

**MATTER OF URGENCY REPORT TO ORDINARY MEETING OF  
GREATER HUME COUNCIL TO BE HELD AT  
COMMUNITY MEETING ROOM, LIBRARY COMPLEX, LIBRARY LANE, HOLBROOK  
ON WEDNESDAY, 17 JUNE 2020**

## **OFFICER'S REPORT – PART A – FOR DETERMINATION**

### **GOVERNANCE**

#### **1. OFFICE OF LOCAL GOVERNMENT – COVID-19 LOCAL GOVERNMENT STIMULUS PACKAGE**

**Report prepared by General Manager – Steven Pinnuck**

#### **REASON FOR REPORT**

For Councillors to approve the Mayor and General Manager signing the NSW State Government's COVID-19 Local Government Stimulus Package under the common seal of Council.

#### **REFERENCE TO DELIVERY PLAN ACTIONS**

Nil

#### **DISCUSSION**

As reported to the May meeting of Council, if councils are to accept the offer of the COVID-19 Local Government Stimulus Package, councils that are already members of Joint Organisations (JOs) **must** remain in those Joint Organisations (JOs) for a further two years.

The signed funding agreement must be returned to the Office of Local Government (OLG) by **COB 24 June 2020**.

A copy of the COVID-19 Local Government Stimulus Package covering letter and Funding Agreement is attached as **ANNEXURE 1** for Councillors' information.

It was the Author's intent to sign the Funding Agreement under delegated authority, however in view of the resolution from the May meeting it has been determined to seek approval from Council.

Resolution No. 5573 from the May meeting is as follows:

*That:*

- 1. Council provides 'in principle' support for the way forward determined in relation to the creation of a new organisation under a structure of a company limited by guarantee.*
- 2. A final decision on Council's participation in the new organisation be determined once the funding arrangements for the COVID-19 Local Government Stimulus package have been resolved.*

The COVID-19 Local Government Economic Stimulus Package has three main components:

- \$32.76 million to provide a grant to each council to cover the cost of the FY2020-2021 increase in the Emergency Services Levy (ESL) which for Greater Hume is \$199,988.

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OFFICE OF LOCAL GOVERNMENT – COVID-19 LOCAL GOVERNMENT STIMULUS  
PACKAGE [CONT'D]

- \$112.5 million to fund a Council Job Retention Allowance Subsidy. Council will not meet the requirements of this funding.
- Greater access to the TCorp Local Government Lending Facility. Council will not be able to access the TCorp lending facility due to Council commitment to support (through Council investments) unrated financial institutions that support our communities (e.g. Hume Bank and WAW Credit Union).

Notwithstanding that Council is ineligible for the majority of the Stimulus Package, Council is not in a position to forego the grant to cover the increase in ESL contributions.

It is the Author's understanding that the majority of members of the Riverina Joint Organisation have signed, or are intending to sign the COVID-19 Local Government Stimulus Package.

Further at a recent JO Chairs Forum, the Minister's Senior Adviser advised that the OLG was to undertake a review of JOs later this year. It would be appropriate, as a demonstration of good faith, for Greater Hume Council to sign the Funding Agreement and await the outcome of the proposed review of JOs prior to proceeding to implement Resolution No. 5573. It is expected that further report on this matter will be submitted to the next meeting of the Riverina Joint Organisation to be held on Thursday, 25 June 2020 after which time an update will be provided to Council.

Council has already included the cost of participating in the Riverina Joint Organisation in the 2020/2021 Budget, therefore there will be no cost implications for continuing membership at this time.

### **BUDGET IMPLICATIONS**

At this stage the cost of continuing membership of the Riverina Joint Organisation has been included in the 2020/2021 Budget and forward estimates.

### **CONCLUSION**

As reported to the May meeting of Council, if councils are to accept the offer of the COVID-19 Local Government Stimulus Package, councils that are already members of Joint Organisations (JOs) must remain in those Joint Organisations (JOs) for a further two years.

It was the Author's intent to sign the Funding Agreement under delegated authority however in view of the resolution from the May meeting it has been determined to seek approval from Council.

Notwithstanding that Council is ineligible for the majority of the Stimulus Package, Council is not in a position to forego the grant to cover the increase in ESL contributions.

It would be appropriate, as a demonstration of good faith, for Greater Hume Council to sign the Funding Agreement and await the outcome of the proposed review of JOs prior to proceeding to implement Resolution No. 5573.

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OFFICE OF LOCAL GOVERNMENT – COVID-19 LOCAL GOVERNMENT STIMULUS  
PACKAGE [CONT'D]

**RECOMMENDATION**

That:

1. the Mayor and General Manager be authorized to sign the NSW State Government's COVID-19 Local Government Stimulus Package under the common seal of Council; and
2. Council continue to work with Regional Organisations to maintain an effective and viable regional voice for the Riverina region.



## Office of Local Government

ANNEXURE 1 - MATTER OF URGENCY

5 O'Keefe Avenue NOWRA NSW 2541  
Locked Bag 3015 NOWRA NSW 2541

Our Reference: A702526  
Your Reference:  
Contact: Program Delivery  
Phone: 02 4428 4100

Mr Steven Pinnuck  
General Manager  
Greater Hume Shire Council  
PO Box 99  
HOLBROOK NSW 2644

29 May 2020

By email: [mail@greaterhume.nsw.gov.au](mailto:mail@greaterhume.nsw.gov.au)

Dear Mr Pinnuck

I am writing to you about the 'COVID-19 Local Government Economic Stimulus Package' (Stimulus Package).

I am pleased to provide Greater Hume Shire Council (Council) with the funding agreement that will enable it to benefit from those parts of the package that are relevant to its needs. The current elements of the package are:

- \$32.76 million to provide a grant to each council to cover the cost of the FY2020-21 increase in the Emergency Services Levy.
- \$112.5 million to fund a Council Job Retention Allowance Subsidy.
- Greater access to the TCorp Local Government Lending Facility
- TCorp granting deferrals of principal and interest on existing loans upon request for six months.
- The NSW Treasurer providing to any council, conditional on Treasury's analysis and approval upon application, a "deed of indemnity for and on behalf of the Crown in right of the State of NSW", to assist councils to secure commercial bank loan.

It is requested that Council return the signed funding agreement to the Office of Local Government (OLG) by **COB 24 June 2020**. It is important to note that Council will not be able to access any element of the package until a signed agreement has been received and accepted by OLG.

Should you have any questions, or wish to discuss this matter please call OLG's Program Delivery Team on 02 4428 4100 or email to [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).

Yours sincerely

**Tim Hurst**  
Deputy Secretary, Local Government, Planning and Policy  
Office of Local Government

Enc





**Funding Agreement**

**COVID-19 Economic Stimulus Package**

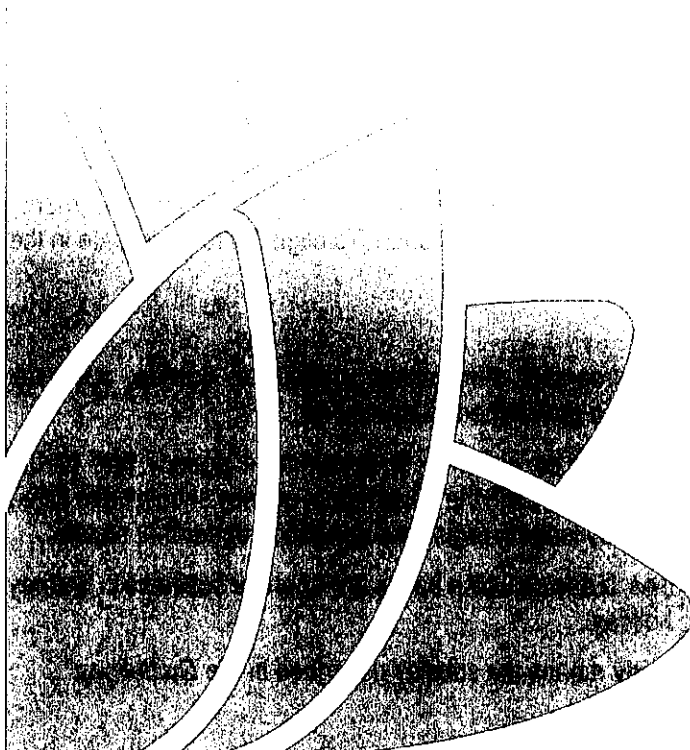
**Between**

**Greater Hume Shire Council**

**and**

**Department of Planning, Industry and Environment**

**Office of Local Government**



**Between:**

1. The Greater Hume Shire Council (Council) and;
2. Tim Hurst, Deputy Secretary, Local Government, Planning and Policy, Office of Local Government, Department of Planning, Industry and Environment (OLG) (ABN 20 770 707 468) for and on behalf of the Crown in right of the State of New South Wales, 5 O'Keefe Avenue, NOWRA NSW 2541.

**Background**

The NSW Government has approved a COVID-19 economic stimulus package (*Stimulus Package*) that is directed to safeguarding jobs, services and infrastructure delivery at the State's 128 local councils.

The package currently has four elements:

- The *Council Job Retention Allowance Subsidy*
- Funding to meet councils' increase in the emergency services levy for 2020-21
- Access to low-interest, infrastructure loans from TCorp in line with TCorp's credit criteria
- Access to a *Crown indemnity* for commercial borrowings, subject to meeting certain requirements.

Council's access to all or any part of the package is contingent on it entering into this funding agreement.

**The Parties Agree:**


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**1 Definitions and interpretation**
**1.1 Definitions**

**Agreement** means this funding agreement including the Attachments and any documents incorporated into this agreement by reference.

**Application** means Council's Financial Stimulus Eligibility Return and any supporting documents submitted to OLG for the purpose of allowing OLG to assess Council's eligibility to participate in the Council Job Retention Allowance Subsidy.

**Authorisation** includes:

- (a) any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption from by or with a governmental agency; or
- (b) any consent or authorisation regarded as given by a government agency due to the expiration of the period specified by a statute within which the government agency should have acted if it wished to proscribe or limit anything already lodged, registered or notified under that statute.

**Business Day** means for all other purposes, a day on which banks are open for business in Sydney excluding a Saturday, Sunday or public holiday.

**Council Job Retention Allowance Subsidy** means the subsidy described in the *Guidelines*.

**Crown Indemnity** means the "deed of indemnity for and on behalf of the Crown in right of the State of NSW" provided by the NSW Government to assist councils to secure a commercial bank loan (conditional on Treasury's analysis and approval upon application).

**Date of this Agreement** means the date shown on the Execution Page or if it is not dated the date the OLG signs this Agreement.

**Dollars, A\$ and \$** means the lawful currency of the Commonwealth of Australia.

**DPIE** means Department of Planning, Industry and Environment.

**Eligible council** is a council who has entered into this agreement and which is deemed by OLG to meet the eligibility criteria, as set out in *Guidelines*, as defined in this Agreement.

**ESL** means the Emergency Services Levy payable annually to Revenue NSW.

**Event of Default** means any event specified as such in this Agreement.

**Acquittal** means any acquittal of the described in the *Guidelines*.

**GST** means the goods and services tax levied under *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)* or any successor Act.

**GST Law** means *A New Tax System (Goods and Services Tax) Act 1999*, or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made under such Acts.

**Guidelines** means the Job Retention Allowance Subsidy Guidelines dated May 2020 as may be varied and any subsequent guidelines issued by OLG that it determines are applicable to the operation of the Stimulus Package or its individual elements (or if replaced by a later version, that later version).

**Joint organisation** means a joint organisation established under Part 7 of Chapter 12 of the *Local Government Act 1993*.

**OLG** means Office of Local Government, **Department of Planning, Industry and Environment**

**T-Corp loan facility** means a facility provided to the council by T-Corp including:

- a) an expansion of the lending limit to councils with a corresponding Crown Indemnity by the NSW Government;
- b) expanding eligibility to allow a council to access the facility for the next six months (subject to meeting TCorp's Credit Policy); and
- c) TCorp granting deferrals of principal and interest on existing loans upon request for the next six months.

## 1.2 Business Day

Unless otherwise specified in this Agreement, where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the preceding Business Day.

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## 2 Term

This agreement continues to have effect until Council has fulfilled its obligations under the Guidelines and this Agreement.

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## 3 General obligations of Council

To access any part of the Council Stimulus Package, Council must:

- 3.1** Comply with any Guidelines, as defined in this Agreement.
- 3.2** If a member of a member of a joint organisation (JO), continue to support that JO's continued operations, including with necessary funding contributions, for a period of two years from the date of this agreement.
- 3.3** Not use the proceeds of any new TCorp loan for capital works on buildings used solely for administrative purposes or council chambers, for a period of two years from the date of this Agreement, except where such works:
- (a) have a capital value of less than \$1,000,000; or
  - (b) is required to be carried out in an emergency; or
  - (c) is for maintenance.
- 3.4** Pay any ESL invoices issued to the Council in full to Revenue NSW by the due date.
- 3.5 Compliance with law**
- Council must comply with all legislative and regulatory requirements that may apply in relation to the application of the funding received, and if applied to a project, including obtaining all necessary approvals, licences and permissions.
- 3.6 Monitoring of Agreement**
- (a) Council agrees to supply OLG with any required certificates, documents or other information specified in the Guidelines, within any time period stipulated in the Guidelines.
  - (b) Council acknowledges that OLG may maintain regular contact with Council to monitor the performance of this Agreement and any related activity and agrees to co-operate with OLG in the performance of this role.
  - (b) The OLG may at any time request information from Council in connection with this Agreement, and Council must supply any such information promptly upon request.
  - (c) Nothing in this Agreement displaces obligations on the Council under the *Local Government Act 1993* or precludes the OLG from exercising functions and powers available to it under that Act.
- 3.7 Independent verification**
- Council must promptly, at its own cost, provide all documents, and information reasonably required by the OLG or its auditor for the purpose of enabling the OLG to compile and have audited an aggregate statement of expenditure which pertains to aggregate financial outcomes for all Councils funded by the Stimulus Package.
- 3.8 Records**
- (a) Council must ensure that all legally required financial and operational records and any other records stipulated in the Guidelines are kept and maintained as required.
  - (b) Council must retain the records, registers and reports referred to throughout the Term and for seven (7) years after the expiry or termination, of this Agreement.
- 3.9 Inspection**
- Council agrees that the OLG or its appointed nominee may access any required records at any reasonable time, upon giving Council reasonable notice.



**3.10 Audit**

- (a) An audit of any aspect of Council's compliance with this Agreement may be conducted at any time by the OLG or its nominee.
- (b) Council must co-operate fully with an audit, including:
  - (i) Granting the person conducting the audit reasonable access to Council's records and the performance of this Agreement;
  - (ii) Permitting the person conducting the audit to inspect and make copies of Council's records relevant to the performance of this Agreement;
  - (iii) Making available on request, at no additional cost to the person conducting the audit, reasonable facilities to enable a legible reproduction to be created of Council's records and materials stored on a medium other than in writing;
  - (iv) The OLG must give Council reasonable notice of its requirements in relation to an audit and use its reasonable endeavours to minimise disruption and interference to Council's performance of its obligation under this Agreement arising from an audit;
  - (v) Except where otherwise determined by the OLG, Council is responsible for its own costs of participating in an audit;
  - (vi) Council must promptly take any reasonable action required by it to rectify any error, non-compliance or inaccuracy identified in an audit in relation to Council's performance of this Agreement;
  - (vii) Council is not entitled to any delay costs or other costs or expenses of whatever nature relating in any way to an audit.

**3.11 Promotion of Stimulus Package and communication of outcomes**

- (a) Council agrees to publicly communicate the outcomes of the funding provided to Council in accordance with the Funding Acknowledgement Guidelines for recipients of NSW Government Grants (the Funding Acknowledgment Guidelines)  
(available at <https://www.advertising.nsw.gov.au/resources/branding>).
- (b) Council authorises the OLG and the State of New South Wales to use information Council supplies to the OLG in its Application or pursuant to this Agreement for promotional purposes, including:
  - (i) Council's name;
  - (ii) Details and/or aggregate sums of the funding provided;
  - (iii) the title and description of the infrastructure projects undertaken with the use of a related loan;
  - (iv) the number of employees whose employment has been subsidised by the Council Job Retention Allowance Subsidy;

subject to any confidentiality restriction which has been requested by Council and agreed to by the OLG.
- (c) Council consents to allowing representatives of the State of New South Wales to use any promotional material it either obtains through its own processes or those provided by council in any media platform for the promotion of Stimulus Package overall.

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## 4 Availability of funds and other elements of the Package

### 4.1 Amount

- (a) Any funds payable to councils under the Council Job Retention Allowance Subsidy and ESL components of the Stimulus Package will be paid in accordance with the Guidelines and at OLG's absolute discretion.
- (b) The failure to submit a claim supported by all required documentation within the time specified releases the OLG from having to pay the claim.

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## 5 Representations and warranties

Council represents and warrants that it has taken all necessary action to authorise the execution, delivery and performance of this Agreement in accordance with its terms.

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## 6 Events of Default and Termination

### 6.1 Notices to the OLG

Council must give notice to the OLG as soon as it becomes aware of any Event of Default occurring.

### 6.2 Events of Default

It is an Event of Default if, whether or not it is within the control of Council:

- (a) **Non-remediable breach of Agreement:** Council fails to perform or observe any other undertaking or obligation in this Agreement and that failure is not, in the opinion of the OLG, capable of remedy.
- (b) **Failure to fix remediable breach of Agreement:** Council fails to perform or observe any other obligation in this Agreement and that failure is, in the opinion of the OLG, capable of remedy but Council does not remedy the failure within the period specified, after receipt by Council of a notice from the OLG specifying the failure and requiring its remedy within the period specified in the notice.
- (c) **Authorisations:** Council fails to obtain any Authorisation necessary to enable Council to comply with its obligations under this Agreement or any such Authorisation ceases to be in full force and effect.
- (d) **Misrepresentation:** any warranty, representation or statement by Council is or becomes false, misleading or incorrect when made or regarded as made by Council under this Agreement.
- (e) **Insolvency:** Council becomes insolvent.

### 6.3 Consequences of Event of Default

- (a) Upon the occurrence of an Event of Default the OLG may, at its sole discretion, by written notice to Council:
  - (i) suspend this Agreement, including payments of any money payable under the Stimulus Package, until the default giving rise to the suspension is resolved to the satisfaction of the OLG or the OLG elects to terminate this Agreement, whichever occurs sooner; or
  - (ii) terminate this Agreement.

- (b) To avoid doubt, the exercise by the OLG of any right to suspend this Agreement is without prejudice to the OLG's right to terminate this Agreement in accordance with its terms.

#### **6.4 Consequences of Termination for Default**

- (a) If this Agreement is terminated, Council must repay the amount of any funds received by it under the Stimulus Package that has been paid to it prior to termination.
- (b) The OLG, on behalf of the State, may recover any outstanding reimbursement.
- (c) The OLG may make a determination of the amount of the reimbursement referred to in subsection 6.4(a) and may serve a notice on the council requiring the amount so determined be paid in recovery of the reimbursement.
- (d) An amount equal to the reimbursement as so determined, unless the OLG otherwise decides, is payable to the OLG as a debt by the Council.
- (e) The OLG may certify the amount due under the notice and that certificate is sufficient evidence of the amount due, unless the contrary is proved.

#### **6.5 Termination by Agreement**

The parties may agree to terminate this Agreement at any time on such terms as may be agreed.

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### **7 Indemnity**

- (a) Council indemnifies the Crown in right of the State of New South Wales, including the OLG and its officers, employees and agents (those indemnified), against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which those indemnified pay, suffer, incur or are liable for, in respect of any of the following:
  - (i) the occurrence of any Event of Default;
  - (ii) the OLG exercising its powers consequent upon or arising out of the occurrence of any Event of Default.
- (b) Any amount payable to those indemnified under this indemnity is payable on demand.
- (c) The indemnities contained in this Agreement are continuing obligations of Council, separate and independent from the other obligations of Council and survive the termination of this Agreement.
- (d) It is not necessary for those indemnified to incur or make payment before enforcing a right of indemnity conferred by this Agreement.

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### **8 Insurance**

- (a) Council must (at its expense) during the continuance of this Agreement and for a period of three (3) years after its expiration or termination, take out and maintain with a reputable insurance company the following insurance policies:
  - (i) broad form public liability insurance (that includes public liability and product liability insurance) in the amount not less than \$20 million dollars in respect of each and every occurrence and unlimited in the aggregate;
  - (ii) workers' compensation insurance in accordance with applicable legislation in respect of the employees of Council.
- (b) Council must, on request, produce satisfactory evidence to the OLG that the insurance requirements of this clause have been effected and are current.

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**9 GST**

- (a) Unless otherwise stated, any consideration in this Agreement (including any consideration given by the Council for the Stimulus Package Reimbursement) is exclusive of GST.
- (b) If a supply made under or in connection with this Agreement is a Taxable Supply the party making that supply (in this cl. 9, Supplier) may, subject to issuing a Tax Invoice, recover from the recipient of that supply (in this cl. 9, Recipient) an amount equal to the GST payable by the Supplier in respect of that supply (in this cl. 9, GST Amount).
- (c) The GST Amount is payable at the same time and in the same manner as any monetary consideration for the Supply to which the GST Amount relates but no later than the end of the tax period to which the relevant taxable supply is attributable under the GST Law.
- (d) Subject to this clause, Council warrants that at the time any supply is made under this Agreement on which GST is imposed, that Council is or will be registered under the GST Law.
- (e) Subject to this clause, any invoice rendered by Council in connection with a supply under this Agreement which seeks to recover an amount of GST payable must conform to the requirements for a Tax Invoice.
- (f) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that gives rise to an Adjustment, then:
  - (i) the Supplier must give an Adjustment Note to the Recipient immediately upon becoming aware of the Adjustment; and
  - (ii) the GST amount payable in respect of that supply will be adjusted accordingly and the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation from, the Recipient, as appropriate.
- (g) If an Adjustment Event occurs in relation to a Taxable Supply under or in connection with this Agreement that does not give rise to an Adjustment, for example because it occurs in the same tax period in respect of which the GST on the Taxable Supply or the input tax credit on the acquisition is attributable, the Supplier must:
  - (i) cancel any incorrect invoice issued to the Recipient and issue a correct one; and
  - (ii) if the Recipient has already paid the incorrect invoice, the Supplier (in the case of a decreased GST Amount) will provide a corresponding refund of the GST Amount to, or (in the case of an increased GST Amount) will be entitled to receive the amount of that variation in the GST Amount from, the Recipient, as appropriate.
- (h) Notwithstanding any other provision of this Agreement:
  - (i) any GST Amount payable by the Recipient to the Supplier under this clause 9 will be limited to the amount of an input tax credit to which the Recipient is entitled in respect of the relevant supply which the Recipient acquires; and
  - (ii) if the Commissioner of Taxation or a court determines that a supply made under or in connection with this Agreement in respect of which the Recipient has paid the Supplier a GST Amount is not a Taxable Supply then the Supplier will refund the Recipient that amount.

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## 10 General

### 10.1 OLG Nominee

OLG may authorise a nominee, in writing, to perform any of the OLG's functions under this Agreement.

### 10.2 Assignment by Council

Council must not transfer or assign any of its rights or obligations under this Agreement without the prior written consent of OLG.

### 10.3 Assignment by OLG

OLG may at any time assign any of its rights or transfer by novation any of its rights and obligations under this Agreement to any other NSW government agency without consent of Council.

### 10.4 Notices

- (a) Any notice or other communication between the parties under this Agreement must be addressed to the recipient party. For Council at the address stated in its Application for assessment for eligibility and unless otherwise specified by notice in writing from the recipient party.
- (b) Any notice or other communication under this Agreement:
  - (i) where Council is the sender, must be signed by a duly authorised officer of Council;
  - (ii) is regarded as being given by the sender and received by the addressee:
    - (A) if by delivery in person, when delivered to the addressee;
    - (B) if by post, on delivery to the address; or
    - (C) if by facsimile transmission, whether or not legibly received, when received by the addressee,but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and
  - (iii) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (c) In this clause, a reference to an addressee includes a reference to an addressee's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent, or employee of the addressee.

### 10.5 Governing law and jurisdiction

This Agreement is governed by the laws in force in the State of New South Wales and each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in the State of New South Wales, and the courts of appeal from those courts.

### 10.6 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Agreement or any power which is prohibited by any law is ineffective only to the extent of that prohibition.

- (b) Any provision of, or the application of any provision of, this Agreement which is void, illegal or unenforceable does not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

### 10.7 Waivers

- (a) Waiver of any right arising from a breach of this Agreement or of any power arising upon default under this Agreement or upon the occurrence of an Event of Default must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
  - (1) a right arising from a breach of this Agreement or the occurrence of an Event of Default; or
  - (2) a power created or arising upon default under this Agreement or upon the occurrence of an Event of Default;
 does not result in a waiver of that right or power.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right or power arising from a breach of this Agreement or on a default under this Agreement or on the occurrence of an Event of Default as constituting a waiver of that right or power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right or power by that other party.
- (e) This clause may not itself be waived except by writing.

### 10.8 Dispute Resolution

The parties agree that any dispute arising under this Agreement will be dealt with as follows:

- (a) A party claiming that a dispute has arisen must give written notice of the dispute to the other party;
- (b) The parties will seek to resolve the dispute;
- (c) If the dispute is unresolved within a fourteen (14) day period (or within such further period as the parties agree in writing) then the dispute will be referred to the Australian Commercial Dispute Centre (ACDC) for mediation;
- (d) The mediation is to be conducted in accordance with the ACDC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved;
- (e) If the dispute isn't settled within 28 days (or such longer period as agreed to in writing between the parties) after appointment of the mediator, or if no mediator is appointed within 28 days of the referral of the dispute to mediation, the parties may pursue any other procedure available at law for resolution of the dispute;
- (f) The parties must continue performing their obligations under this Agreement while the dispute is being resolved, to the extent practicable to do so;
- (g) A party must attempt to settle any dispute in relation to this Agreement in accordance with this clause (Dispute Resolution) before resorting to court proceedings or other dispute resolution process;
- (h) Nothing in this clause (Dispute Resolution) prevents either party from seeking interlocutory relief or the OLG exercising its rights to suspend or terminate this Agreement.

#### **10.9 Relationship**

Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties.

#### **10.10 Variation**

A variation of any term of this Agreement must be in writing and signed by the parties.

#### **10.11 Taxes, duties and charges**

Other than as specified in this Agreement, taxes, duties and charges imposed or levied in connection with this Agreement will be borne by Council.

#### **10.12 Counterparts**

- (a) This Agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this Agreement by signing any counterpart.

#### **10.13 Survival**

Any clause of this Agreement that by its nature should survive termination or expiry of this Agreement shall survive such termination or expiry including, without limitation, the following:

- (a) clause 3 (General obligations of Council);
- (b) clause 5 (Representations and warranties);
- (c) clause 6.4 (Consequences of Termination);
- (d) clause 7 (Indemnity); and
- (e) clause 8 (Insurance).

**EXECUTION PAGE****Date of this Agreement:** \_\_\_\_\_ 2020**Executed as an agreement by OLG:**

**Signed by** \_\_\_\_\_ )  
 Tim Hurst, Deputy Secretary, Local \_\_\_\_\_ )  
 Government, Planning and Policy, for and on \_\_\_\_\_ )  
 behalf of the Crown in right of the State of New \_\_\_\_\_ )  
 South Wales on \_\_\_\_\_ )  
 \_\_\_\_\_ 2020. \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
Signature of witness\_\_\_\_\_  
Signature of Tim Hurst\_\_\_\_\_  
Name of witness (please print)**Executed as an agreement by the Council**

**Signed by Council's General Manager** \_\_\_\_\_ )  
**Mr Steven Pinnuck** \_\_\_\_\_ )  
 On \_\_\_\_\_ 2020. \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ )

\_\_\_\_\_  
Signature of witness\_\_\_\_\_  
Signature of General Manager\_\_\_\_\_  
Name of witness (please print)**OR**

**The seal of Greater Hume Shire Council** \_\_\_\_\_ )  
 was affixed in our presence \_\_\_\_\_ )  
 on \_\_\_\_\_ 2020 \_\_\_\_\_ )  
 in pursuance of a resolution of the Council \_\_\_\_\_ )  
 authorising the seal to be affixed passed on \_\_\_\_\_ )  
 2020. \_\_\_\_\_ )

\_\_\_\_\_  
Mayor/Councillor\_\_\_\_\_  
Name of signatory (please print)\_\_\_\_\_  
General Manager/Councillor\_\_\_\_\_  
Name of signatory (please print)