the notice or such further period as they agree in writing, any party may refer the dispute to mediation.
- 11.2 The parties will agree on which mediator to appoint, and if they cannot reach an agreement about the identity of the mediator, either party may request the president of the Law Institute of Victoria or their nominee to nominate a mediator, and the parties will appoint that mediator.
- 11.3 The mediation will be confidential, and the parties will share the costs of the mediator and the venue equally, but each party will bear its own legal costs of the mediation.

12 Arbitration

- 12.1 If, after 28 days of appointing the mediator, or such longer period as the parties may agree in writing, the mediator determines that the mediation was unsuccessful, any of the parties may refer the dispute to arbitration.
- 12.2 The parties will agree to the arbitrator to be appointed, and in the absence of an agreement, any party may request the president of the Law Institute of Victoria or their nominee to nominate an arbitrator, and the parties will appoint that arbitrator provided that the arbitrator is not the same person as the mediator.

12.3 The arbitration will be carried out in accordance with the *Commercial Arbitration Act 2011 (Vic)*.

12.4 The arbitrator's award will be final and binding on the parties to the dispute.

13 General

13.1 Variation

No variation or waiver of, or any consent to any departure by a party from, a provision of this MOU is effective unless it is confirmed in writing and signed by all the parties to this MOU, and then that variation, waiver or consent is effective only in the circumstances for which it is made or given.

13.2 Severance

If any provision of this document is unenforceable in accordance with its terms, other provisions that are self-sufficient and capable of separate enforcement without regard to the unenforceable provision are, and continue to be, enforceable in accordance with their terms.

13.3 Counterparts

This document may be executed in any number of counterparts, and all of those counterparts taken together constitute one and the same instrument.

13.4 Governing Law and Jurisdiction

This document is governed by and is to be construed in accordance with the law of the State of Victoria, and the parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria and any court hearing appeals from those courts.

13.5 Notices

13.5.1 Any notice, demand, certification or other communication under this document must be given in writing and in the English language and may be given by an authorised representative of the sender.

- 13.5.2 A communication required or permitted to be given by one party to another under this document is treated as being duly given if it is:
- (a) left at the party's address;
 - (b) sent by pre-paid mail to that party's address;
 - (c) sent by email to that party's email address; or
 - (d) transmitted by facsimile to that party's address.

- 13.5.3 A communication given to a party in accordance with this Clause is treated as having been duly given and received:
- (a) when delivered (if it is left at the party's address);
 - (b) on the third business day after posting (if it is sent by pre-paid mail);
 - (c) on the business day of transmission by email to and the email has been delivered to the email address of the addressee; or
 - (d) on the business day of transmission (if it is sent by facsimile to the facsimile number of that party and no intimation is received that the notice has not been received, whether that intimation comes from that party or from the operation of facsimile machine or otherwise).

13.6 **Assignment**

No party may assign the benefit of this MOU without first having obtained the written consent of the other parties, which may not be unreasonably withheld.

13.7 **Termination**

- 13.7.1 Any party may terminate this MOU without cause by giving 28 days written notice to the other parties to this MOU.
- 13.7.2 No party may terminate this MOU without cause once TNE has commissioned the Public Artworks and is liable to pay the artist for the **Trailhead Signage and Infrastructure** commissioned pursuant to this MOU.

Execution

Signed by Bess Nolan-Cook as Chief Executive Officer of NORTH EAST VICTORIAN
TOURISM BOARD ABN: 84715244593 of Level 1, 19-23 Camp Street, Beechworth VIC 3747.



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Date: 4th April 2024

Signed by Kirsten Alexander as Chief Executive Officer of MANSFIELD SHIRE COUNCIL of 33
Highett Street, Mansfield VIC 3722



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Date: 04/04/2024

Schedule

Item 1 LGA	Mansfield Shire Council
Item 2 Address	33 Highett Street, Mansfield VIC 3722
Item 3 Site names	Mansfield (Old Railway Station) Merrijig Goughs Bay
Item 4 List of items donated	See Table 1, on page 12
Item 5 Installation by	See Table 1
Item 6 Value of items donated	See Table 1
Item 7 Role of TNE	Grant application, recipient and management. Selection and procurement of gifted items. Development of Graphic design of gifted items. Schedule delivery of gifted items to a singular designated site/depot. Provision of installation specs of gifted items, as required. Digital wayfinding. Marketing plan and implementation. Program reporting and reconciliation.
Item 8 Role of LGA	Preparation of site/s for installation of all items in Table 1. Payment for the completion of any works over a cumulative total of \$75,000 (ex GST) per LGA. Submit to TNE any requests for additional goods or services to be included in Trailheads not included in Table 1.

	Submit invoices and evidence relating to the costs of additional goods and services at Trailheads for rebate by TNE.
Item 9 Responsibilities of TNE	<p>Provide the LGA with a maximum budget of \$75,000 (plus GST) to be allocated across the procurement and installation of approved gravel bicycle infrastructure. Includes items listed in Table 1 and others deemed appropriate for the project and approved by TNE in writing.</p> <p>Deliver LGA reimbursements to a maximum of 'TOTAL amount remaining for all other install costs' indicated in Table 1.</p> <p>Subject to approval, invoice and evidence supplied.</p> <p>Provide a maintenance manual to the LGA.</p>
Item 10 Responsibilities of LGA	See Table 2

MANSFIELD

Table 1

	Item 4			Item 5	Item 6
Site Location	List of items donated including if install is included in gifting			Party responsible for installation	Value of items donated excluding GST
	Supplier	Product	Install gifted?		
Mansfield (Railway)	Mansfield Shire Council	Concrete Pad	No	Mansfield Shire Council	\$-
Mansfield (Railway)	Grimshaw Signs	Hub Sign	Yes	Grimshaw Signs	\$2,444.72
Mansfield (Railway)	all4cycling	Deluxe Bike Repair Station - Galvanised	Yes	all4cycling	\$6,501.58
Mansfield (Railway)	CIVIQ	Aqua FlexiFountain 1500BF	No	Mansfield Shire Council	\$6,608.00
Mansfield (Railway)	Grimshaw Signs	Fingerboard Signage	Yes	Grimshaw Signs	\$3,074.16
Mansfield (Railway)	Mansfield Shire Council	LGA owned bike rack	No	Mansfield Shire Council	\$-
Goughs Bay (Picnic Point)	Mansfield Shire Council	Concrete Pad	No	Mansfield Shire Council	\$-
Goughs Bay (Picnic Point)	Grimshaw Signs	Hub Sign	Yes	Grimshaw Signs	\$2,444.72
Goughs Bay (Picnic Point)	all4cycling	Standard Bike Repair Station	Yes	all4cycling	\$4,885.58
Goughs Bay (Picnic Point)	Mansfield Shire Council	LGA owned bike rack	No	Mansfield Shire Council	\$-

Goughs Bay (Sign Only)	Grimshaw Signs	Fingerboard Signage	Yes	Grimshaw Signs	\$633.25
Merrijig	Mansfield Shire Council	Concrete Pad	No	Mansfield Shire Council	\$-
Merrijig	Grimshaw Signs	Hub Sign	Yes	Grimshaw Signs	\$2,444.72
Merrijig	all4cycling	Standard Bike Repair Station	Yes	all4cycling	\$4,885.58
Merrijig	Mansfield Shire Council	LGA owned bike rack	No	Mansfield Shire Council	\$-
TOTAL gifted amount excluding GST					\$33,922.32
TOTAL amount remaining for all other install costs excluding GST					\$41,077.68

* yellow coloured cells denote additional cost savings have been sought for Mansfield Shire.

Table 2

Site Location	Responsibilities of LGA
Mansfield (Railway)	Finalise site layout plan and exact location of trailhead components, procure and install suitable concrete pad for trailhead components, liaise with Grimshaw Signs and oversee installation of freestanding hub sign, liaise with all4cycling and oversee installation of bike repair station, receive, unload, transport, install, connect to potable water and commission water refill station, liaise with Grimshaw Signs and oversee installation of fingerboard signs, procure, transport and install existing LGA owned bike rack, supervise all installation activities, and extra items as agreed in writing with TNE.
Goughs Bay (Picnic Point)	Finalise site layout plan and exact location of trailhead components, procure and install suitable concrete pad for trailhead components, liaise with Grimshaw Signs and oversee installation of freestanding hub sign, liaise with all4cycling and oversee installation of bike repair station, procure, transport and install existing LGA owned bike rack, supervise all installation activities, and extra items as agreed in writing with TNE.
Goughs Bay (Sign Only)	Finalise site layout plan and exact location of trailhead components, liaise with Grimshaw Signs and oversee installation of fingerboard sign, supervise all installation activities, and extra items as agreed in writing with TNE.

Site Location	Responsibilities of LGA
Merrijig	Finalise site layout plan and exact location of trailhead components, procure and install suitable concrete pad for trailhead components, liaise with Grimshaw Signs and oversee installation of freestanding hub sign, liaise with all4cycling and oversee installation of bike repair station, procure, transport and install existing LGA owned bike rack, supervise all installation activities, and extra items as agreed in writing with TNE.