

Development and Joint Use Agreement

PHILLIP ARCHIBALD GUDE

Minister

MANSFIELD SECONDARY COLLEGE SCHOOL COUNCIL

School Council

DELATITE SHIRE COUNCIL

Shire Council

TABLE OF CONTENTS

Clause	Page
1. DEFINITIONS AND INTERPRETATION	2
1.1 Definitions	2
1.2 Interpretation	4
1.3 Mansfield Sporting Complex Agreement	6
2. NO PROPRIETARY RIGHTS	6
2.1 Rights Conferred by Agreement	6
2.2 Acknowledgement of Parties	6
3. CONTRIBUTIONS TOWARDS THE CONSTRUCTION OF THE FACILITY	6
3.1 Contributions	6
3.2 Shire Council's Contribution	6
3.3 No Additional Contributions	7
3.4 Goods and Services Tax	7
4. INTELLECTUAL PROPERTY RIGHTS	7
4.1 Vesting of Intellectual Property Rights	7
4.2 School Council to use best endeavours	8
5. THE MINISTER'S APPROVAL	8
6. SCHOOL COUNCIL'S CONSTRUCTION OBLIGATIONS	8
6.1 Construction obligations	8
6.2 Insurance	8
6.3 Specifications	9
6.4 Legal obligations	9
6.5 Upon Practical Completion	9
6.6 Audit of payments	9
7. THE SHIRE COUNCIL'S CONSTRUCTION OBLIGATIONS	10
8. TERMINATION AND DESTRUCTION OF THE FACILITY	10
8.1 Termination	10
8.2 Destruction of Facility	10
9. REPAYMENTS TO SHIRE COUNCIL	10
10. JOINT USE PROVISIONS	11

TABLE OF CONTENTS

Clause	Page
11. LICENCE TERM	11
11.1 Licence	11
11.2 Use of Facility	11
11.3 Variation of Use of the Facility	11
11.6 School to have Priority	12
11.7 Initial Term of Licence	12
11.8 Further Term of Licence	12
11.9 Renewal Process	12
12. THE MINISTER'S APPROVAL	12
13. MANAGEMENT COMMITTEE OF THE FACILITY	12
13.1 Management Committee	12
13.2 Notification of Appointments	13
13.3 Meeting Times	13
13.4 Role of the Principal	13
13.5 Failure to Appoint Committee Member	13
13.6 Tenure	13
13.7 Appointment and Revocation of Appointment	14
13.8 Vacation of Appointment	14
13.9 Notice of Meetings	14
13.10 Meetings by Request	15
13.11 Quorum	15
13.12 Voting Rights	15
13.13 Determination of Questions	15
13.14 Officer Holders	15
13.15 Office Holder Vacancies	16
13.16 Minutes	16
13.17 Additional Committee Members	16
14. DELEGATION OF POWERS AND OBLIGATIONS TO THE COMMITTEE	16
14.1 Delegation	16
14.2 Limitation of Powers	17
15. OPERATING POWERS AND OBLIGATIONS OF THE COMMITTEE	17
15.1 Operation and compliance obligations	17
15.2 Insurances	17
15.3 Hiring obligations	17
15.4 Employment obligations	18
15.5 Maintenance	18
15.6 Appointment of Manager	18

TABLE OF CONTENTS

Clause	Page
16. FINANCIAL POWERS AND OBLIGATIONS OF THE COMMITTEE	19
16.1 Operating Account	19
16.2 Interest from Operation Account	19
16.3 Withdrawal of money from Operating Account	19
16.4 Meeting of Operating Costs	19
16.5 Business Plans	19
16.6 Budget	20
16.7 Accounting	20
16.8 Collection of fees from users of the Facility	20
16.9 Surplus Income	20
16.10 Income Deficiency	21
16.11 Surplus at Termination	21
17. OBLIGATIONS OF SHIRE COUNCIL	21
17.1 Reinstating Facility to original state	21
17.2 Damage or injury to the Facility	21
18. OBLIGATIONS OF THE SCHOOL COUNCIL	22
18.1 Warranty	22
18.2 Damage or injury to the Facility	22
19. INDEMNITY	22
19.1 Indemnity by Shire Council	22
19.2 Survival of Indemnity upon Termination	23
20. DISPUTES	23
20.1 Notice of Dispute	23
20.2 Expert	23
20.3 Expert's Power	23
20.4 Performance of obligations Pending Resolution of Dispute	24
21. DISPOSAL	24
21.1 Minister may deal with interests	24
21.2 Dissolution of School Council	24
21.3 Shire Council may not assign	24
22. TERMINATION BY THE MINISTER	24
22.1 Minister requires the Land	24
22.2 Destruction of Facility	25

TABLE OF CONTENTS

Clause	Page
22.3 Notice of Termination	25
23. MINISTER'S OPTIONS ON TERMINATION	25
23.1 Options	25
23.2 Dispute	25
23.3 Agreement to retain in force	26
23.4 Dispute Mechanism	26
23.5 Compensation	26
24. NOTICES	27
24.1 Method of giving notices	27
24.2 Address for Notices	27
24.3 New Address	27
24.4 Time of Receipt	27
25. GOVERNING LAW	28
25.1 Laws of Victoria	28
25.2 Jurisdiction of courts	28
26. WAIVER	28
26.1 No Waiver	28
26.2 Rights Cumulative	28
27. VARIATIONS	28
28. SEVERABILITY	28
29. FURTHER ACTS	28
30. CONFIDENTIALITY	29
31. CONFLICT OF INTEREST	29
32. COSTS	29
33. ENTIRE AGREEMENT	29
34. COUNTERPARTS	29
35. ACTING ON BEHALF OF MINISTER	29
SPECIAL CONDITIONS	30

TABLE OF CONTENTS

Clause	Page
SCHEDULE	31

BETWEEN **PHILLIP ARCHIBALD GUDE** in his capacity as Minister for Education of 525 Collins Street, Melbourne 3000, for and on behalf of the State of Victoria ("Minister")

AND **MANSFIELD SECONDARY COLLEGE SCHOOL COUNCIL** ("School Council").

AND **DELATITE SHIRE COUNCIL** ("Shire Council").

RECITALS

- A. The Minister is the Minister of the Crown for the time being administering the Act and is empowered by sections 15C and 20A of the Act to enter into this Agreement.
- B. The School Council is constituted as a body corporate by an order pursuant to section 13(1)(a) of the Act and is empowered by sections 15, 15AA, 15CA and 15C of the Act to enter into this Agreement.
- C. The Shire Council is a body corporate constituted under the Local Government Act 1989 (Vic.).
- D. The Land is vested in the Minister and is used for the purposes of the School, being a "State school" within the meaning of the Act.
- E. The School Council and the Shire Council are parties to the Mansfield Sporting Complex Agreement.
- F. The parties have agreed, to build the Facility for joint use by the School Council, the Shire Council and the local community, subject to and upon the terms and conditions of this Agreement.
- G. Upon Practical Completion of the Facility the Joint Use Provisions will become effective for the purpose of regulating its joint use.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement unless inconsistent with the context or subject matter:

"Act" is the Education Act 1958 (Vic).

"Agreement" is this Development and Joint Use Agreement, including the Special Conditions and the Annexures and Schedule to this Agreement.

Building Works Contract is the building works contract to be entered into by the parties thereto for the construction of the Facility, being a contract in the form of Australian Standard - General conditions of contract (AS2124-1992).

"Contribution" is a contribution to be made by a party to the cost of constructing the Facility in accordance with clause 3.1.

"CPI" is the All Groups Consumer Price Index number published by the Australian Bureau of Statistics or, if the All Groups Consumer Price Index number ceases to be published, the nearest equivalent economic indicator.

"Facility" is the performing arts centre to be constructed on the Land in accordance with the Specifications.

"Further Term" is the period by which the Licence is extended (if at all) under clause 11.10.

"GST" is the abbreviation for Goods and Services Tax.

"Government Agency" is a government or government department, a governmental, semi-governmental or judicial person or a person (whether autonomous or not) charged with the administration of any applicable law.

"Income" is the total amount received each year from:

- (a) fees the Committee collects from users of the Facility; and
- (b) any other sources of income in respect of the Facility.

"Initial Term" is the initial term of the Licence granted under clause 11.1.

"Intellectual Property Rights" has the meaning given to it in clause 4.1.

"Joint Use Provisions" are clauses 11 to 16 inclusive of this Agreement.

"Land" is the land outlined in red on the Plan.

"Licence" is the non-exclusive licence to use the Facility granted under clause 11.1.

"Licence Term" is:

- (a) the term of the Licence, comprising the Initial Term and the Further Term; or
- (b) if this Agreement is terminated prior to the end of the Initial Term or the Further Term (as the case may be), the period up to and including the date of such termination.

"Manager" is the manager of the Facility appointed by the Committee in accordance with clause 15.6.

"Mansfield Sporting Complex Agreement" is an agreement made on 11 April 1989 between the Mansfield Secondary College (formerly Mansfield High School) and the Shire Council (formerly the Shire of Mansfield).

"Minister" is the Minister for the time being administering the Act.

"Operating Account" is the account established under Clause 16.1.

"Operating Costs" are the costs of the general operation of the Facility, including, but not limited to, costs relating to:

- (a) general operating, cleaning, maintenance, advertising, public relations, repair and security;
- (b) the employment of staff and the engagement of contractors for the purposes of the Facility;
- (c) provision of services by utilities to the Facility;
- (d) statutory charges;
- (e) insurances under clause 15.2; and
- (f) any capital maintenance of the Facility required during the Licence Term.
- (g) **"Permitted Use"** is any performing art or visual art activity that:
 - (i) would normally be performed, rehearsed or carried on in Victoria at a facility similar to the Facility and which by law is capable of being performed or rehearsed at the Facility; or
 - (ii) is agreed to by the School Council from time to time and notified to the Shire Council.

"Plan" is the plan annexed as Annexure A.

"Planning Permit" is any permit or authorisation required at any time under the laws of Victoria relating to the planning and use of land in connection with the performance of this Agreement.

"Practical Completion" is the completion of the Facility in accordance with the Specifications to the stage where the Superintendent has issued a notice of practical completion or the Facility has been deemed to have reached practical completion under the Building Works Contract.

"Principal" is the principal or the deputy principal of the School or any other person acting from time to time as and with the authority of the principal.

"School" is the School described under the term "School" in the Schedule.

"School Day" is a day on which the School is open.

"School Hours" are, in respect of a School Day, the hours set out under the term **"School Hours"** in the Schedule.

"Specifications" are the plans and specifications for the construction of the Facility the subject of the Building Works Contract.

"Superintendent" is the superintendent appointed under the Building Works Contract.

"Tax" is any present or future tax, levy, impost, deduction, charge, duty, compulsory loan or withholding (together with any related interest, penalty, fine or expense in connection with any of them) levied or imposed by any Government Agency, other than any imposed on net overall income.

1.2 Interpretation

In this Agreement, unless inconsistent with the context or subject matter:

- (a) a reference to any legislation or legislative provision:
 - (i) includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision; and
 - (ii) ordinances, by-laws, regulations, rules, other statutory instruments issued and orders made;
- (b) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (c) any marginal notes or headings are included for convenience and will not affect the interpretation of this Agreement;
- (d) a reference to any party to this Agreement or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (e) the singular includes the plural and vice versa;
- (f) words denoting any gender include all genders;
- (g) if any day specified by this Agreement falls on a Saturday, Sunday or a day appointed under the Public Holidays Act 1993 (Vic) as a holiday for the whole day, that day will be the next day following the specified day which is not a Saturday, Sunday or day appointed under the Public Holidays Act 1993 (Vic);
- (h) a reference to this Agreement includes any schedule, annexure or attachment to it;
- (i) a reference to a recital, clause, subclause, paragraph, schedule, annexure or attachment is to a recital etc of or to this Agreement;

- (j) a reference to this Agreement or to any deed, agreement, document or instrument includes a reference to such documents as amended, novated, supplemented, varied, altered or replaced from time to time;
- (k) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government body and vice versa;
- (l) a reference to any thing is a reference to the whole and each part of it;
- (m) a reference to a group of persons is a reference to all of them collectively and to each of them individually;
- (n) a reference to "dollars" or "\$" is reference to Australian currency;
- (o) the terms "including" and "include" mean "including" or "include" (as applicable) without limitation;
- (p) a reference to a matter being "to the knowledge" of a person means that the matter is to the best of the knowledge and belief of that person after making reasonable enquiries in the circumstances;
- (q) a reference to "bankruptcy or winding up" includes:
 - (i) bankruptcy, winding up, liquidation, dissolution, becoming an insolvent under administration (as defined in section 9 of the Corporations Law); or
 - (ii) the appointment of an administrator; or
 - (iii) being unable to pay debts as and when they fall due; or
 - (iv) the occurrence of anything analogous or having a substantially similar effect under the law; and
 - (v) the procedures, circumstances and events which constitute any of those conditions or matters; and
- (r) a reference to a right or obligation of the Committee is a reference:
 - (i) to a right or obligation arising out of its relationship with the School Council, including a delegation pursuant to section 15CA(2) of the Act; and
 - (ii) to the extent that the Committee does not itself have the legal status necessary to exercise that right or perform that obligation, to a right or obligation of the School Council.

1.3 Mansfield Sporting Complex Agreement

- (a) The School Council and the Shire Council acknowledge that they continue to be bound by the terms and conditions of the Mansfield Sporting Complex Agreement.

- (b) Nothing in this Agreement shall diminish or otherwise affect the rights and obligations of the School Council and the Shire Council under the Mansfield Sporting Complex Agreement.

2. NO PROPRIETARY RIGHTS

2.1 Rights Conferred by Agreement

The rights conferred by this Agreement:

- (a) will rest in contract only; and
- (b) will not create in or confer or grant upon or in the School Council or the Shire Council or any other person (either jointly or severally) any tenancy or any estate or interest for a term of years or otherwise whatsoever in the Facility or otherwise create any estate or interest in the Land.

2.2 Acknowledgement of Parties

The parties acknowledge that:

- (a) the use of the Facility by the Shire Council and members of the public will not be exclusive and will be subject to the provisions of this Agreement; and
- (b) the right to exclusive possession of the Facility as against the whole world shall remain with the State of Victoria.

3. CONTRIBUTIONS TOWARDS THE CONSTRUCTION OF THE FACILITY

3.1 Contributions

The parties will contribute towards the cost of constructing the Facility in accordance with the amounts specified under the term "Contributions" in the Schedule and, if applicable, clause 6.3.

3.2 Shire Council's Contribution

The parties acknowledge that the contribution of the Shire Council comprises \$200,000, together with a further \$400,000 granted to the Shire Council by the Community Support Fund which is to be applied towards the construction of the Facility.

3.3 No Additional Contributions

The Shire Council and the School Council acknowledge and agree that:

- (a) the cost of \$800,000.00 for constructing the Facility is based upon current prices and values;

- (b) if the cost of constructing the Facility is likely to exceed \$800,000.00, the School Council may alter, vary or amend the Specifications in accordance with clause 6.3(b) in order to reduce the costs of construction; and
- (c) nothing in this Agreement authorises or permits the School Council to alter, vary or amend the Specifications, otherwise than in the circumstances set out in paragraph (b) and clause 6.3(b).

3.4 Goods and Services Tax

To the extent that GST is payable by the School Council in connection with the cost of constructing the Facility, the Shire Council will pay to the School Council one half of the relevant amount but the aggregate of its Contribution and any such payments shall not exceed \$600,000.

4. INTELLECTUAL PROPERTY RIGHTS

4.1 Vesting of Intellectual Property Rights

Notwithstanding any financial or other contribution by any of the parties to this Agreement, all intellectual property rights created, discovered or coming into existence as a result of or arising out of this Agreement (including any documentation produced by or on behalf of the School Council under this Agreement and under the Building Works Contract) (the "Intellectual Property Rights") will be the property of and vested in the Crown in right of the State of Victoria.

4.2 School Council to use best endeavours

Where the architect used by the School Council for this Agreement has retained joint Intellectual Property Rights in respect of the work of the architect, the School Council shall use its best endeavours to:

- (a) obtain the irrevocable consent of the architect to the School Council, without further notice to the architect, alienating the Intellectual Property Rights in the manner set out in and for the purposes of clause 4.1 of the Agreement; and
- (b) provide copies of documents evidencing these arrangements prior to the Minister executing the Agreement.

5. THE MINISTER'S APPROVAL

The Minister:

- (a) pursuant to section 15C(1) of the Act, approves the construction of the Facility on the Land to the extent specified in the Specifications; and
- (b) approves the School Council entering into this Agreement.

6. SCHOOL COUNCIL'S CONSTRUCTION OBLIGATIONS

6.1 Construction obligations

The School Council will:

- (a) be responsible for the construction of the Facility;
- (b) enter into the Building Works Contract with the appointed contractor;
- (c) use its reasonable endeavours to ensure that the construction of the Facility is commenced, carried out and completed in accordance with the provisions of the Building Works Contract;
- (d) use its reasonable endeavours to do all acts, matters and things which a reasonably prudent proprietor in similar circumstances would do in relation to enforcing the terms of the Building Works Contract; and
- (e) make payment on account of its Contribution.

6.2 Insurance

The School Council will take out insurance in relation to the construction of the Facility in accordance with the provisions of the Building Works Contract and as specified under the term "Construction Insurances" in the Schedule.

6.3 Specifications

The School Council will:

- (a) propose Specifications, for the initial approval of the Shire Council pursuant to clause 7(a);
- (b) be permitted to alter, vary or amend the Specifications from time to time before Practical Completion but only if:
 - (i) the alterations, variations or amendments are specified and declared in writing by the Superintendent to be reasonably necessary in all the circumstances;
 - (ii) in the case of a material alteration, variation or amendment, the School Council has first notified the parties to this Agreement of its intention and has consulted with them regarding the same. For this purpose it will act in good faith and provide reasonable opportunity for adequate consultation;
 - (iii) the Facility remains capable of use as a facility;
 - (iv) the alteration, variation or amendment will not, subject to clause 3.3, result in any increase in the amount to be contributed towards the cost of the Facility by the parties; and
 - (v) the Shire Council has first satisfied its obligations under clause 7(b); and

- (c) acting reasonably and in good faith, in its sole discretion decide when to conclude the consultation process under paragraph (b)(ii) and its decision once made will be final and binding on all parties.

6.4 Legal obligations

The School Council will at its own cost, apply for and comply with all statutes, regulations, ordinances, local laws, by-laws, government agencies and agreements relevant to the design and construction of the Facility, including:

- (a) all permits and approvals under the Building Act 1993 (Vic); and
- (b) the Code of Practice for the Building and Construction Industry prepared by the Office of Building, Department of Planning and Development of the State of Victoria.

6.5 Upon Practical Completion

The School Council will within 14 days after Practical Completion or sooner termination of this Agreement, remove all materials and equipment brought onto the Facility or the Land for the purpose of constructing the Facility and make good all damage to the Facility or the Land (as the case may be) caused by the affixing, retention or removal thereof.

6.6 Audit of payments

Details of all payments for the construction of the Facility will be provided by the School Council or its auditor upon request by the Minister or Shire Council. This information will include the date, method of payments and name(s) of recipient(s) of all progress payments made or due.

7. THE SHIRE COUNCIL'S CONSTRUCTION OBLIGATIONS

The Shire Council will:

- (a) review and give its initial approval to Specifications proposed by the School Council within the time limits reasonably specified by the School Council, which approval shall not be unreasonably withheld;
- (b) review and approve the alteration, variation or amendment of Specifications proposed by the School Council from time to time in accordance with clause 6.3(b), which approval shall not be unreasonably withheld; and
- (c) make payments on account of its costs payable by it at such times and in such amounts as the School Council requests.

8. TERMINATION AND DESTRUCTION OF THE FACILITY

8.1 Termination

No party will be entitled to terminate this Agreement for breach by any other party at any time before the final payment (not including any retention money) has been made to the contractor under the Building Works Contract.

8.2 Destruction of Facility

If any part or the whole of the Facility is destroyed or damaged by fire, storm, tempest, vandalism or arson before Practical Completion, the School Council will apply or cause to be applied to the reasonable satisfaction of the Minister and the Shire Council all money received as insurance proceeds towards the reconstruction or reinstatement of the Facility.

9. REPAYMENTS TO SHIRE COUNCIL

If the School Council:

- (a) receives a payment from the Shire Council; and
- (b) for any reason is not required to pay that amount or part of that amount to the contractor under the Building Works Contract,

the School Council will:

- (c) refund that amount or part of that amount to the Shire Council; and
- (d) not pay interest to the Shire Council, unless interest has accrued on such money (in which case, such interest will be paid in full).

10. JOINT USE PROVISIONS

The Joint Use Provisions will only have effect when Practical Completion of the Facility is achieved.

11. LICENCE TERM

11.1 Licence

The Minister and the School Council grant the Shire Council a licence to use the Facility, subject to and upon the terms of this Agreement.

11.2 Use of Facility

The Shire Council may use and occupy the Facility, including the areas provided for pedestrian and vehicle access to the Facility and for parking vehicles, in accordance with the times specified under the term "Use of the Facility" in the Schedule.

11.3 Variation of Use of the Facility

The hours of use of the Facility may be varied by written agreement of the School Council and the Shire Council.

11.4 School to have Priority

- (a) Use of the Facility by the Shire Council must not conflict with any curriculum initiatives of the School.
- (b) The parties will encourage the discretionary use of the Facility by community groups, such use to be administered by the Committee, provided that such use must not conflict with any curriculum initiatives of the School.

11.5 Initial Term of Licence

The initial term of the Licence shall be for the period specified as the "Initial Term" in the Schedule commencing on the date the Joint Use Provisions take effect.

11.6 Further Term of Licence

The Shire Council may give notice to the School Council not earlier than 12 months and not later than one month before the expiration of the Initial Term of the Licence requesting a renewal of the Licence for a further period, not exceeding the period specified under the term "Further Term" in the Schedule.

11.7 Renewal Process

After receipt of a notice given under clause 11.6, the School Council will consult with the Minister regarding the request for renewal and promptly notify the Shire Council as is applicable, either that:

- (a) the Minister and the School Council have no objection to a renewal of the Licence for the specified period, in which event the Licence will be deemed to be renewed from the expiry of the Initial Term for the Further Term on the terms and conditions of this Agreement (other than clause 11.6); or
- (b) the Minister and School Council have formed the opinion in good faith that the Licence should not be renewed.

12. THE MINISTER'S APPROVAL

The Minister approves the School Council entering into this Agreement.

13. MANAGEMENT COMMITTEE OF THE FACILITY

13.1 Management Committee

There will be a management committee of the Facility which will consist of:

- (a) the Principal or his or her nominee;

- (b) the number of members of the School Council specified under the term "Committee Members" in the Schedule;
- (c) the number of representatives appointed by the Shire Council specified under the term "Committee Members" in the Schedule; and
- (d) any persons (not exceeding the number specified under the term "Other Persons" in the Schedule), appointed under clause 13.17.

13.2 Notification of Appointments

- (a) The School Council and the Shire Council will each notify the secretary of the Committee of persons appointed to the Committee and may revoke appointments and substitute other persons as appointees at any time.
- (b) Notice of the first appointees will be given within 3 days after the date of this Agreement.

13.3 Meeting Times

- (a) The Committee will meet at least twice in each financial year at such places and such times as the Committee may determine.
- (b) Failure by a party's nominee(s) to meet as required will constitute a breach of an essential term of this Agreement by that party.

13.4 Role of the Principal

The Principal will:

- (a) act as chairman and secretary of the Committee from its inception until the Committee elects members to those positions at the first meeting; and
- (b) convene the first meeting of the Committee, which will be held not later than 28 days after the date of this Agreement.

13.5 Failure to Appoint Committee Member

The failure of a party to appoint a member to the Committee will not:

- (a) prevent the convening of the first or any subsequent meeting of the Committee;
- (b) invalidate the proceedings of any meeting of the Committee; or
- (c) prevent that party from appointing its members to the Committee at some later time.

13.6 Tenure

A member of the Committee appointed under clause 13.1(b) or (c) will hold office for a period not exceeding 2 years but will be eligible for re-appointment.

13.7 Appointment and Revocation of Appointment

- (a) The party which has appointed a member of the Committee may at any time revoke the appointment of that member and appoint another member in the first mentioned member's stead.
- (b) Every appointment of a member or revocation of appointment of a member will be in writing and signed by either the person appointing the member or the proper officer of the party appointing the member (as the case may be) and will take effect immediately upon being served upon:
 - (i) the secretary of the Committee; or
 - (ii) the members of the Committee at a properly constituted meeting of the Committee.

13.8 Vacation of Appointment

If any appointed member of the Committee:

- (a) is absent without the permission of the Committee from 3 consecutive meetings of the Committee;
- (b) becomes bankrupt or his or her property becomes in any manner subject to control under the law relating to bankruptcy;
- (c) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence;
- (d) becomes incapable of performing the duties of his or her office;
- (e) has his or her appointment revoked;
- (f) resigns his or her office; or
- (g) dies,

that person's office as a member of the Committee will become vacant and the party who appointed that person will appoint another person as a member in place of that person.

13.9 Notice of Meetings

The secretary of the Committee will give written notice of each meeting to each member of the Committee by either:

- (a) delivering it to the member at least 48 hours before the meeting; or
- (b) by sending it by pre-paid post addressed to the member's current residential address or last known place of abode at least 3 days before the date of the meeting.

13.10 Meetings by Request

- (a) Upon request to the secretary of the Committee by either the School Council or the Shire Council, the secretary of the Committee will also call a meeting of the Committee, which will be in addition to meetings held in compliance with clause 13.3.
- (b) Failure of a party's nominee(s) to meet when requested by the Committee Secretary will constitute a breach of an essential term of this Agreement by that party.

13.11 Quorum

The Committee will not transact business unless the minimum number of members specified under the term "**Quorum**" in the Schedule is present, including:

- (a) the number of School Council members specified under the term "**Quorum**" in the Schedule; and
- (b) the number of Shire Council representatives specified under the term "**Quorum**" in the Schedule.

For the purposes of paragraph (a) the Principal will be counted as a School Council member.

13.12 Voting Rights

Each member present at a meeting of the Committee (including the chairman) is entitled to one vote and, if there is an equality of votes on any question, the chairman may exercise a second or casting vote.

13.13 Determination of Questions

Questions arising at a meeting of the Committee will be determined on a show of hands or, if demanded by a member, by a poll taken in such manner as the chairman may determine.

13.14 Officer Holders

At the first meeting of the Committee in each financial year the members of the Committee will elect from among their number:

- (a) the Principal or an appointed School Council member to be the chairman;
- (b) a secretary; and

- (c) such other officers as the Committee considers necessary,

who will hold office until the first meeting of the Committee in the next financial year.

13.15 Office Holder Vacancies

- (a) If there is a casual vacancy for any one or more of the positions of chairman or secretary of the Committee, the Principal will act in those positions until the Committee elects members of the Committee to hold such positions.
- (b) If the chairman is unable to attend a Committee meeting the chairperson for that meeting will be:
 - (i) the Principal or his or her nominee; or
 - (ii) if the Principal or his or her nominee is unable to attend, a member of the Committee appointed by the School Council and chosen by the School Council members on the Committee.
- (c) Subject to clauses 13.4 and 13.15, no member of the Committee will hold the positions of chairman or secretary of the Committee at the same time.

13.16 Minutes

The secretary of the Committee will keep minutes of the resolutions and proceedings of each meeting of the Committee and will circulate copies to the members of the Committee within one month after each meeting.

13.17 Additional Committee Members

The Committee may appoint additional persons to the Committee to provide business, academic or other experience or represent user groups of the Facility in accordance with the provisions of this clause. Such persons:

- (a) may hold office for such period as the Committee determines;
- (b) are entitled to receive notices of meetings and participate in the deliberations of the Committee,
- (c) will not be entitled to:
 - (i) vote or demand a vote or a poll;
 - (ii) be counted towards a quorum of the Committee under clause 13.11;
 - (iii) hold the position of chairman or secretary of the Committee.

14. DELEGATION OF POWERS AND OBLIGATIONS TO THE COMMITTEE

14.1 Delegation

Pursuant to section 15CA(2) of the Act the School Council delegates to the persons who for the time being constitute the Committee such of its powers and duties under the Act as are required to enable those persons to perform the functions of the Committee under this Agreement.

14.2 Limitation of Powers

The powers and duties of the Committee are limited to those specified in this Agreement.

15. OPERATING POWERS AND OBLIGATIONS OF THE COMMITTEE

15.1 Operation and compliance obligations

The Committee will be responsible for:

- (a) operating the Facility in a reputable manner appropriate to a facility of the nature of the Facility, and not permit it to be used for any purpose other than a Permitted Use;
- (b) not using or carrying on or permitting or suffering to be used or carried on in or upon the Facility any noxious, noisome, hazardous or offensive act, trade, business, occupation or any act matter or thing whatsoever which in the reasonable opinion of the School Council will or may be or become or cause disturbance, nuisance, damage or danger to people entering the Facility or to the owners or occupiers of adjoining or neighbouring premises including the School Council, the Minister and persons frequenting or using the grounds of the School;
- (c) complying with and observing all statutes, ordinances, proclamations, orders and regulations present or future and all notices, orders, demands, directions, requests or requirements made by any authority having jurisdiction or authority over or in respect of the Facility, including all safety and health policies and guidelines of the Department of Education which apply in respect of a facility in the nature of the Facility.

15.2 Insurances

The Committee will be responsible for obtaining and maintaining, in the name of the School Council, at all times during the Licence Term:

- (a) all insurances required to ensure against risks reasonably anticipated in respect of a facility of the nature of the Facility including but not limited to the insurances set out under the term "Insurances" of the Schedule; and
- (b) promptly, on request by any party, producing for inspection by that party those policies of insurance.

15.3 Hiring obligations

The Committee will be responsible for:

- (a) fixing the terms and conditions for the use of the Facility including, but not limited to, the general fees for its use and requiring that all users leave the Facility in a tidy condition;
- (b) hiring the Facility out for use by members of the public; and
- (c) collecting fees for the use of the Facility.

15.4 Employment obligations

- (a) The Committee will be responsible for the employment of staff and the engagement of contractors to provide services for the purposes of the Facility;
- (b) If:
 - (i) at any time the Principal, acting reasonably, forms the opinion that a person employed or engaged by the Committee for the purposes of the Facility is not a proper person to be acting in such capacity in relation to a facility of the nature of the Facility insofar as it is used by school pupils;
 - (ii) then the Principal may give a notice to the Committee and the manager (if appointed under clause 15.6) requesting the Committee and the manager to cease to employ or engage that person at the Facility or take such other action as may be appropriate.
- (c) Upon receipt of a notice given under paragraph (b), the Committee will promptly consider the terms of the notice and determine an appropriate course of action, which may include termination.

15.5 Maintenance

The Committee will be responsible for:

- (a) the general operating, cleaning, maintenance, repair and security of the Facility; and
- (b) maintenance of a capital nature,

to a standard not less than that generally considered appropriate for a facility similar to the Facility;

15.6 Appointment of Manager

The Committee:

- (a) may appoint a manager to the Facility;

- (b) may replace the Manager from time to time;
- (c) must ensure it has at all times details of the addresses and telephone numbers of the senior executives of the Manager; and
- (d) must ensure that the tendering requirements of the Shire Council in relation to such an appointment, are met.

16. FINANCIAL POWERS AND OBLIGATIONS OF THE COMMITTEE

16.1 Operating Account

The Committee will be responsible for establishing and maintaining an interest bearing account to be used to accumulate all money collected by the Committee in respect of the Facility for the Operating Costs of the Facility.

16.2 Interest from Operation Account

Any interest on funds held in the Operating Account will be added to the balance of the Operating Account.

16.3 Withdrawal of money from Operating Account

The Committee:

- (a) will use the money in the Operating Account solely for approved purposes and in accordance with approved budgets and plans;
- (b) may use such money in the Operating Account for budgeted purposes as and when the Committee determines;
- (c) will not be required to spend all money paid into the Operating Account during a year in that year; and
- (d) will not draw money out of the Operating Account except by cheque signed by one member of the Committee and the treasurer of the Committee, and provided that:
 - (i) those two signatories are natural persons; and
 - (ii) one signatory is a Committee member of the type described in clause 13.1(a) or (b) and the other signatory is a Committee member of the type described in clause 13.1(c).

16.4 Meeting of Operating Costs

The Committee will:

- (a) ensure that Operating Costs are met, as far as practicable, from any Income; and

- (b) be responsible for procuring the payment of all Operating Costs.

16.5 Business Plans

As a priority within 3 months of the date of this Agreement and at the beginning of each financial year, the Committee will prepare a five year rolling business plan and a ten year rolling asset maintenance and management plan for the Facility;

16.6 Budget

The Committee will prepare not later than 30 June in each year a budget of the Committee's proposed income, expenditure and charges in respect of the Facility for each financial year which will:

- (a) be in a form which gives full details of proposed items of income and expenditure;
- (b) be prepared in accordance with good accounting and commercial practices; and
- (c) provide for the setting aside of that amount as stated under the term "**Capital Reserve**" in the Schedule into the Operating Account for the purposes of that account.

16.7 Accounting

The Committee will:

- (a) keep proper books of account;
- (b) prepare an audited report and financial statements annually as soon as practicable after 30 June each year; the report and the financial statements to set out in accordance with good accounting practices the income and expenditure (including income owing but not received and debts owing but not paid) in respect of the use, operation and maintenance of the Facility for that financial year; and
- (c) under no circumstances budget for a loss under clause 16.6.

16.8 Collection of fees from users of the Facility

- (a) Subject to paragraph (b) the Committee may collect fees from users of the Facility and any other income in respect of the Facility. All money so collected by the Committee will be paid into the Operating Account.
- (b) Notwithstanding paragraph (a), the School Council will be entitled to collect and retain fees paid for any community use of the Facility during School Hours.

16.9 Surplus Income

Where the Income during any financial year exceeds the:

- (a) cost of maintaining and managing the Facility in accordance with the budget prepared under clause 16.6 for that year; and
- (b) amount of any funds which, according to the business plans prepared under clause 16.5, are required to be set aside by way of provision for future repairs;

the Committee will make a determination for the distribution or retention of the surplus.

16.10 Income Deficiency

Where the Income collected by the Committee during any financial year is less than the:

- (a) cost of maintaining and managing the Facility in accordance with the budget prepared under clause 16.6 for that year; and
- (b) amount of funds which, according to the business plans prepared under clause 16.5, are required to be set aside by way of provision for future repairs,

then the deficiency shall be met:

- (c) firstly from any funds in the Operating Account; and
- (d) then by the School Council.

16.11 Surplus at Termination

Any balance in the Operating Account at the termination or expiry of this Agreement is to be paid in its entirety to the School Council.

17. OBLIGATIONS OF SHIRE COUNCIL

17.1 Reinstating Facility to original state

At its own expense within one month of expiration or sooner termination of this Agreement and at the request of the School Council the Shire Council will:

- (a) remove all materials and equipment brought onto the Facility by the Shire Council or the Shire Council's employees, agents, customers or invitees and to make good all damage to the Facility caused by the removal thereof; and
- (b) remove all signs and writing for which it was responsible from the Facility and make good any damage or injury caused by the affixing, retention or removal thereof.

17.2 Damage or injury to the Facility

The Shire Council will reimburse the Committee for the reasonable cost of repairing, replacing or making good any damage or injury to any part of the Facility within 28 days upon receipt of a notice from the Committee to the Shire Council:

- (a) informing that such damage or injury was the result in whole or in substantial part of a wilful or reckless act or omission of the Shire Council or of any person or persons for whom the Shire Council is responsible (including any person or persons in or upon any part of the Facility during the use thereof by the Shire Council and with the Shire Council's actual or implied permission or invitation); and
- (b) setting out details of the costs incurred.

18. OBLIGATIONS OF THE SCHOOL COUNCIL

18.1 Warranty

If at any time the Shire Council is required to apply for and obtain any:

- (a) licence;
- (b) permit approval
- (c) authorisation;
- (d) planning permit; or
- (e) comply with the requirements of any statute, regulation or order whether Commonwealth, State or local;

in connection with the Facility, then the Shire Council will do all such acts or things, including the signing of any necessary consents or documents within its power as the School Council may reasonably require.

18.2 Damage or injury to the Facility

The School Council will be responsible for the reasonable costs of repairing, replacing or making good any damage or injury to any part of the Facility within 28 days upon receipt of a notice from the Committee to the School Council:

- (a) informing that such damage or injury was the result in whole or in substantial part of a wilful or reckless act or omission of the School Council or of any person or persons for whom the School Council is responsible (including any person or persons in or upon any part of the Facility during the use thereof by the School Council and with the School Council's actual or implied permission); and
- (b) setting out details of the costs incurred.

19. INDEMNITY

19.1 Indemnity by Shire Council

The Shire Council will:

- (a) indemnify and keep indemnified at all times during the Licence Term the State of Victoria and the School Council against any loss or damage to the property (real or personal) of the State of Victoria, the School Council or the Shire Council, including but not limited to the Land and any equipment stored at the Facility arising out of or in connection with the use by the Shire Council of the Facility; and
- (b) indemnify and keep indemnified at all times during the Licence Term the State of Victoria and the School Council and their employees from and against any liability, loss, claim or proceedings by any person against the State of Victoria, the School Council, the Shire Council or their respective employees in respect of personal injury to or the death of any person whomsoever or the loss or damage to any property whatsoever (real or personal) arising out of or in connection with the Shire Council's use of the Facility.

19.2 Survival of Indemnity upon Termination

The indemnity under clause 19.1 will survive the termination of this Agreement.

20. DISPUTES

20.1 Notice of Dispute

The parties agree to consult in good faith with each other, but if any dispute or difference arises between the parties with respect to or arising out of or in connection with this Agreement (except in relation to a dispute under clause 23.2) then a party may serve upon the other parties a notice of the dispute or difference.

20.2 Expert

If a dispute or difference is the subject of a notice served under clause 20.1 is not settled within 14 days of service of the notice, it will be settled by an expert appointed by the Minister.

20.3 Expert's Power

The parties agree that in respect of the expert appointed under this clause 20:

- (a) the decision of the expert will be binding on the parties;
- (b) the expert:
 - (i) will initiate such enquiries and investigations as the expert considers necessary or desirable for the purposes of performing the expert's functions;
 - (ii) will determine and inform the parties to the dispute of a time for presentation to the expert by the parties of their respective positions. Unless the parties both otherwise agree, the presentation must be no later than 7 days after the constitution of the expert;

- (iii) must make a determination or finding in respect of the dispute within 30 days of appointment and the fees and expenses of the expert will be borne by the parties equally;
- (iv) will act as an expert and not an arbitrator;
- (v) will keep confidential all materials and information made available to the expert in respect of the dispute; and
- (vi) is released by the parties to this Agreement from liability (other than for fraud) in acting as an expert.

20.4 Performance of obligations Pending Resolution of Dispute

- (a) Prior to resolution of a dispute under this clause 20, the parties must continue to perform their respective obligations under this Agreement.
- (b) Pending resolution of the dispute under this clause 20, whether or not the dispute relates to payment of money, each party must pay all amounts under this Agreement when due in accordance with this Agreement without regard to the pending dispute.

21. DISPOSAL

21.1 Minister may deal with interests

This Agreement will not be construed so as to prevent:

- (a) the Minister at any time during the term from subdividing, selling or otherwise disposing or dealing with the whole or any part or parts of the lands presently or hereafter occupied by the School; and
- (b) the assignment by the Minister or the School Council of their respective interests in this Agreement.

21.2 Dissolution of School Council

Notwithstanding anything to the contrary in this Agreement, any Order, legislative enactment or regulation dissolving the School Council will for all purposes be deemed to have simultaneously effected an assignment by the School Council to the Minister of the whole of the School Council's right, title and interest under this Agreement.

21.3 Shire Council may not assign

The Shire Council may not assign or transfer all or any part of its rights or obligations under this Agreement.

22. TERMINATION BY THE MINISTER

22.1 Minister requires the Land

If the Minister requires the Land or part of it for:

- (a) the construction of school buildings;
- (b) disposal of the Land or part of it;
- (c) closure of the School; or
- (d) any other reason,

the Minister may terminate this Agreement.

22.2 Destruction of Facility

If the Facility is damaged or destroyed so as to render it or part of it unfit for use and it is, in the opinion of the Minister, impractical or undesirable to reinstate the Facility or part of the Facility, the Minister may terminate this Agreement.

22.3 Notice of Termination

Termination under clause 22.1 or 22.2 will take effect upon receipt by the parties of notice of termination signed by the Minister.

23. MINISTER'S OPTIONS ON TERMINATION

23.1 Options

If the Minister terminates this Agreement under clause 22.1 or 22.2 the Minister will after consultation with the Shire Council offer to the Shire Council one of the following options:

(a) Option 1

the subdivision of the whole or part of the Land to create a separate saleable parcel and first offer of the parcel for sale to the Shire Council at a price to be agreed by the parties or failing agreement as determined by the Valuer-General;

(b) Option 2

the entering into a lease of the whole or part of the Facility between the Minister and the Shire Council consistent with the terms and conditions of this Agreement, with the rent as agreed by the parties or failing agreement as determined by the Valuer-General; or

(c) Option 3

subject to clause 23.5(b), the payment by way of compensation to the Shire

Council of such amount as the Minister reasonably determines in good faith, taking into account the contribution towards the cost of constructing the Facility made by the Shire Council under this Agreement.

23.2 Dispute

If a dispute arises between the parties as to:

- (a) the price at which the parcel of the Land is to be offered to the Shire Council under Option 1;
- (b) the basis of the lease and terms and conditions under Option 2; or
- (c) the compensation to the Shire Council under Option 3,

then such dispute will be settled by way of arbitration in accordance with the requirements of clause 23.4. It is expressly acknowledged that the choice of an option under clause 23.1 is entirely at the discretion of the Minister and cannot be the subject of a dispute.

23.3 Agreement to retain in force

The parties acknowledge that this Agreement will remain in force and the Shire Council will be entitled to continue to use the Facility until the Minister has chosen an option under clause 23.1 or until the arbitrator makes a decision under clause 23.4.

23.4 Dispute Mechanism

- (a) If a dispute or difference arises between the parties as to any matter set out in clause 23.2, then any party may give to the other parties notice of the dispute or difference.
- (b) Any such dispute will be submitted to the arbitration of a nominee of the Chairman (or acting Chairman) of the Victorian Chapter of the Institute of Arbitrators, Australia.
- (c) An award made by the arbitrator will be final and binding on the parties.
- (d) In accordance with section 20 of the Commercial Arbitration Act 1984 (Vic), the parties agree that in any arbitration proceedings conducted pursuant to this clause 23.4, a party may be represented by a duly qualified legal practitioner.

23.5 Compensation

- (a) No compensation will be paid on termination of this Agreement by the Minister under clause 23 other than in accordance with clause 23.1(c).
- (b) If this Agreement is terminated by the Minister under clause 22.2 and the Minister chooses Option 3 under clause 23.1(c) the amount of any compensation payable to

the Shire Council will be the amount determined by the Minister at the Minister's discretion, but will take into consideration:

- (i) the initial contribution made by the Shire Council, reduced to reflect the portion of the Licence Term which has then expired; and
- (ii) any amount which the Shire Council has received or is entitled to receive by way of:
 - A. indemnity under contract of insurance entered into and maintained in accordance with clause 15.2; or
 - B. damages in respect of the loss or destruction of the Facility; or
- (iii) the amount which the Shire Council would have received or would have been entitled to receive if the contracts of insurance had been entered into and maintained in accordance with clause 15.2.

24. NOTICES

24.1 Method of giving notices

A notice, consent, approval or other communication (each a "notice") under this Agreement must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (b) sent by prepaid and certified mail; or
- (c) transmitted by facsimile,

to that person's address.

24.2 Address for Notices

For the purpose of this clause 24 the address and facsimile number of each party will be the address and facsimile number set out under the term "Addresses" in the Schedule.

24.3 New Address

Where notice of a new address has been given by any party to another party the new address will be substituted for the previous address of the party giving such notice as and from the date of service of such notice.

24.4 Time of Receipt

A notice given to a person in accordance with this clause 24 is deemed as having been given or served, and received:

- (a) if delivered:
 - (i) before 4:00 pm - on the day of delivery;
 - (ii) otherwise - on the next day;
- (b) if sent by prepaid and certified mail - on the second day following the day of posting; and
- (c) if transmitted by facsimile:
 - (i) if the transmission report for the correct facsimile number states that the transmission was sent in full, without error and was completed before 4:00 pm - on the day of transmission;
 - (ii) otherwise - on the next day.

25. GOVERNING LAW

25.1 Laws of Victoria

This Agreement will be construed according to the law of the State of Victoria.

25.2 Jurisdiction of courts

The parties submit to the non-exclusive jurisdiction of the courts of Victoria and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

26. WAIVER

26.1 No Waiver

No waiver or indulgence by any party to this Agreement will be binding upon the parties unless in writing and in any event no waiver of one breach of any term or condition of this Agreement will operate as a continuing waiver unless so expressed nor operate as a waiver of another breach of the same or any other term or condition of this Agreement.

26.2 Rights Cumulative

The rights and remedies provided in this Agreement are cumulative and do not exclude any rights or remedies provided by law.

27. VARIATIONS

No addition to or variation of this Agreement will be of any force or effect unless in writing signed by or on behalf of all parties.

28. SEVERABILITY

If any provision of this Agreement is found to be invalid or of no force or effect under any applicable laws, executive orders or regulations of any government authority having jurisdiction, it will be construed as though that provision had not been included in it and the remaining provisions of this Agreement will retain their full force and effect.

29. FURTHER ACTS

The parties will promptly do and perform and must procure that each of its employees and agents does and performs such further acts and execute and deliver all further instruments required by law or reasonably requested by any other party, to establish, maintain and protect the respective rights and remedies of the other parties and to carry out and effect the intent and purpose of this Agreement.

30. CONFIDENTIALITY

Apart from the purpose of performing their obligations under this Agreement the School Council and the Shire Council:

- (a) will treat as confidential all information which comes into its possession pursuant to or as a result of or in the performance of this Agreement; and
- (b) will not without the permission of the Minister disclose such information to an outside party.

31. CONFLICT OF INTEREST

The Shire Council warrants that, to the best of its knowledge and belief after due inquiry as at the date of this Agreement, it has no duties or interests that create or might reasonably be anticipated to create a conflict with its duties and obligations under this Agreement.

32. COSTS

Each party will bear its own legal costs.

33. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties and supersedes any other communications or representations made in connection with the subject matter of this Agreement.

34. COUNTERPARTS

This Agreement may be executed in any number of counterparts all of which taken together will be deemed to constitute one and the same instrument.

35. ACTING ON BEHALF OF MINISTER

Any:

- (a) act, deed, document or thing to be made, done, executed or performed (excluding the execution of this Agreement); and
- (b) right, duty or power (including the right to issue a notice or give any consent) of the Minister to be exercised under this Agreement,

may be made, done, executed, performed or exercised on behalf of the Minister by any employee of the Department authorised in that behalf by the Minister.

SPECIAL CONDITIONS

1. PLANNING PERMITS

1.1 Obligation to obtain Planning Permits

The School Council will be responsible for obtaining all relevant Planning Permits prior to commencing use of the Facility and complying with any conditions contained within each Planning Permit.

1.2 Change to Planning Permit conditions

Should an event occur that results in a change in one or more condition of a Planning Permit that causes revenue derived through use of the Facility to be reduced by 50% in respect of a financial year in comparison to the Income derived by that party in the preceding financial year:

- (a) the parties agree that any party may request a meeting between the parties be convened;
- (b) the meeting referred to in paragraph (a) shall be held on a date agreed by the parties or otherwise not more than 30 days after the date the request for the meeting was made; and
- (c) the meeting referred to in paragraph (a) the parties agree to negotiate in good faith to mitigate the reduction in revenue caused by the change in conditions by altering pre-existing rights and responsibilities of any party including:
 - (i) hours of use;
 - (ii) receipt or payment of fees, including the Licence Fee (if any);
 - (iii) receipt of moneys in the event of surpluses under clause 16.9 and payment of deficits under clause 16.10.

1.3 School curriculum initiatives to prevail

Any alteration of the pre-existing rights and responsibilities of the School must not conflict with the curriculum initiatives of the School.

1.4 Failure to reach agreement

Notwithstanding clause 1.2(c), If the parties fail to reach agreement under Special Condition 1.2(c) within 30 days any party may refer to the matter for expert determination in accordance with clause 20.

SCHEDULE

School - Clause 1.1

Mansfield Secondary College

School Hours - Clause 1.1

8.45 am - 4.30 pm

Contributions - Clause 3.1

- (a) School Council: \$200,000
- (b) Shire Council: \$600,000

Construction Insurances - Clause 6.2

- (a) Public liability insurance covering the Shire Council, School Council and the State of Victoria, their respective employees including any person who is a volunteer school worker within the meaning of Section 34A of the Act (while acting in the course of their employment) against any liability in respect of the death of or personal injury or the destruction of or damage to property occurring in or on the Facility or arising out of or in connection with the construction or in relation to the use of the Facility.

The public liability insurance must be in the joint names of the Shire Council, School Council and the State of Victoria and must, with the exception of the limit of the cover provided, cover each of those parties and their respective employees in the same manner as if that party was the only party insured.

The limit of the cover provided by the public liability insurance must not be less than \$10,000,000 per insured event.

- (b) Insurance in the joint names of the Shire Council, the School Council and the State of Victoria which provides those parties with replacement value cover in respect of the loss or destruction of or damage to the Facility and any buildings or structures erected in or on the Facility and any apparatus or equipment belonging to or used by

the State of Victoria the School Council and the Shire Council which is housed, stored, kept or used in or on the Facility.

- (c) Insurance in accordance with the requirements of the Accident Compensation Act 1985 (Vic) and the Accident Compensation (Work Cover Insurance) Act 1993 (Vic) which provide the servants, agents and employees and the volunteer workers of the Shire Council with cover against personal injury or sickness arising from providing goods or services or working in or on the Facility.

Use of the Facility - Clause 11.2

School Council - during School Hours on School Days, plus 30 evenings and 2 days on each of 5 weekends a year (such evenings and weekends to be determined by the School Council and notified to the Shire Council).

Shire Council - after 4.30pm on School Days and all day on days that are not School Days.

Initial Term - Clause 11.7

30 years

Further Term - Clause 11.8

15 years

Committee Members - Clause 13.1(b) and (c)

- Members of the School Council: 2
- Persons appointed by the Shire Council: 2

Other Persons - Clause 13.1(d)

- Other persons: 2

Quorum - Clause 13.11

- Minimum number of members of Committee: 3
- Minimum number of appointed School Council members: 2
- Minimum number of Shire Council representatives: 1

Insurances - Clause 15.2(a)

The Committee will procure and maintain the following policies of insurance:

- (i) which provide the State of Victoria, the School Council, the Shire Council, their respective employees including any person who is a volunteer school worker within the meaning of Section 34A of the Act (while acting in the course of their employment) and the members of the Committee with at least \$10,000,000 cover per event against any liability resulting from death or personal injury or the destruction of or damage to property occurring in or on the Facility or arising out of or in relation to the use of the Facility;
- (ii) which provide the State of Victoria, the School Council and the Shire Council with replacement value cover against the destruction of or damage to the Facility and any buildings or structures erected in or on the Facility and any apparatus or equipment belonging to or used by the State of Victoria, the School Council and the Shire Council which is housed, stored, kept or used in or on the Facility; and
- (iii) in accordance with the requirements of the Accident Compensation Act 1985 (Vic) and the Accident Compensation (Work Cover Insurance) Act 1993 (Vic) which provide the servants, agents and employees and the volunteer workers of the members of the Committee with cover against personal injury or sickness arising from providing goods or services or working in or on the Facility.

Capital Reserve - Clause 16.6(c)

\$10,000

Addresses - Clause 24

(a) Minister:

The Regional General
Manager
Department of Education
PO Box 403
BENALLA 3672

(b) School Council

The Secretary
Mansfield Secondary College
Council
PO Box 203
MANSFIELD 3724

(c) Shire Council:

The Chief Executive Officer
Delatite Shire
PO Box 227
BENALLA 3672

EXECUTED as an agreement.

SIGNED by PHILLIP ARCHIBALD
GUDE in his capacity as Minister for
Education in the presence of:


Phillip Archibald Gude

PA Money
(Signature of Witness)

PATRICIA Ann Money
(Name of Witness in full)

THE COMMON SEAL of MANSFIELD)
SECONDARY COLLEGE SCHOOL)
COUNCIL was affixed by order of the)
Council and in the presence of the President of)
the School Council and its Authorised)
Appointee:



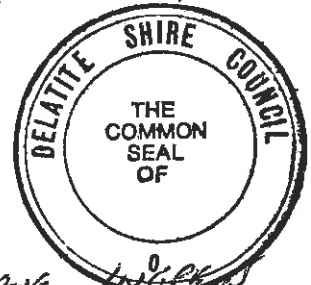
Alan Dobson
(Signature of President of School Council)

R P Duggan
(Signature of Authorised Appointee)

ALAN J DOBSON
(Name of President of School Council in full)

Ralph Duggan
(Name of Authorised Appointee in full)

THE COMMON SEAL of DELATITE)
SHIRE COUNCIL was affixed in the)
presence of:



Thomas Siracano Lowe
(Signature of Mayor)

THOMAS SIRACANO LOWE
(Name of Mayor in full)

William N Hill
(Signature of Councillor)

WILLIAM HENRY HILL
(Name of Councillor in full)

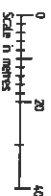
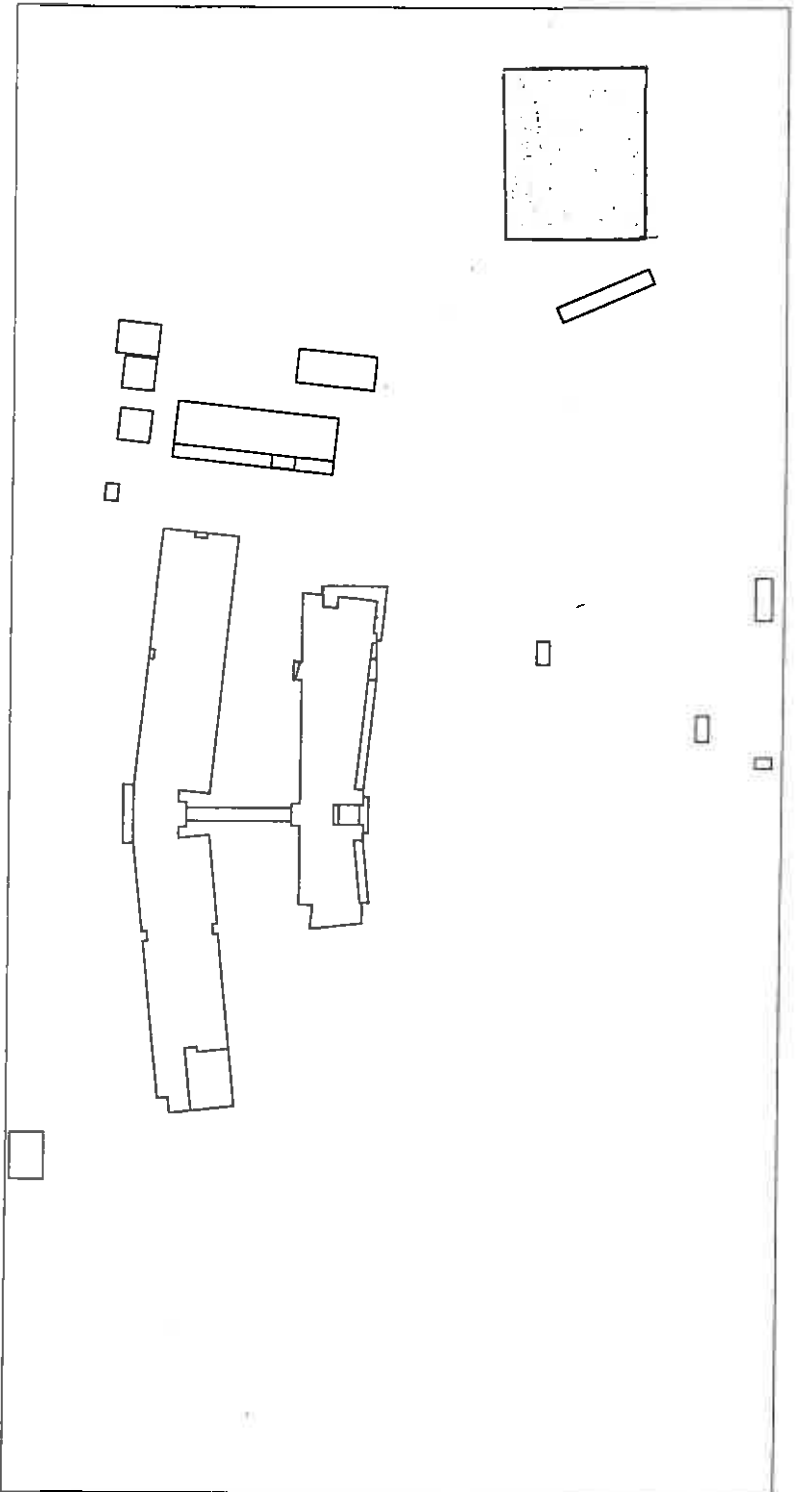
Robert Henry Dobzynski
(Signature of Chief Executive Officer)

Robert Henry Dobzynski
(Name of Chief Executive Officer in full)

ANNEXURE "A"

NOTES:

VIEW STREET



site plan



Campus Address
VIEW STREET
MANSFIELD 3722

Region No. 31
Goulburn North Eastern

EDUCATION VICTORIA
Advancement through Learning

These drawings were prepared by Asset Systems, Building Services Agency,
Department of Infrastructure for the Department of Education.
Any queries relating to these drawings should be referred to
Asset Management Systems Branch, Level 2,
2 Treasury Place, East Melbourne 3002. Ph: 9637 3073 Fax: 9637 2080

THESE DRAWINGS ARE FOR INFORMATION PURPOSES ONLY. APPROPRIATE SCALE ONLY

Schools Assets Management System
MANSFIELD
SECONDARY COLLEGE

Revised: 31MAR98 School No. 6010 Campus No. 1 Sheet 1 of 13

