



COPY

The Hon **Julia Gillard** MP  
Member for Lalor

**Mr Bill Jaboor**  
**Chief Executive Officer**  
**Hobsons Bay City Council**  
**PO Box 21**  
**Altona VIC 3018**

**Dear Mr Jaboor**

I write in support of the application for funding by Regional Kitchen Pty Ltd for their joint venture project with Community Chef aimed at providing a high quality Meals on Wheels service.

Regional Kitchen Pty Ltd plans to purchase land and build a facility at a site in Altona and then lease the facility to Community Chef. Initially, 5000 meals per day will be produced with the capacity to produce 10000 meals per day without any major changes.

The Municipal Association of Victoria has fully supported the project which will enable local governments to access the supply of high quality meals as part of their aged and home care programs. There are currently 14 municipalities listed as shareholders of Community Chef, with 10 other municipalities considering joining the scheme. Regional Victoria particularly is expected to consider joining the scheme.

The design of the facility has been based on a review of overseas developments with new innovative features built into the design. These features will be beneficial to food production processes and will enable workers to be in a healthier and more comfortable environment. The design of the facility also allows for expected expansion without stopping production of the Meals Service.

The project has been endorsed by the Victorian Ethnic Communities Council and the Victorian Multicultural Commission because of the provision for culturally relevant meals.

This service will be most valuable to the people of Lalor in assisting our elderly, frail and multicultural members of our community. It will be beneficial for local municipalities to continue to support residents maintain their independence in their own homes.

Thank you for considering the application by Regional Kitchen Pty Ltd.

**Yours sincerely**

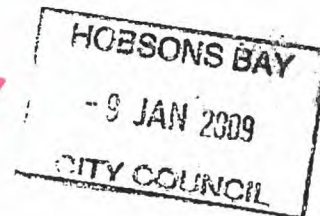
**The Hon Julia Gillard MP**  
**Deputy Prime Minister**  
**Federal Member for Lalor**  
17/2/2009



ethnic  
communities'  
council of  
victoria

8 January 2009

**COPY**



Mr Bill Jaboor  
Chief Executive Officer  
Regional Kitchen Project  
C/- PO Box 21  
ALTONA VIC 3018

**Re: RLCIP Strategic Projects Application – Regional Kitchen Project**

Dear Mr Jaboor

Thank you for advising of the intention of the Hobsons Bay City Council on behalf of Banyule, Brimbank, Greater Dandenong, Darebin, Greater-Geelong, Hume, Maribyrnong, Moonee-Valley, Moreland, Yarra and Stonnington City Councils and Macedon Ranges and Melton Shire Councils to apply for Commonwealth funding to finance the new *Meals on Wheels* food production facility in Victoria.

The Ethnic Communities' Council of Victoria (ECCV) is a broad based statewide peak advocacy body representing multicultural communities in Victoria. It advocates on behalf of multicultural communities across a range of issues including access to aged care services.

The ECCV applauds this joint venture of the 14 local Victorian municipalities in building a *Meals on Wheels* kitchen that will provide better quality meals with a strong focus on greater variety to cater for the special needs of different religious, cultural and medical groups.

In view of the growing culturally and linguistically diverse older population in Victoria, the ECCV agrees with the outcomes of the feasibility study undertaken by the joint municipalities' Regional Kitchen Project in developing capacity to supply high quality, low cost meals that are culturally relevant and able to address special dietary requirements.

The ECCV supports any new initiative that would increase the diversity of culturally-specific meals to the aged population. As such we support your venture in the provision of special needs meals to elderly culturally and linguistically diverse clients and encourage you to continue strengthening the culturally-specific aged care services to the ethnic community.

Yours sincerely

Sam Afra  
Chairperson



SCAN00465483

Statewide Resources Centre  
150 Palmerston Street  
Carlton Victoria 3053

t 03 9349 4122  
f 03 9349 4967  
eccv@eccv.org.au  
www.eccv.org.au

ABN 65071572705





Parliament of Australia

**Hon. Brendan O'Connor MP**

Minister for Employment Participation

Federal Member for Gorton

**COPY**

15 January 2009

**To Whom It May Concern:**

I write in support of Regional Kitchen Group's application for funding for its project Community Chef under the *Regional and Local Community Infrastructure Program – Strategic Projects*.

Community Chef is a joint venture between fourteen local government organisations across Melbourne – one of these, Brimbank City Council, is located in my electorate of Gorton.

I have been advised that the project aims to build a large-scale regional kitchen to produce fresh, high-quality meals for delivered-meal programs, such as 'Meals on Wheels'.

The Meals on Wheels program plays a very important role in maintaining the health and well-being of many older people and people with special needs in my electorate.

I have been advised that the project will not only make more efficient use of resources by providing economies of scale, but will also allow significant improvements to the quality and variety of meals available for municipal 'Meals on Wheels' services.

In addition, it will give local councils the ability to cater more easily for specific cultural dietary requirements, including the provision of Kosher and Halal meal options. In a diverse and multicultural electorate like Gorton, this is particularly important.

I have no hesitation in supporting the Regional Kitchen Group in its application for funding under the program.

Yours sincerely

Brendan O'Connor MP

Federal Member for Gorton

ATTACHMENT O  
COPY OF COVERING LETTER FROM  
ORIGINAL APPLICATION



**COPY**

**Hobsons Bay**  
CITY COUNCIL

15 December 2008

The Manager  
Regional and Local Community Infrastructure  
Program – Strategic Projects  
Department of Infrastructure, Transport,  
Regional Development and Local Government  
GPO Box 594  
CANBERRA ACT 2601

Ask for: Bill Jaboor  
Phone: 47F

Dear Sir or Madam:

**RLCIP STRATEGIC PROJECTS APPLICATION – REGIONAL KITCHEN PROJECT**

Hobsons Bay City Council on behalf of Banyule, Brimbank, Greater Dandenong, Darebin, Greater Geelong, Hume, Maribyrnong, Moonee Valley, Moreland, Yarra and Stonnington City Councils and Macedon Ranges and Melton Shire Councils, is pleased to submit the attached application for funding to help finance the construction of a new Meals on Wheels food production facility in Victoria.

Whilst Regional Kitchen, which will trade as "Community Chef", is a joint venture of the above mentioned fourteen Councils ten others have expressed an interest in joining the project and numbers are expected to grow across Victoria as the new facility becomes a reality.

Commonwealth funding would enable the project to move immediately to tender and construction. It would also ensure that the latest production methods and energy, water and waste reduction features were built into this innovative and beneficial community project. The proposed facility will create in excess of 30 construction related jobs in 2009 and employ 50 people when operational in 2010.

The announcement of the Strategic Grants Projects funding could not have been better timed for the Regional Kitchen project. Having undertaken a feasibility study in 2005, a business plan and risk assessment in 2007 and detailed design and costings in 2008, the project is ready to go. The detailed business plan is attached.

Cash contributions from the fourteen partners totalling \$3.2m have already been received together with a \$6m grant from the Victorian Government. As the financial modelling in the business plan shows, a \$9m contribution from the the Australian Government would ensure not only an immediate start to construction but the long term viability of the project.

Past reports, quantity surveyor costings, the staffing structure for the fifty new permanent positions, detail that sits behind the spreadsheets and architectural drawings and process flows are all available should they be required. Please don't hesitate to contact me or the CEO of Regional Kitchen Group, Hayden Raysmith if more detail is needed.

Yours sincerely,

47F

Bill Jaboor  
CHIEF EXECUTIVE OFFICER



**Legal name of Council 7/14**

Hume City Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Mr Domenic Isola
Position:	CEO
Telephone:	03 47F
E-mail address:	47F .vic.gov.au
Street/PO Box:	PO Box 119
Suburb/Town:	Dallas
City:	
State/Territory: Postcode:	VIC 3175

**Your Council's address**

Street Address	1079 Pascoe Vale Road
Suburb/Town/City	Broadmeadows
State	VIC
Postcode	3047
Organisational Email Address	<a href="mailto:email@hume.vic.gov.au">email@hume.vic.gov.au</a>
Organisational Website	<a href="http://www.hume.vic.gov.au">www.hume.vic.gov.au</a>

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 119
Suburb/Town/City	Dallas
State	VIC
Postcode	3047

**Legal name of Council 8/14**

Macedon Ranges Shire Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Ms. 47F
Position:	Director, Community Wellbeing
Telephone:	s 47F
E-mail address:	47F vic.gov.au
Street/PO Box:	PO Box 151
Suburb/Town:	Kyneton
City:	
State/Territory: Postcode:	VIC 3444

**Your Council's address**

Street Address	129 Mollison St
Suburb/Town/City	Kyneton
State	VIC
Postcode	3444
Organisational Email Address	mrsc@macedon-ranges.vic.gov.au
Organisational Website	www.macedon-ranges.vic.gov.au

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 151
Suburb/Town/City	Kyneton
State	VIC
Postcode	3444



**Legal name of Council 9/14**

Maribyrnong City Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Ms 47F
Position:	General Manager, Community Wellbeing
Telephone:	s 47F
E-mail address:	47F maribyrnong.vic.gov.au
Street/PO Box:	PO Box 58
Suburb/Town:	Footscray
City:	
State/Territory: Postcode:	VIC 3011

**Your Council's address**

Street Address	Cnr Hyde and Napier Streets
Suburb/Town/City	Footscray
State	VIC
Postcode	3011
Organisational Email Address	<a href="mailto:email@maribyrnong.vic.gov.au">email@maribyrnong.vic.gov.au</a>
Organisational Website	<a href="http://www.maribyrnong.com">www.maribyrnong.com</a>

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 58
Suburb/Town/City	Footscray
State	VIC
Postcode	3011

**Legal name of Council 10/14**

Melton Shire Council
----------------------

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Mr. 47F
Position:	Manager, Corporate Services
Telephone:	s 47F
E-mail address:	47F melton.vic.gov.au
Street/PO Box:	PO Box 21
Suburb/Town:	Melton
City:	
State/Territory: Postcode:	VIC 3337

**Your Council's address**

Street Address	232 High Street
Suburb/Town/City	Melton
State	VIC
Postcode	3337
Organisational Email Address	csu@melton.vic.gov.au
Organisational Website	www.melton.vic.gov.au

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 21
Suburb/Town/City	Melton
State	VIC
Postcode	3337



**Legal name of Council 11/14**

Moonee Valley City Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Ms. 47F
Position:	Executive Manager, Community Services
Telephone:	s 47F
E-mail address:	47F mvcc.vic.gov.au
Street/PO Box:	PO Box 126
Suburb/Town:	Moonee Ponds
City:	
State/Territory: Postcode:	VIC 3039

**Your Council's address**

Street Address	9 Kellaway Ave
Suburb/Town/City	Moonee Ponds
State	VIC
Postcode	3039
Organisational Email Address	council@mvcc.vic.gov.au
Organisational Website	www.mvcc.vic.gov.au

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 126
Suburb/Town/City	Moonee Ponds
State	VIC
Postcode	3039

**Legal name of Council 12/14**

Moreland City Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Mr <sup>47F</sup>
Position:	Manager, Internal Audit
Telephone:	s <sup>47F</sup>
E-mail address:	<sup>47F</sup> moreland.vic.gov.au
Street/PO Box:	Locked Bag 10
Suburb/Town:	Moreland
City:	
State/Territory: Postcode:	VIC 3058

**Your Council's address**

Street Address	90 Bell Street
Suburb/Town/City	Coburg
State	VIC
Postcode	3058
Organisational Email Address	<a href="mailto:info@moreland.vic.gov.au">info@moreland.vic.gov.au</a>
Organisational Website	<a href="http://www.moreland.vic.gov.au">www.moreland.vic.gov.au</a>

**Your Council's postal address (leave blank if same as above)**

PO Box	Locked Bag 10
Suburb/Town/City	Coburg
State	VIC
Postcode	3058



**Legal name of Council 13/14**

Stonnington City Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Ms 47F
Position:	General Manager, Social Development
Telephone:	s 47F
E-mail address:	47F stonnington.vic.gov.au
Street/PO Box:	PO Box 21
Suburb/Town:	Prahran
City:	
State/Territory: Postcode:	VIC 3181

**Your Council's address**

Street Address	Cnr High St and Glenferrie Road
Suburb/Town/City	Malvern
State	VIC
Postcode	3144
Organisational Email Address	<a href="mailto:council@stonnington.vic.gov.au">council@stonnington.vic.gov.au</a>
Organisational Website	<a href="http://www.stonnington.vic.gov.au">www.stonnington.vic.gov.au</a>

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 21
Suburb/Town/City	Prahran
State	VIC
Postcode	3181

**Legal name of Council 14/14**

Yarra City Council

**Who is the main contact from your organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	Mr. 47F
Position:	Director, Community Programs
Telephone:	s 47F
E-mail address:	47F yarracity.vic.gov.au
Street/PO Box:	PO Box 168
Suburb/Town:	Richmond
City:	
State/Territory: Postcode:	VIC 3121

**Your Council's address**

Street Address	333 Bridge Road
Suburb/Town/City	Richmond
State	VIC
Postcode	3121
Organisational Email Address	<a href="mailto:info@yarracity.vic.gov.au">info@yarracity.vic.gov.au</a>
Organisational Website	<a href="http://www.yarracity.vic.gov.au">www.yarracity.vic.gov.au</a>

**Your Council's postal address (leave blank if same as above)**

PO Box	PO Box 168
Suburb/Town/City	Richmond
State	VIC
Postcode	3121



**Are you applying on behalf of a local not-for-profit organisation?**

Yes (please fill in information below)

No

**Name of not-for-profit organisation**

--

**Who is the main contact of the not-for-profit organisation for this project?**

<b>PRIMARY CONTACT</b>	
Contact (Mr/Mrs/Ms):	
Position:	
Telephone:	
E-mail address:	
Street/PO Box:	
Suburb/Town:	
City:	
State/Territory: Postcode:	

**Address of the not-for-profit organisation**

Street Address	
Suburb/Town/City	
State	
Postcode	
Organisational Email Address	
Organisational Website	

**Postal address of the not-for-profit organisation (leave blank if same as above)**

PO Box	
Suburb/Town/City	
State	
Postcode	

### **Item B – Project Details**

#### **1. a) Project Title.**

What is the name of the Project? This title may be used in any announcements/launches etc.

Regional Kitchen Project

#### **1. b) Is this application:**

- new (i.e. this local council has not previously submitted an RLCIP-SP application); or
- replacing a previously submitted RLCIP-SP application

#### **2. Project Location**

Where will the project be located or delivered from? Please state the address for the location of the project (in some cases it may be different from your address).

Street Address	Lot 10, Drake Blvd
Suburb/Town/City	Altona
State	VIC
Postcode	3018

#### **3. Has the project commenced?**

- Yes (Go to Question 4)
- No (Go to Question 5)

#### **4. If yes, please fill in the table**

Describe items and whether they are still underway or completed	When did the activity commence?	If item completed, when was it completed?
Feasibility Study	2004	04/2005
Planning for joint venture and development of business plan and risk assessment	2006	04/2007
Incorporation of Community Chef and Regional Kitchen Pty Ltd as joint ventures	2007	04/2008
Review of world best practice	03/2008	05/2008
Due Diligence – update Business Plan	05/2008	07/2008
Order of magnitude and concept design	06/2008	09/2008
Detailed design and costings ready for tender	09/2008	12/2008

#### **5. If no, what is the commencement date?**

#### **6. How long will your project take to complete?**

Enter duration in months.

24

## 7. Description of your Project

Please describe your project and what it will deliver.

(maximum 250 words)

Regional Kitchen is a joint venture of fourteen Victorian municipalities to address issues of uncertain supply, lack of variety, poor quality, cost and sustainability in relation to their delivered meals programs. The project will deliver a state of the art meal production facility, that will produce 1.825 million meals a year and have a capacity to expand its operation to 2.2 million meals a year within a short period.

The location has been determined, the latest food production methods, food safety standards, storage and distribution methods incorporated together with energy, water and waste reduction innovations.

Fifty new jobs will be created with training and career paths for workers in the food industry.

After three years of research, a world trip to investigate latest methods world-wide and extensive design work, the project is ready to move into the construction phase.

All partners have contributed in cash and kind and capital investment of \$8.25m has been paid up front and is held in an investment account awaiting construction.

A capital contribution from the RLCIP will enable construction to commence early in 2009 and incorporate energy and water saving features together with pasteurising (to extend shelf life from five to thirty days) and efficient production methods.



**8. Describe what you plan to spend funding from the Regional and Local Community Infrastructure Program – Strategic Projects on.**

Further financial details should be included in the Budget Table at Attachment A.

(maximum 250 words)

Funds from the RCLIP will be allocated to design (the final detail required for tendering), construction, fitout and the steps required to commission, train and become operational by 2010.

**9. Will you be using any facilities, equipment, land or buildings that your organisation does not own during the delivery and/or future management of your project? (Please also provide details of any agreements that are in place or will be put into place to enable your organisation to use these.)**

Not owned by you	Owner	Nature of Usage	Agreement in place or comment
Facilities	N/A		
Equipment	N/A		
Land	N/A		
Buildings	N/A		
Other (Describe)	N/A		

**10. Licences and Approvals - Does the project require any licences or approvals before it can commence? e.g. building or planning approval.**

Yes (please provide details and progress in obtaining)  No

Permit	Issuing Authority	Status of permit (granted, application made)	Date granted (or expected)
Planning Permit	Hobsons Bay City Council	Application to be made Dec 08	Expected March 09
Building Permit	Hobsons Bay City Council	Independent Building surveyor part of design team.	Expected March 09

**If the Australian Government contribution to the project is at least \$5 million and represents at least 50 per cent of the total construction project value or \$10 million or more, irrespective of the proportion of the Australian Government funding, a head contractor for the project is required to be accredited with the Australian Government Building and Construction OHS Accreditation Scheme. See [www.fsc.gov.au](http://www.fsc.gov.au) for further information.**

**11. Is the Australian Government contribution to the project:**

- A. at least \$5 million and represent at least 50 per cent of the total construction project value?
- B. \$10 million or more, irrespective of the proportion of the Australian Government funding?

Yes  No

**12. If you ticked 'yes' to A or B above, is the contractor accredited with the Australian Government Building and Construction OHS Accreditation Scheme?**

Yes  No

## **Item C - Financial Details**

### **13. What will your project cost?**

\$29,469,814.00

### **14. How much funding do you require from the Regional and Local Community Infrastructure Program – Strategic Projects?**

\$14,761,000.00

### **15. Provide details of contributions (including your contributions) to your project, if any. (Complete partnership status on following table and Budget Table at Attachment A)**

<b>Contributor 1 Details (if applicable)</b>	
Legal Name:	Hobsons Bay City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	Bill Jaboor
Email:	47F [REDACTED]@hobsonsbay.vic.gov.au
Phone:	47F [REDACTED]
Fax:	03 9932 1039
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$66,791
Total Amount:	\$266,791
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Board (Chair)</li> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul> Administration Services Accommodation
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 2 Details (if applicable)</b>	
Legal Name:	Banyule City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	47F [REDACTED]
Email:	[REDACTED]@banyule.vic.gov.au
Phone:	[REDACTED]
Fax:	03 9499 9475
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$29,425
Total Amount:	\$291,425
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A



<b>Contributor 3 Details (if applicable)</b>	
Legal Name:	Brimbank City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms.
Name:	47F [REDACTED]
Email:	[REDACTED]@vic.gov.au
Phone:	
Fax:	03 9257 4351
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$0
Value of in-kind contribution:	\$20,602
Total Amount:	\$20,602
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 4 Details (if applicable)</b>	
Legal Name:	City of Greater Dadenong
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	47F [REDACTED]
Email:	[REDACTED].gov.au
Phone:	
Fax:	03 9239 5196
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$66,793
Total Amount:	\$266,793
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 5 Details (if applicable)</b>	
Legal Name:	Darebin City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	47F [REDACTED]
Email:	[REDACTED]@vic.gov.au
Phone:	
Fax:	03 8470 8877
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$66,793
Total Amount:	\$266,793
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Board</li> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A



<b>Contributor 6 Details (if applicable)</b>	
Legal Name:	City of Greater Geelong
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms
Name:	47F [REDACTED]
Email:	47F [REDACTED]@geelongcity.vic.gov.au
Phone:	[REDACTED]
Fax:	03 5227 0737
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$20,602
Total Amount:	\$220,602
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 7 Details (if applicable)</b>	
Legal Name:	Hume City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	47F [REDACTED]
Email:	[REDACTED]@vic.gov.au
Phone:	[REDACTED]
Fax:	03 9309 0109
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$250,000
Value of in-kind contribution:	\$25,013
Total Amount:	\$275,013
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 8 Details (if applicable)</b>	
Legal Name:	Macedon Ranges Shire Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms
Name:	47F [Redacted]
Email:	[Redacted]@ranges.vic.gov.au
Phone:	[Redacted]
Fax:	03 5422 3623
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$0
Value of in-kind contribution:	\$20,602
Total Amount:	\$20,602
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A



<b>Contributor 9 Details (if applicable)</b>	
Legal Name:	Maribyrnong City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms.
Name:	47F [REDACTED]
Email:	[REDACTED]@maribyrnong.vic.gov.au
Phone:	
Fax:	03 9687 7793
<b>What funds are being contributed by Contributor 1?</b> All amounts to be <b>exclusive</b> of GST.	
Amount of Cash contribution:	\$0
Value of in-kind contribution:	\$20,602
Total Amount:	\$20,602
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Board</li> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 10 Details (if applicable)</b>	
Legal Name:	Melton Shire Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	47F [REDACTED]
Email:	[REDACTED].vic.gov.au
Phone:	[REDACTED]
Fax:	03 9747 7374
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$25,013
Total Amount:	\$225,013
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement (Attachments K & L)
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 11 Details (if applicable)</b>	
Legal Name:	Moonee Valley City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms.
Name:	47F
Email:	[REDACTED]@vic.gov.au
Phone:	
Fax:	03 9252 4047
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$29,425
Total Amount:	\$229,425
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A



<b>Contributor 12 Details (if applicable)</b>	
Legal Name:	Moreland City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr
Name:	47F
Email:	land.vic.gov.au
Phone:	
Fax:	03 9240 1212
<b>What funds are being contributed by Contributor 1?</b> All amounts to be <b>exclusive</b> of GST.	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$29,425
Total Amount:	\$229,425
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 13 Details (if applicable)</b>	
Legal Name:	Stonnington City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms.
Name:	47F [REDACTED]
Email:	[REDACTED].vic.gov.au
Phone:	
Fax:	03 8290 1198
<b>What funds are being contributed by Contributor 1?</b> All amounts to be <b>exclusive</b> of GST.	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$57,969
Total Amount:	\$257,969
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Board</li> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A

<b>Contributor 14 Details (if applicable)</b>	
Legal Name:	Yarra City Council
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Mr.
Name:	47F
Email:	47F@yarracity.vic.gov.au
Phone:	47F
Fax:	03 8417 6666
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$200,000
Value of in-kind contribution:	\$20,602
Total Amount:	\$220,602
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	Labour representation during project on: <ul style="list-style-type: none"> <li>• Advisory Group</li> <li>• HR Group</li> <li>• Communication Group</li> <li>• Various working Groups</li> </ul>
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	Received as per Shareholders Agreement <b>(Attachments K &amp; L)</b>
Are there any conditions on the contribution(s) being made?	No
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	N/A



<b>Contributor 15 Details (if applicable)</b>	
Legal Name:	Department of Human Services
Business Name:	
Organisation Type:	Local Government Entity
<b>Contact Details:</b>	
Title: Mr, Mrs, Ms, etc	Ms.
Name:	47F [REDACTED]
Email:	[REDACTED]@dhs.vic.gov.au
Phone:	
Fax:	1300 785 859
<b>What funds are being contributed by Contributor 1? All amounts to be exclusive of GST.</b>	
Amount of Cash contribution:	\$6,000.000.00
Value of in-kind contribution:	\$
Total Amount:	\$6,000.000.00
Description of in-kind contribution: In-kind amounts could include volunteer labour, for example, 20 hours @ \$20 per hour	N/A
Is this partner's contribution confirmed? If Yes, Please attach confirmation of this funding, eg letter from partner	Yes ( <b>Attachment C</b> )
If Yes, are there any borrowed funds?	No
If Yes, what is the date they will be available?	
Are there any conditions on the contribution(s) being made?	Yes
If Yes, please describe the conditions: (for example, time critical components, or funding is for a specific purpose)	<ul style="list-style-type: none"> <li>• Building works to commence by 01 June 2009.</li> <li>• To be completed within the timetable set out in the staged business plan (completion by December 2010).</li> <li>• Engage a registered and licensed project or building manager or architect.</li> <li>• An open tender process</li> </ul>

**16. Please provide the following:**

- **3 year cash flow projections for your organisation including:** **Attachments D & E**  
 Projected capital cost of establishing project 2009 Business Plan  
 Projected revenues for future years 2009 Business Plan  
 Projected ongoing costs for future years 2009 Business Plan  
 Any assumptions, calculations and data underlying projections 2009 Business Plan
- **Last 3 years annual reports for your organisation** **Attachments F & G**  
**NOTE: 1 year only applies –**
- **Both companies And financial report –** **Attachments H & I**
- **Proof of loan approvals (if applicable)** **N/A**
- **Business Plan for your project with cash flow projections** **Attachments D & E**
- **Detailed Project Plan for your project - 2009 Business Plan** **Attachments D & E**
- **Completed Budget template** **Attachment A**
- **Authorisation to Undertake an Independent Viability Assessment (IVA)** **Attachment B**

## **Item D – Proponent and Project Viability**

**17. Has your organisation ever been bankrupt, or any of its office holders been convicted of fraudulent or criminal activities?**

~~Yes (please provide details)~~

**No**

(maximum 250 words)

**18. Has your organisation managed an Australian or State Government grant for any other project in the last 5 years?**

**Yes (please complete table)**

~~No~~

If Yes, please provide details of the <b>three</b> most recent projects	
<b>Project 1:</b>	
Name of project:	Altona Leisure Centre - Bayfit
Status of project:	Completed
Source of funding:	State Government / Council
Amount of funding provided:	\$2,500,000
What the project was for:	Pool and Leisure Centre construction
<b>Contact Details for Project 1:</b>	
<b>Title:</b>	Director Works & Assets
Name	47F
Email:	vic.gov.au
Phone No:	
<b>Project 2:</b>	
Name of project:	Altona Sport Centre
Status of project:	Completed
Source of funding:	Commonwealth Government/ State Government / Council
Amount of funding provided:	\$900,000
What the project was for:	Sports facility extension
<b>Contact Details for Project 3:</b>	
<b>Title:</b>	Director Works & Assets
Name	47F
Email:	vic.gov.au
Phone No:	
<b>Project 3:</b>	
Name of project:	Altona Meadows Learning Centre
Status of project:	Completed
Source of funding:	State Government/ Council
Amount of funding provided:	\$400,000
What the project was for:	Library and Learning Centre
<b>Contact Details for Project 3:</b>	
<b>Title:</b>	Director Works & Assets
Name	47F
Email:	vic.gov.au
Phone No:	



**19. Who will manage and deliver the project during implementation? What expertise do they have in financial management, and project management and delivery?**

(For example, Project Manager - attach resumes or company details)

Name of Business, organisation or individual:	Qualifications and experience
Board of Directors RFK Pty Ltd	Summary of experience (Attachment J)
Board of Directors Regional Kitchen Pty Ltd	Summary of experience (Attachment J)
47F CEO, Regional Kitchen Group	Resume attached (Attachment J)
47F Client Representative	Resume attached (Attachment J)
47F Metromotion Project Manager	Resume attached (Attachment J)

**20. Who will manage the project after it has been completed and is operational?**

Provide details of who will be responsible for the future management and maintenance of the services or activity.

Name of Business, organisation or individual:	Qualifications and experience
Board of Directors RFK Pty Ltd	Summary of experience (Attachment J)
Board of Directors Regional Kitchen Pty Ltd	Summary of experience (Attachment J)
47F CEO, Regional Kitchen Group	Resume (Attachment J)

**21. If any of your partners fail to make their contribution or you experience cost over-runs, how will you fund the project?**

(maximum 250 words)  
 Project over-runs will be met through borrowings. Partner funds have already been received and are held in bank fixed term deposits.

**22. Budget Information**

Complete the attached Budget Plan at Attachment A

**Item F - Declaration**

**Regional and Local Community Infrastructure Program – Strategic Projects Proponent Declaration**

I declare that I am authorised to supply this information.

I declare that the information I have given on this form is complete and correct and that the Council or Shire that I represent supports the project. If any change to this information occurs, either my organisation or I will promptly inform the Department of Infrastructure, Transport, Regional Development and Local Government.

I understand and agree to the conditions in the Guidelines and this form.

I agree that:

- the Department of Infrastructure, Transport, Regional Development and Local Government may arrange for an independent viability assessment (IVA) of my project;
- individuals or organisations mentioned in this form may be contacted as part of the analysis of this proposal and I permit the Department to disclose to those individuals and organisations any information in this form it considers to be required in order to verify any matter in this form;
- to receive funding from the Regional and Local Community Infrastructure Program – Strategic Projects, I am willing to enter into a Funding Agreement (contract) with the Australian Government;
- information about my organisation's project may be reproduced in promotional and media material; and
- my project may be used for program evaluation.

Below are my details and signature, acknowledging the above:

Title	Mr
Name	Bill Jaboor
Position in Organisation	Chief Executive Officer - Hobsons Bay City Council
Phone	47F [redacted]

Signature [redacted]

Date: 2/3/09.

I acknowledge that I must print, sign and return this Declaration to the Department of Infrastructure, Transport, Regional Development and Local Government.

## ***For Information***

### **The Funding Agreement (Contract)**

It is a requirement that all organisations that receive Australian Government funding under the RLCIP – Strategic Projects enter into a Funding Agreement (contract).

### **Budget:**

Expenditure will be budgeted for against the following items:

- |   |                                      |                                |
|---|--------------------------------------|--------------------------------|
| – Other costs                                 | – Construction/ fit-out              | – Government approvals         |
| – Wages, salary and superannuation            | – Project Management                 | – (e.g. EPA)                   |
| – Operating Costs (e.g. Rent, computers etc.) | – Training                           | – Plant/ equipment hire/ lease |
| – Consultants/ contractors                    | – Marketing/ promotion               | – Labour on-costs              |
| – Materials                                   | – Research and development/ planning | – Other costs                  |
| – Travel                                      | – Vehicle (e.g. Leasing)             |                                |
|   | – Legal/ accounting                  |                                |

### **Reporting**

The Funding Agreement (contract) requires reports during, and after completion of, the Project. Reports are usually linked to milestone achievement.



ATTACHMENT A

BUDGET TABLE

I am GST registered – figures provided are GST exclusive

Cost Item	Brief description of cost item	Estimated Cost	Regional & Local Community Infrastructure Program – Strategic Projects (\$cash)	Contribution (\$value)	Cash or In-Kind	Other Partner / Proponent Contributions	
						Name of Partner / Proponent	
<b>Wages, Salary and Superannuation</b> Based on budget allowances in financial statements	Systems development and plant commissioning cost prior to commencement of production	\$1,694,742	\$848,872	\$845,871	Cash	DHS	** 14 Councils (Shareholders of both companies) \$270,793
<b>Training</b> Based on budget allowances in financial statements	Production and administration training prior to start up. Transitioning clients and councils to new provider	\$141,427	\$70,839	\$70,588	Cash		\$22,598
<b>Operating costs</b> Based on budget allowances in financial statements	Energy and utilities for Project Office <i>where?</i>	\$150,009	\$75,138	\$74,872	Cash		\$23,969
<b>Materials, insurance and office expenses</b> Based on budget allowances in financial statements.	External services under agreement with HBCC such as IT support, office space, HR, contracts support, meeting rooms, finance as well as insurance, printing & stationary, meeting expenses for Project Team	\$1,371,484	\$686,967	\$684,528	Cash		\$219,142
<b>Construction / fitout</b> Based on WT Partnership estimates 1/12/2008 (Quantity Surveyors)	Base building works: Building shell, building fitout, landscaping, building services, external works, preliminaries and margins, contingency.	\$12,209,300	\$6,115,460	\$6,093,840	Cash		\$1,950,855
<b>Plant / equipment purchase</b> Based on WT Partnership estimates 1/12/2008 (Quantity Surveyors)	Plant and Equipment (Production and Processing)	\$7,721,421	\$3,867,547	\$3,853,874	Cash		\$1,233,762
<b>Plant / equipment hire / lease</b> Based on WT Partnership estimates 1/12/2008 (Quantity Surveyors)	Plant and Equipment		\$0	\$0	Cash		\$0
<b>Plant / equipment purchase</b> Based on WT Partnership estimates 1/12/2008 (Quantity Surveyors)	Office equipment, IT equipment <i>for construction? ✓ for operations &amp; activity? X</i>	\$428,770	\$214,765	\$214,006	Cash		\$68,511
<b>Project Management</b> Based on WT Partnership estimates 1/12/2008 (Quantity Surveyors) and In kind calculations for Council participation in Board and various advisory groups.	Tender costs - documentation, legal & advertising. Project management, site supervision. Council representation on Board and Advisory groups during project	\$3,805,665	\$1,906,197	\$1,899,458	In kind & Cash		\$608,084
<b>Consultants, contractors, legal &amp; compliance.</b> Based on budget allowances in financial statements.	Consultants (Logistics, OH&S, Food Safety, IT & Recruitment), Directors fees, Audit committee, Probity Auditor, External auditor and legal fees for project.	\$1,736,213	\$869,644	\$866,569	Cash		\$277,420
<b>Other Cost - Interest on Bank Loans</b> Based on budget allowances in financial statements.	Interest on Bank Loans <i>No!</i>	\$210,793	\$105,583	\$105,210	Cash		\$33,681
		\$29,469,814	\$14,761,000	\$14,708,814			\$4,708,814

\* Detail of borrowings and Finance leases by Regional Kitchen Pty Ltd \ Individual Councils will never borrow or be guarantors for borrowings

\*\* Capital and inkind contributions. Councils also contribute to additional operational costs as per the shareholder agreements.

**List of Cost Items:**

Wages, salary and superannuation  
 Travel  
 Marketing/ promotion  
 Government approvals (e.g. EPA)  
 Other costs

Operating Costs (e.g. Rent, computers etc.)  
 Construction/ fit-out  
 Research and development/ planning  
 Plant/ equipment hire/ lease

Consultants/ contractors  
 Project Management  
 Vehicle (e.g. Leasing)  
 Plant/ equipment purchase

Materials  
 Training  
 Legal/ accounting  
 Labour on-costs

*Note: Please provide evidence of these costs separately e.g. quotes, market comparisons, valuations etc.*

See separate statement in relation to quantity surveyors estimates and business plan update contained in the covering letter.

Costs are itemised in the financial spreadsheets and have been independently validated and reviewed by WT Partnership Pty Ltd, Quantity Surveyors. (A full report by WT Partnership Pty Ltd is available).

**AUTHORISATION TO UNDERTAKE INDEPENDENT VIABILITY ASSESSMENT**

I, William Jaboor of Hobsons Bay City Council, 115 Civic Parade, Altona VIC 3018 being a person authorised to provide information, including financial information, on behalf of my/our organisation, authorise the Department of Infrastructure, Transport, Regional Development and Local Government to undertake the necessary steps to assess the viability of HBCC the Regional Kitchen Project.

I authorise the Department of Infrastructure, Transport, Regional Development and Local Government to engage an external consultant to conduct an independent viability assessment of HBCC the Regional Kitchen Project. The consultant will be required to secure and treat the information and documentation provided as commercial-in-confidence.

I acknowledge that the Department of Infrastructure, Transport, Regional Development and Local Government may check information provided in the Regional and Local Community Infrastructure Program – Strategic Projects form and supporting documentation for funding from the Regional and Local Community Infrastructure Program – Strategic Projects for the Regional Kitchen Project and at its discretion obtain additional information from:

- Department of Infrastructure, Transport, Regional Development and Local Government databases
- Other Commonwealth agencies such as the Australian Taxation Office and the Australian Securities and Investments Commission
- State or Territory agencies
- Law enforcement agencies
- Credit reference agencies
- Courts or Tribunals
- Any other appropriate organisation or person reasonably required as part of these checks.

47F



..... Signed

...William Shilton Jaboor ..... Print full name

...CEO, Hobsons Bay City Council ..... Position

..2../3../09 ..... Date





**Hobsons Bay**  
CITY COUNCIL

RECEIVED  
DATE 4/03 BY JMB  
COPY 1 OF 2

03 March 2009

The Manager  
Regional and Local Community Infrastructure  
Program – Strategic Projects  
Department of Infrastructure, Transport,  
Regional Development and Local Government  
GPO Box 594  
CANBERRA ACT 2601

Ask for: Bill Jaboor  
Phone: 47F

Dear Sir or Madam:

**RLCIP STRATEGIC PROJECTS APPLICATION – REGIONAL KITCHEN PROJECT**

Hobsons Bay City Council is pleased to resubmit an application for funding for a new Regional Meals on Wheels kitchen on behalf of Banyule, Brimbank, Greater Dandenong, Darebin, Greater Geelong, Hume, Maribyrnong, Moonee Valley, Moreland, Yarra and Stonnington City Councils and Macedon Ranges and Melton Shire Councils.

As mentioned in the previous application the facility has the potential to service a larger number of municipalities and ten additional Councils are currently in discussion with "Community Chef".

Endorsements for the project have been received from a wide variety of organisations and Parliamentarians including The Hon Julia Gillard, The Hon Nicola Roxon, The Hon Brendan O’Conner, Mark Drafus MP, Martin Ferguson AM, MP and The Hon John Brumby. Organisations supporting the project include the Municipal Association of Victoria, Victorian Ethnic Communities’ Council, Victorian Multicultural Commission and Djerriwarrh Health Services. Perhaps the strongest endorsement has come from health specialists and the recipients of Meals on Wheels, who can see the long term health benefits and improvements to the service.

This application has been updated to include the purchase of equipment which reduces commercial borrowings and creates a \$2,832,485 saving in interest payments.

As indicated in the attached material provided with the application, the project is ready to move immediately to tender and construction once the funding outcome is known.

Yours sincerely

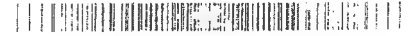
47F  
[Redacted signature]

Bill Jaboor  
**CHIEF EXECUTIVE OFFICER**

Encl: RLCIP Application with attachments

180.

**COPY**



**Maddocks**

Date 7 112 /2007

Lawyers  
140 William Street  
Melbourne Victoria 3000 Australia  
Telephone 61 3 9288 0555  
Facsimile 61 3 9288 0666  
Email info@maddocks.com.au  
www.maddocks.com.au  
DX 259 Melbourne

## Shareholders Agreement for Incorporated Joint Venture

The Parties named in the Schedule  
and

RFK Pty Ltd

COPY

**CONTENTS**

1.	<b>Definitions and Interpretation</b> .....	2
2.	<b>Conditions Precedent</b> .....	7
3.	<b>Objectives</b> .....	7
4.	<b>Structure of the Company</b> .....	9
5.	<b>Board of Directors</b> .....	11
6.	<b>Decision Making</b> .....	15
7.	<b>Management</b> .....	17
8.	<b>Financial Reporting</b> .....	18
9.	<b>Accounts</b> .....	20
10.	<b>Funding</b> .....	20
11.	<b>Agreements Between Company and Shareholders</b> .....	22
12.	<b>Transfer of Shares</b> .....	22
13.	<b>Procedure on Transfer of Shares</b> .....	24
14.	<b>Determination of Sale Price</b> .....	27
15.	<b>Publicity and Confidentiality</b> .....	28
16.	<b>Dispute Resolution</b> .....	30
17.	<b>Acknowledgments and Warranties</b> .....	31
18.	<b>Termination</b> .....	32
19.	<b>Default</b> .....	32
20.	<b>Right of First Refusal</b> .....	33
21.	<b>Non-Competition</b> .....	33
22.	<b>Assignment</b> .....	34
23.	<b>Counterparts</b> .....	34
24.	<b>Entire Agreement</b> .....	35
25.	<b>Further Action</b> .....	35
26.	<b>Choice of Jurisdiction and Law</b> .....	35
27.	<b>Non-Merger</b> .....	35
28.	<b>Notices</b> .....	35
29.	<b>Waiver</b> .....	36
30.	<b>Variation</b> .....	36
31.	<b>Costs</b> .....	36
32.	<b>Paramountcy</b> .....	37
33.	<b>No Partnership or Agency</b> .....	37
34.	<b>Severability</b> .....	37
35.	<b>Consent</b> .....	37

**SCHEDULES**

1. **SHAREHOLDERS**
2. **CONSTITUTION**
3. **DEED OF ACCESSION**



This **SHAREHOLDERS AGREEMENT** is made the                    day of                    2007.

**BETWEEN:**

The parties named in Schedule 1 hereto

(“Shareholders”)  
of the one part

and

**RFK PTY LTD**

(“the Company”)  
of the other part

**RECITALS:**

- A. The Parties are or will on the date hereof become the legal owners of all of the issued shares in the Company in the proportions listed in the attached Schedule.
- B. The Shareholders wish to record their agreement on the shareholdings in the Company, the aims and objects in relation to the Company and to provide for the operation and administration of the Company.
- C. The Shareholders have agreed to enter an Incorporated Joint Venture to undertake the Business on the basis as set out in this Agreement and for the Company to manage and operate a Regional Food Kitchen facility in one or more locations in the best interests of the Shareholders on the terms of this Agreement.
- D. A number of the Shareholders have undertaken a feasibility study on the benefits of a separate legal entity constructing a purpose built Regional Food Kitchen Facility suitable for the production of meals and entering into a long term lease of that facility with this Company.

THE SHAREHOLDERS AGREE as follows:

1. Definitions and Interpretation

1.1. In this Agreement, including the recitals, unless the context otherwise requires, the following terms have the following meanings:

'Act' means the *Corporations Act 2001 (Cth)*;

'Agreement' means this shareholders agreement, including the schedules;

'Auditor' means the registered company auditor appointed by the Company for auditing its accounts;

'Board' means the board of Directors, and includes any committee of that board;

'Board meeting' means a meeting of the Board (or any committee of the Board) duly convened and held in accordance with this Agreement and the articles;

'Business' means the meal production operation which involves the food production process and deals with purchasing, production, menu development, finance, administration, logistics, sales and marketing, supply of meals suitable for "Meals on Wheels", customer liaison, research, the acquisition by agreement, license, lease or purchase of all equipment necessary to fit-out any required facilities and includes taking over existing meal production facilities run by Municipal Councils who are Shareholders and operating them through the Company for the benefit of the Shareholders and entering into commercial leases or other agreements for suitable premises.

'Business day' means any day other than a Saturday, Sunday, bank holiday or public holiday in Victoria, Australia;

'**Business plan**' means the program current from time to time for the conduct of the Business during a Financial year consisting of:

- (a) a business plan specifying the finance arrangements, capital expenditures and activities of the Business during that Financial year; and
- (b) a budget specifying an estimate of the income to be received and the expenses to be incurred in carrying out that business plan;

'**Chairman**' means the chairman of the Board from time to time appointed under clause 5;

'**Company**' means RFK Pty Ltd.

'**Conditions**' means the conditions set out in clause 2;

'**Confidential information**' means the information, forms, specifications, processes, statements, formulae, trade secrets, drawings and data (and copies and extracts made of or from that information and data) concerning:

- (a) the operations and dealings of the Company, the Business or a Shareholder;
- (b) the organisation, finance, customers, markets, suppliers, intellectual property and know-how of the Company, a Shareholder, a related body corporate of that company or a related body corporate of a Shareholder; or
- (c) the operations and transactions of a Shareholder concerning the Business and that Shareholder's shareholding in the Company,

which is not in the public domain (except by the failure of a Shareholder to perform and observe its covenants and obligations under this Agreement) and which has been obtained through or by being a member of the Company;



**'Constitution'** means the Constitution of the Company as set out in Schedule 2 and as amended in accordance with this Agreement;

**'Control'** in relation to the control of a Shareholder, has the meaning given to it in section 50AA of the *Corporations Act 2001 (Cth)*;

**'Council'** means an entity within the definition of the *Local Government Act 1989 (Vic)*;

**'Directors'** means the directors of the Company for the time being and  
**'Director'** means one of them;

**'Effective date'** means the date sixty (60) days after the Conditions have all been satisfied;

**'Eligibility Criterion'** has the meaning set out in clause 5.2.4.

**'Event of default'** means an event specified in clause 19;

**'Financial year'** means a period of 12 consecutive calendar months ending on 30 June or on another day decided by the Board;

**'Incorporated Joint Venture'** means this Shareholders Agreement initially between Municipal Councils set-up for the purpose of supplying meals to the Shareholders and includes any business or undertaking acquired or assumed by the Company pursuant to the terms of this Agreement and includes the Business and any activity involving or connected with the development of the Business for the time being carried on by the Company including, without limitation, the development of the Business and its scope of applications and any other commercial activity or undertaking that the Company shall from time to time determine be undertaken and which is for the time being carried on by the Company;

**'Independent Director'** means a Director who is not an employee or elected Councillor of a Council;

**'Interest rate'** means the interest rate per annum calculated as the National Australia Bank Limited Base Rate plus 2%;

**'Lease'** means any Lease which the Company intends entering into;

**'Meal Supply Agreement'** means a contract between the Company and a member Council for the supply of meals to the Council;

**'Minister's Consent'** means the consent of the Minister to the Project pursuant to the *Local Government Act 1989 (Vic)*;

**'Month'** means calendar month;

**'Notice'** written notice under this Agreement shall include notice by facsimile or email;

**'Office'** means the registered office of the Company from time to time;

**'Ordinary Director'** means a Director other than an Independent Director;

**'Respective proportion'** means, in respect of a Shareholder, the proportion of the issued capital of the Company held by that Shareholder from time to time;

**'Shareholders'** means initially the Municipal Councils which hold Shares from time to time;

**'Shares'** means fully paid ordinary shares in the capital of the Company;

**'Simple Majority'** means:

- (a) in relation to a meeting of Directors, a majority of the Directors present at the meeting; and
- (b) in relation to a meeting of Shareholders, a majority that together holds not less than 51% of the total voting rights of all Shareholders present and entitled to vote;

**'Transfer'** means to sell, assign, transfer, convey or otherwise dispose of.

**1.2.** In this Agreement except to the extent that the context otherwise specifies:

**1.2.1.** any term defined in the statement of the names and descriptions of the Shareholders has the meaning there defined;

**1.2.2.** reference to any legislation or any provision of any legislation includes any modification or re-enactment of the legislation or any legislative provision substituted for, and all legislation and statutory instruments and regulations issued under, the legislation;

**1.2.3.** words denoting the singular include the plural and vice versa;

**1.2.4.** words denoting individuals or persons include bodies corporate and trusts and vice versa;

**1.2.5.** words denoting any gender include any and all genders:

**1.2.6.** headings are for convenience only and do not affect interpretation;

**1.2.7.** reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule of this Agreement

**1.2.8.** reference to any document or agreement includes reference to that document or agreement as amended, notated, supplemented, varied or replaced from time to time;

**1.2.9.** where any word or phrase is given a definite meaning in this Agreement any part of speech or other grammatical form of that word or phrase has a corresponding meaning;



**1.2.10.** reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia; and

**1.2.11.** reference to the rights, duties, obligations and liabilities of more than one Shareholder will in every case be a reference to rights, duties, obligations and liabilities that are several and not joint or joint and several.

## **2. Conditions Precedent**

The parties acknowledge and agree that no conditions precedent are required for this Agreement.

## **3. Objectives**

**3.1.** The Shareholders have agreed to establish an Incorporated Joint Venture to be known as the Regional Food Kitchen Incorporated Joint Venture for undertaking and performing all matters and things necessarily incidental to the purposes of the Business as described in this Agreement. Each Shareholder acknowledges and agrees that it has met the requirements of s. 193 of the *Local Government Act 1989* (Vic).

**3.2.** In establishing the Incorporated Joint Venture, the Shareholders have agreed that the objectives of the Business include the following:-

**3.2.1** providing meals that maximise the use of fresh produce and are of high quality, safe, nutritional meals for citizens requiring support under community care programs;

**3.2.2** providing meals options that meet individual needs, special dietary requirements and religious and cultural backgrounds;

**3.2.3** at a minimum, providing meals that conform to the HACCC Food Services Guidelines 1998 and the Victorian and Commonwealth Dietary regulations and standards, and any ensuing relevant standards;



**3.2.5** Be just and faithful in the Shareholder's activities and dealings with the other Shareholders.

**4. Structure of the Company**

**4.1** The Shareholders must procure that on the Effective date the issued capital of the Company is held legally and beneficially. The initial equity of each Shareholder (being the proportionate shareholding, initial contribution of capital and provision of any Guarantee) shall be determined in accordance with the following formula:

$$E = \frac{M}{TM} \times 100\%$$

Where:

E is the equity of the Shareholder;

M is the number of three course meals supplied by that Shareholder to its customers in the 12 month period ending on 30 June 2007; and

TM is the total number of three course meals supplied by all Shareholders to their customers in the 12 month period ending on 30 June 2007.

<b>Name of Council</b>	<b>Number of Shares held</b>	<b>Amount Subscribed</b>	<b>Percentage Shareholding</b>
<b>Banyule City Council</b> 275 Upper Heidelberg Road IVANHOE VIC 3079	921	\$92.10	9.21%
<b>Brimbank City Council</b> Alexandra Avenue SUNSHINE VIC 3020	718	\$71.80	7.18%
<b>Greater Dandenong City Council</b> 39 Clow Street DANDENONG VIC 3175	683	\$68.30	6.83%

<b>Name of Council</b>	<b>Number of Shares held</b>	<b>Amount Subscribed</b>	<b>Percentage Shareholding</b>
<b>Darebin City Council</b> 274 Gower Street, PRESTON VIC 3072	1332	\$133.20	13.32%
<b>Greater Geelong City Council</b> 30 Gheringhap Street GEELONG VIC 3220	1051	\$105.10	10.51%
<b>Hobsons Bay City Council</b> 115 Civic Parade ALTONA VIC 3018	635	\$63.50	6.35%
<b>Hume City Council</b> 1079 Pascoe Vale Rd BROADMEADOWS VIC 3047	329	\$32.90	3.29%
<b>Macedon Ranges Shire Council</b> 129 Mollison Street KYNETON VIC 3444	201	\$20.10	2.01%
<b>Maribyrnong City Council</b> Corner Hyde & Napier Streets FOOTSCRAY VIC 3011	660	\$66.00	6.60%
<b>Melton Shire Council</b> 232 High Street MELTON VIC 3337	231	\$23.10	2.31%
<b>Moonee Valley City Council</b> 9 Kellaway Avenue MOONEE PONDS VIC 3039	1039	\$103.90	10.39%
<b>Moreland City Council</b> 90 Bell Street COBURG VIC 3058	1358	\$135.80	13.58%
<b>Stonnington City Council</b> Corner of High Street & Glenferrie Road MALVERN VIC 3144	342	\$34.20	3.42%
<b>Yarra City Council</b> 333 Bridge Road RICHMOND VIC 3121	500	\$50.00	5.00%

And for this purpose each Shareholder must subscribe at par for the number of Shares specified above.



- 4.2 Notwithstanding the provisions of clause 4.1 no Shareholder alone can hold more than 49% of the total shareholding.
- 4.3 On or about 30 June of each year the Board will recalculate equity in accordance with the formula set out in clause 4.1 (except that the period for calculation of meals will be the 12 month period immediately prior to the equity recalculation) and will issue such Shares as are necessary to achieve the recalculated equity proportion.
- 4.4 The formula to be used for the recalculation of equity proportions may be changed at any time by a resolution passed by Shareholders holding at least 75% of the shareholding of the members present.
- 4.5 The Shareholders agree that within three years of the date of this Agreement, the formula for recalculation of equity proportions will be changed to a formula that is based upon the value of meals that the relevant Shareholder has ordered from the Company.
- 4.6 If a Shareholder wishes to cease to hold Shares it may notify the Board of this fact and the Board may, in its discretion, decide to buy-back or cancel the Shares held by that Shareholder (subject to any prior approval of the Shareholders required under the *Corporations Act 2001*) for consideration (if any) as decided by the Board.

## 5. Board of Directors

- 5.1 The number of Directors (excluding alternate Directors) will be five (5), unless the Shareholders otherwise unanimously determine.
- 5.2 The Directors shall be appointed by the Shareholders on the following basis:-
- 5.2.1 Each Shareholder is entitled to vote on the basis of its shareholding.
- 5.2.2 In nominating Directors each Shareholder agrees that it may nominate one person to be an Ordinary Director and one person

to be an Independent Director but undertakes only to nominate persons who possess the appropriate commercial skills for the position of Director.

**5.2.3** Only persons who meet the Eligibility Criterion may be nominated for and hold the position of Ordinary Director, other than in the circumstances described in clause 5.14.1.

**5.2.4** To meet the Eligibility Criterion a person must be:

5.2.4.1 a current serving councillor of a Shareholder;

5.2.4.2 a current employee of a Shareholder; or

5.2.4.3 a person who is in a current contractual relationship with a Shareholder.

**5.2.5** Two (2) Independent Directors shall be appointed. In addition to nominations under clause 5.2.2, this selection process shall be through the appointment of a reputable human resources consultant who shall provide recommendations for the positions from nominations received from the Shareholders and pursuant to a brief prepared and submitted by the Shareholders or a committee to be selected by the Shareholder. In the event that the human resources consultant determines that none of the nominations are deemed suitable then the human resource consultant has the capacity to recommend to the Board that they conduct a market search on a normal commercial basis for a suitable candidate or candidates.

**5.2.6** Three (3) Ordinary Directors shall be appointed. In addition to nominations under clause 5.2.2, this selection process shall be through the appointment of a reputable human resources consultant who shall provide recommendations for these positions pursuant to a brief prepared and submitted by the Shareholder or a committee to be selected by the Shareholders.

5.2.7 With effect from the date that the Company commences producing meals from the facility referred to in Recital D, a person who is employed by a Shareholder or otherwise represents that Shareholder may only be appointed as a Director and serve as a Director whilst that Shareholder is a party to a valid and subsisting Meal Supply Agreement.

5.3 The term of office of each Director will be as follows:

5.3.1 Subject to clause 5.3.2, the Directors shall be elected for a period of three (3) years and be eligible for re-election thereafter.

5.3.2 At the second annual general meeting after the appointment of the initial Board, one Ordinary Director and one Independent Director must resign and the Shareholders must, in accordance with clause 5.2, elect two Directors. The Directors who have resigned will be eligible for re-election.

5.3.3 The Directors to resign under clause 5.3.2 are to be determined by a Simple Majority vote at a Board meeting.

5.4 Every appointment of a Director takes effect when the Director is elected by the Shareholders or when the written consent to act as a Director is received by the Company if that is later than the date of election.

5.5 The Chairman of the Board will:

5.5.1 Be appointed annually by the Shareholders; and

5.5.2 In the event that there is an even number of Directors on the Board, have a casting vote as Chairman in addition to any vote she or he may otherwise have as a Director.

5.6 In any Board meetings each Director on the Board will be entitled to exercise one vote.

**5.7**

**5.7.1** At least four (4) Board meetings must take place each Financial year.

**5.7.2** a Board meeting may be held with the parties via the medium of telephone or video conferencing;

**5.7.3** Any Board meetings in addition to those referred to in sub-clause 5.7.1 may be convened at the written request of any two Directors. The agenda for a Board meeting convened under this sub-clause 5.7.3 must be determined by the Directors convening the meeting.

**5.8** A Board meeting will require at least five (5) Business days prior written notice to be given to all Directors unless otherwise agreed by all Directors. That notice must include an agenda and, unless all Directors otherwise agree, a Board meeting may only resolve matters specifically referred to in that agenda. Subject to sub-clause 5.7.3, the agenda must be determined by the Chairman or/and the Company secretary after consultation with the Board.

**5.9** A quorum for Board meetings is constituted by the attendance of at least three Directors.

**5.10** Any Director may retire from office on giving written notice to the Company of his or her intention to retire. Any resignation of a Director will take effect from the date specified in the notice or if the date of resignation is earlier than the date of service of the notice, the resignation will take effect from the date of service.

**5.11** The Directors may at any time appoint any person to be a Director to fill a casual vacancy but so that the total number of Directors does not at any time exceed the number specified in clause 5.1.

**5.12** Any Director so appointed under clause 5.11 shall hold office only until the next general meeting when the Company must in accordance with clause 5.2 resolve:



5.12.1 to confirm the appointment of that Director; or

5.12.2 to appoint another person to replace that Director.

5.13 The Company in general meeting, may by resolution remove any Director before the expiration of his or her period of office.

5.14 If, at any time, an Ordinary Director ceases to meet the Eligibility Criterion then that Ordinary Director:

5.14.1 must, within 7 days of the date that he or she ceased to meet the Eligibility Criterion (Cessation Date), notify the Company in writing of the fact that he or she no longer meets the Eligibility Criterion; and

5.14.2 will, with effect from the date occurring 7 days after the Cessation Date, cease to be a Director of the Company.

5.15 If a person (Former Director) ceases to be a Director pursuant to clause 5.14.2 then the Board may fill that casual vacancy under clause 5.11 and the Former Director may, at the discretion of the Board, be re-appointed by the Board to fill that casual vacancy.

6. Decision Making

6.1 Subject to the Act and this Agreement, all decisions of the Board or the Shareholders in general meeting will be made by Simple Majority vote.

6.2 All decisions in respect of the following matters when they are not included in the Business plan must be made by the Shareholders holding at least 75% of the shareholding of the members present;

6.2.1 appointment of the Chairman;

- 6.2.2 the submission of any tender, bid or proposal relating to any contract or commitment with a value of \$50,000 or more for each Financial year;
- 6.2.3 execution of any contract or entering into any commitment with a value of \$50,000 or more for each Financial year;
- 6.2.4 incurring any capital expenditure or liability of \$50,000 or more, for an individual transaction or for a series of transactions in aggregate in any Financial year;
- 6.2.5 the acquisition of any freehold land with a value of \$50,000 or more;
- 6.2.6 entering into any Lease of real property for more than a twelve month term;
- 6.2.7 provision of guarantees by the Company to any third party that exceeds the limits determined by the Shareholders by Simple Majority vote;
- 6.2.8 obtaining new or increasing existing external borrowings where the total of all external borrowings exceeds the limits determined by the Shareholders by Simple Majority vote;
- 6.2.9 sale of the whole or part of any material undertaking of the Company including, without limitation, the sale of any assets with a value of \$50,000 or more;
- 6.2.10 entering into any transaction which is not proposed on a commercial 'arms length' basis or of any unusual or onerous nature or which is outside the ordinary course of the Business;
- 6.2.11 execution of any service, employment or consultancy contract with a term of more than 12 months, or a financial commitment of \$50,000 or more;

- 6.2.12 provision of any encumbrance by the Company over any of its assets, property, undertaking or uncalled capital securing an amount in excess of \$50,000;
- 6.2.13 any transaction which is governed by the provisions of the Local Government Act 1989 (Vic);
- 6.2.14 execution of contracts between the Company and any Shareholder or its related body corporate pursuant to clause 11;
- 6.2.15 any modification, variation or amendment to any agreement or arrangement (other than this Agreement) referred to in this sub-clause 6.2; or
- 6.2.16 determination of the matters referred to in clause 10.
- 6.3 In the event that a resolution relating to any matter listed in sub-clause 6.2 is defeated, any Director may ask for such proposed resolution to be submitted as early as possible as a special resolution at a Shareholders meeting convened for that purpose.
- 6.4 The Shareholders acknowledge and agree that, notwithstanding any other clause in this Agreement or in the Constitution, on and from 1 July 2010 no Shareholder will be entitled to exercise its voting rights as a Shareholder unless, at the time that such rights are to be exercised, that Shareholder is a party to a valid and subsisting Meal Supply Agreement.
- 7. Management**
- 7.1. Any day-to-day requirements will be managed by the Board who may delegate such activities as it may decide.
- 7.2. Management of the Business**
- 7.2.1. The Shareholders agree that the Business will be managed on the following conditions;

- 7.2.1.1. an initial assessment of the management task for the Business will be prepared by the Board of Directors and a copy made available to the Shareholders;
- 7.2.1.2. a Business plan will be prepared by the Board of Directors based on the assessment. This will involve a detailed budget and must be approved by a majority of the Shareholders at a meeting of the Shareholders;
- 7.2.1.3. any budget for additional costs is to be submitted to the Board and subject to the terms of clause 6.2 approved by a majority of Shareholders at a meeting of the Shareholders.

## 8. Financial Reporting

- 8.1. The Shareholders must ensure that the Board considers and adopts a Business plan in accordance with the following procedure:
  - 8.1.1. at least three months before the beginning of each Financial year, the Board must cause a draft Business plan to be prepared for the following Financial year; and
  - 8.1.2. the Board must consider the draft Business plan and approve a Business plan before the beginning of the following Financial year.
- 8.2. If the Board fails to adopt a Business plan in accordance with clause 8.1, until a new Business plan is adopted under clause 8.1 the Business must be conducted on the basis of the then current Business plan.
- 8.3. The Company must provide to the Directors sufficient management and financial information and reports to allow them to monitor the efficient conduct of the Business project, including:
  - 8.3.1. within 21 Business days after the end of March, June, September and December in each Financial year:



- 8.3.1.1. an unaudited profit and loss statement and cash flow statement (with revised projections for the following 12 months) for the three months just elapsed;
- 8.3.1.2. a balance sheet as at the expiry of that three month period; and
- 8.3.1.3. comparisons of the actual results with the projections set out in the current Business plan and explanations for any variations,

each prepared in reasonable detail and using generally accepted Australian accounting principles consistently applied, which comply with the provisions of the Act.

- 8.3.2. within 60 Business days after the end of each Financial year, a profit and loss statement and cash flow statement for the immediately preceding Financial year and balance sheet as at the end of that Financial year, audited by the Company's Auditors; and

- 8.3.3. any other reports or statements that the Board may require.

- 8.4. Should it appear to any Director that there is likely to be any material variation or adjustment to the Business, then that Director may request a Board of Directors meeting on an urgent basis to examine and review if necessary the Business plan for the Company.
- 8.5. The Company must ensure that sufficient accounting and other reports and information are provided to the Shareholders in order to meet, and to enable them to meet, the requirements of the *Local Government Act* 1989 (Vic).

**9. Accounts**

- 9.1.** The Shareholders must ensure that the records and accounting books of the Company are kept in accordance with the law, generally and specifically in accordance with the Local Government Act 1989 (Vic) and the Corporations Act 2001 (Commonwealth), are audited yearly and reflect generally accepted Australian accounting principles, procedures and practices consistently applied.
- 9.2.** After giving at least two (2) Business days notice to the Company, each Shareholder will be entitled to full access during the Company's normal business hours through an accountant, agent or employee of that Shareholder and at that Shareholder's cost to inspect all the books, accounts, records and facilities of the Company for the purpose of auditing, valuing the Company, making copies or any other reasonable purpose.
- 9.3.** Before an inspection occurs or access is permitted under clause 9.2, an accountant, agent or employee appointed by a Shareholder must sign a confidentiality agreement in the form approved by the Board.
- 9.4.** Each Shareholder must use its reasonable efforts to:
- 9.4.1.** complete an inspection under clause 9.2 within five Business days of its commencement; and
- 9.4.2.** minimise any disruption to the Company's operations.

**10. Funding**

- 10.1.** Each Shareholder must contribute its Respective proportion of the funding requirements of the Company, as determined by the Shareholders from time to time. The Shareholders must ensure that on the Effective date they have advanced to the Company, their funding obligations in accordance with their Respective proportions.

- 10.2.** The obligation referred to in clause 10.1 ('funding obligation') must be satisfied by a subscription for Shares by each Shareholder in accordance with its Respective proportion.
- 10.3.** The Board must determine the number of new fully paid Shares to be issued and allotted under sub-clause 10.2 in order to satisfy each contribution.
- 10.4.** The Shareholders must not provide their shares as security, or create or give any encumbrance over their shares in favour of any party without the prior written consent of all Shareholders which may be withheld by each of them at their absolute discretion. This clause 10.4 does not apply to any floating charge over the assets of a Shareholder that is in existence on or before the date of this Agreement.
- 10.5.** Subject to clauses 10.4 and 10.6, this clause 10 does not prohibit external borrowings by the Company, on terms and conditions determined by the Board.
- 10.6.** The Shareholders must ensure that the Company does not undertake any activity including (without limitation) entering into a contract or arrangement to provide services or obtaining external borrowings from a financial institution (or other third party) that requires the Shareholders to give a guarantee, bond or other security without the prior written consent of each Shareholder. Where the Shareholders agree to provide such security and the Shareholders agree with the financial institution or third party that any liability is to be assumed severally by them under that security, the Shareholders agree that:
- 10.6.1.** the amount of such liability will be apportioned between the Shareholders in their Respective proportions; and
- 10.6.2.** notwithstanding any agreement with or action by the beneficiary of such guarantee, undertaking or obligation, the Shareholders, between themselves, shall be liable to make contribution to each other and indemnify each other so that any such liability is

ultimately borne by the Shareholders in their Respective proportions.

- 10.7.** Any guarantee, bond, undertaking or other security given severally by the Shareholders is irrevocable except with the written consent of all Shareholders, such consent not to be unreasonably withheld. In the event that all Shareholders agree to release any exiting Shareholders from any such obligation then they will use their best endeavours to obtain such discharge. All costs associated with the work in obtaining a discharge shall be paid by the exiting Shareholder.

## **11. Agreements Between Company and Shareholders**

- 11.1.** Each Shareholder acknowledges that the Company may wish to enter into certain agreements or arrangements with any Shareholder (or related body corporate). Those agreements or arrangements must:

**11.1.1.** be negotiated on an arm's length basis;

**11.1.2.** be finalised on normal commercial terms;

**11.1.3.** not be entered into without the prior unanimous approval of the Board;

**11.1.4.** not be considered, nor voted upon, by Directors who have any relationship with the Shareholder (or any related body corporate) proposing to enter into the agreement or arrangement; and

**11.1.5.** not be performed unless an agreement has been entered into in accordance with this clause.

## **12. Transfer of Shares**

- 12.1.** Unless all the Shareholders otherwise agree, a Shareholder must not transfer shares except in accordance with this clause 12 and clauses 13 or 19.



**12.2.**

**12.2.1.** A Shareholder may transfer all (but not part) of its shares to a wholly-owned subsidiary or a wholly-owned subsidiary of that Shareholder's ultimate holding company (for the purposes of this clause only, 'subsidiary') if, in addition to complying with clause 12.6, the Shareholder and the subsidiary agree that the shares must be re-transferred to the Shareholder if the subsidiary ceases to be wholly-owned by the Shareholder.

**12.2.2.** A Shareholder will remain liable for the performance of the duties, responsibilities and obligations assumed by any subsidiary, except that performance by the subsidiary will, to the extent so performed, discharge the Shareholder from the performance of those duties, responsibilities and obligations.

**12.3.** Subject to clause 12.2, a Shareholder must not transfer, directly or indirectly, its shares except by first issuing a transfer notice (in a form specified by the Board) to the Board in accordance with clause 13. Such transfer notice must be accompanied by the share certificate relating to the Shares to be transferred and both documents must be delivered to the registered Office of the Company.

**12.4.** If there is a change in Control of a Shareholder other than an amalgamation of local municipal Councils then the Shareholder is deemed to have issued, by operation of clause 12.5 a transfer for all its shares and clause 13 applies to the transfer of those shares.

**12.5.** A deemed transfer of shares arises, and a transfer notice is deemed to be issued, by operation of clauses 12.4 or 19 and clause 13 will apply to the sale of those shares and each Shareholder waives any rights it may have against the other Shareholder to claim relief from forfeiture or to claim that the operation of this clause or clause 19 is a penalty.

**12.6.** Unless all the other Shareholders agree, a transfer will not be effective, unless the following conditions of transfer are satisfied:

**12.6.1.** the transfer relates to all of the shares held by the Shareholder;

**12.6.2.** where shares are proposed to be transferred to another local municipal Council third party must enter into and deliver to each other Shareholder a deed of accession; and

**12.6.3.** subject to compliance with the law, all loans from the Company to the Shareholder transferring its shares are repaid in full.

**12.7.** No transfer of shares may be made to a third party if, in the reasonable opinion of the Shareholders (other than the Shareholder transferring its shares), the third party is not of good standing, financial substance and reputation.

**12.8.** No transfer of shares may be made to a third party who is not a Municipal Council.

**12.9.** Nothing in this clause shall prevent any Council which has amalgamated with another Council from transferring their shareholding to the new amalgamated entity which will on signing a Deed of Accession in Schedule 3 become a Shareholder and party to this Agreement.

**12(a) Issue of New Shares**

The Board may, by a Simple Majority vote, cause the Company to issue new Shares to any Council provided that Council has signed a Deed of Accession as annexed in Schedule 3. The number of Shares to be issued and the applicable terms and conditions as to price and provisions of any guarantees will be as the Board may reasonably determine.

**13. Procedure on Transfer of Shares**

**13.1.** A transfer notice:

**13.1.1.** is to be deemed to be issued, by operation of clauses 12.4 or 19, on the first date that a Director is aware of the circumstances that cause clauses 12.4 or 19 to operate in respect of a Shareholder, and

13.1.2. is issued under clause 12.3 on the date the Board receives a transfer notice from the seller.

- 13.2. A transfer notice constitutes the Board as the agent of the Shareholder that issues or is deemed to have issued a transfer notice ('seller') for the sale of all its shares ('sale shares') to Shareholders (other than the seller) in accordance with this clause at a price per sale share determined under clause 14 ('sale price'). The sale price will be final and binding upon the seller and the transferee.
- 13.3. On or within fourteen (14) Business days of the sale price being determined, the Board must offer for sale to each Shareholder (other than the seller) ('recipient'), at the sale price a number of the sale shares calculated in accordance with the following formula ('round 1 offer'):

$$A \times \frac{B}{(C - A)}$$

Where:

A = the number of sale shares the subject of the transfer notice.

B = the number of shares held by that recipient on the date of the round 1 offers.

C = the total number of issued shares on the date of the round 1 offers.

- 13.4. On or within fourteen (14) Business days after receipt of its round 1 offer, each recipient must notify the Board whether it accepts or rejects its round 1 offer. If a recipient accepts its round 1 offer, the seller is bound to sell, and each accepting recipient ('accepting Shareholder') is bound to purchase, the total number of sale shares contained in its round 1 offer at the sale price and otherwise on the terms specified in the round 1 offers.

- 13.5.** Subject to clauses 12.7 and 12.8, if any recipient rejects the round 1 offer or fails to notify the Board during the fourteen (14) day period after receipt of that offer pursuant to clause 13.4, the seller may withdraw the transfer notice and may sell all the shares referred to in that offer to a third party on terms no more favourable to the third party than those offered to the recipients and at a price not less than the price set out in the transfer notice.
- 13.6.** Completion of the sale of shares or remaining sale shares must take place within ten (10) Business days after the date of the recipient's notice of acceptance under clauses 13.4 and 13.5 at a time and place to be agreed by the seller and the recipient or failing agreement at the Office at 10 am on the next Business day after expiry of that fourteen (14) Business day period.
- 13.7.** At completion of the sale of the sale shares or remaining sale shares:
- 13.7.1.** the accepting Shareholder must pay the sale price to the seller for the sale shares or remaining sale shares that it has agreed to purchase; and
  - 13.7.2.** the seller must deliver to the accepting Shareholder the certificates relating to the sale shares or remaining sale shares and a transfer of the sale shares or remaining sale shares duly executed by the seller.
- 13.8.** If a Shareholder defaults in completing the transfer of its shares in accordance with this clause ('defaulting Shareholder'), the Board must on written direction from the proposed transferee ('buyer'):
- 13.8.1.** receive the purchase price from the buyer on behalf of the defaulting Shareholder;
  - 13.8.2.** give to the buyer a valid receipt of the purchase price on behalf of the defaulting Shareholder;
  - 13.8.3.** execute transfers of the defaulting Shareholder's shares in favour of the buyer;



13.8.4. ensure that the buyer's name is entered in the Company's register of members as the holder of the defaulting Shareholder's shares; and

13.8.5. take all further action necessary to complete the transfer of the defaulting Shareholder's shares as required under this Agreement.

13.9. The defaulting Shareholder hereby irrevocably appoints the Company as attorney for the defaulting Shareholder to do all acts and things which may ought to be done by the defaulting Shareholder here under and without limiting the generality of the foregoing and the attorney shall have power in the name of the defaulting Shareholder to sign and negotiate any documents or instruments as the attorney shall think fit to effect the transfer of the defaulting Shareholder's shares.

14. Determination of Sale Price

14.1. Within five (5) Business days of a transfer notice being issued or deemed to be issued under clause 13.1, the Board must agree on a person ('valuer') to value the sale shares, or failing agreement procure that the President of the Real Estate Institute of Victoria nominates a valuer, and the Board must instruct the valuer chosen or nominated to value the shares of the Company, adopting the method of valuation that the valuer considers appropriate, but in valuing the shares the valuer must:

14.1.1. assume that a reasonable time is available in which to obtain a sale of the shares to another local government entity;

14.1.2. have regard to any other factors (including the assets and liabilities of the Company) which the valuer believes should properly be taken into account; and

14.1.3. act as an expert and not as an arbitrator.

14.2. The sale price will be final and binding upon the seller and the transferee.

14.3. The cost of the valuer's determination must be borne by the seller.

**15. Publicity and Confidentiality**

15.1. Subject to clause 15.2, no Shareholder will make a public announcement relating to this Agreement without the prior written consent of the other Shareholders which consent may not be unreasonably withheld.

15.2. A Shareholder is entitled to make a public announcement relating to this Agreement if required to do so by law, an order of a court of competent jurisdiction or by stock exchange rules.

15.3. Each Shareholder ('recipient') agrees in relation to Confidential Information of another Shareholder or the Company ('owner'):

15.3.1. to use the Confidential Information only for the purposes of the Business; and

15.3.2. to keep that Confidential Information confidential and not disclose it or allow it to be disclosed to any third party except:

15.3.2.1. with the consent of the owner;

15.3.2.2. with the consent of the Company and the Shareholders with respect to Confidential Information of the Company; or

15.3.2.3. to officers, employees and consultants or advisers of the recipient and of the recipients related bodies corporate who have a need to know (and only to the extent that each has a need to know) and are aware that the Confidential Information must be kept confidential,

and the Shareholders must take or cause to be taken reasonable precautions necessary to maintain the secrecy and confidentiality and to prevent the disclosure of the Confidential Information.

**15.4.** The obligations of confidentiality under this Agreement do not extend to information that (whether before or after this Agreement is executed):

**15.4.1.** is disclosed to a recipient under or in relation to this Agreement, but at the time of disclosure is rightfully known to or in the possession or control of the recipient and not subject to an obligation of confidentiality on the recipient;

**15.4.2.** is public knowledge (otherwise than as a result of a breach of this Agreement); or

**15.4.3.** is required by law to be disclosed and the recipient required to make the disclosure has taken all reasonable steps to oppose or prevent the disclosure and to limit, as far as reasonably possible, the extent of the disclosure.

**15.5.** on ceasing to be a Shareholder on the termination of this Agreement each Shareholder must:

**15.5.1.** continue to keep confidential all Confidential Information of each other Shareholder and the Company; and

**15.5.2.** at each owner's option, return to that owner or destroy and certify the destruction of that owner's Confidential Information.

**15.6.** The rights and obligations of the Shareholders set out in this Agreement with respect to Confidential Information will survive termination of this Agreement.

**16. Dispute Resolution**

**16.1.** A Shareholder will not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this Agreement ('dispute') unless it has complied with this clause.

**16.2.** A Shareholder claiming that a dispute has arisen must notify the other Shareholders, giving details of the dispute.

**16.3.** During the twenty-one (21) day period after a notice is given under clause 16.2 (or longer period agreed in writing by the parties to the dispute) ('initial period') each party to the dispute ('disputant') must use its best efforts to resolve the dispute.

**16.4.** If the disputants are unable to resolve the dispute within the initial period, each disputant agrees that the dispute must be referred for mediation in accordance with the Mediation Rules of the Law Institute of Victoria, at the request of any disputant, to:

**16.4.1.** a mediator agreed on by the disputants; or

**16.4.2.** if the disputants are unable to agree on a mediator within seven (7) days after the end of the initial period, a mediator nominated by the then president of Law Institute of Victoria.

**16.5.** The role of any mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on a disputant unless that disputant has so agreed in writing.

**16.6.** Any information or documents disclosed by a disputant under this clause:

**16.6.1.** must be kept confidential; and

**16.6.2.** may not be used except to attempt to resolve the dispute.

- 16.7. Each disputant must bear its own costs of complying with this clause and the disputants must bear equally the costs of any mediator engaged.
- 16.8. After the initial period, a disputant that has complied with clauses 16.1, 16.2 and 16.3, may terminate the dispute resolution process by giving notice to each other disputant.
- 16.9. If in relation to a dispute a disputant breaches any provision of clauses 16.1 to 16.6, each other disputant need not comply with clause 16.1 to 16.6 in relation to that dispute.

**17. Acknowledgments and Warranties**

- 17.1. Each of the Shareholders severally represents and warrants to all Shareholders that it is a 'Council' within the meaning of the Local Government Act 1989 (Vic) and has all requisite powers to own property and has the necessary power to bind itself in the manner contemplated by this Agreement and to execute, deliver and perform this Agreement and to become bound thereby.
- 17.2. Each of the Shareholders severally represents and warrants to each other that this Agreement has been validly executed and delivered by it and constitutes the valid, binding and enforceable obligations of it in accordance with its terms, subject to the discretionary authority of a court in granting equitable remedies and all applicable bankruptcy and insolvency laws
- 17.3. Each of the Shareholders severally agrees that no Shareholder makes any representation or warranty to any other Shareholder other than as expressly referred to in this Agreement and each Shareholder enters into this Agreement and (where applicable) becomes a Shareholder or acquires shares entirely on the basis of its own investigations and decisions and not in reliance on any act or representation made by any other Shareholder



- 17.4.** Each of the Shareholders severally represents and warrants that the consent of the Minister pursuant to the Local Government Act 1989 (Vic) has been sought and consent has or will be given.

**18. Termination**

- 18.1.** Subject to clause 18.3, this Agreement will be terminated:
- 18.1.1.** by mutual agreement in writing of all Shareholders;
  - 18.1.2.** for any Shareholder - when it ceases to hold, directly or indirectly, any shares;
  - 18.1.3.** when the Company is wound up by an order of a court.
- 18.2.** Termination of this Agreement will be without prejudice to any accrued rights of the Shareholders.
- 18.3.** Each Shareholder agrees that after termination of this Agreement the obligations under clause 15 continue in force.

**19. Default**

- 19.1.** If any of the events specified in clause 19.2 occurs in relation to a Shareholder ('defaulting Shareholder'), then the defaulting Shareholder is deemed to have issued a transfer notice in accordance with clauses 12.4 and 13.1 for all its shares, and clause 13 applies to the sale of those shares save and except that the Shareholder agrees that in such case, the sale price shall be seventy-five percent (75%) of the sale price as determined by clause 14.
- 19.2.** The events referred to in clause 19.1 are:
- 19.2.1.** if a Shareholder breaches any provision of this Agreement, then another Shareholder may give to each of the other Shareholders notice of the default and in the event that an aggregate Respective proportion of 75% of the Shareholders agree, the

defaulting Shareholder will be given a notice in writing giving them thirty (30) days in which to rectify that breach and if this breach is not so remedied, a default is deemed to have occurred; or

19.2.2. if a Shareholder has an administrator, trustee, liquidator or provisional liquidator appointed for all or any part of its assets or undertaking.

**20. Right of First Refusal**

- 20.1. Each Shareholder agrees that before entering into any agreement with a party other than the Company for the purchase of meals it will first allow the Company the option to make an offer concerning provision of those meals and agrees to negotiate with the Company on a bona fide basis for a period of not less than thirty (30) days in relation to the terms of an agreement for the provision of such meals.
- 20.2. For the avoidance of doubt this clause is not to provide an opportunity for a Shareholder to avoid its obligations under this Agreement by requesting a variation to an existing meal type.
- 20.3. Each Shareholder has a duty to act reasonably in exercising its rights under this clause.

**21. Non-Competition**

- 21.1. This clause has effect as if it were separate clauses each one being severable from the others, such separate clause consisting of the covenant set out in clause 21.2 combined with each separate period referred to in clause 21.3 combined with each separate area referred to in clause 21.4 and if any of these separate clauses are invalid or unenforceable for any reason such invalidity or unenforceability will not affect the validity or enforceability of any other separate clause.
- 21.2. Each Shareholder covenants that it will not (except as Shareholder in a company the shares in which are quoted on an Australian Stock

Exchange and for existing investment at the time of signing this Agreement) directly or indirectly without the previous consent in writing of the Company be concerned or interested or employed, manage or operate or participate in the management or operation or marketing of any products or services in competition with the Company's activities, products and services or likely to be competitive with that carried on by the Company at that time, during the periods and in the areas specified in this clause. For the avoidance of doubt any party who was a Shareholder to this Agreement but is no longer a Shareholder is entitled to provide meals for itself notwithstanding the provisions of this Agreement.

**21.3.** The periods specified are:

**21.3.1.** the term of this Agreement;

**21.3.2.** any extension or variation to the term of this Agreement.

**21.4.** The area specified is anywhere in the State of Victoria.

## **22. Assignment**

**22.1.** A party must not assign, declare itself a trustee of, create any encumbrance in respect of or dispose of, any of its rights and interests under this Agreement:

**22.1.1.** except with the prior written consent of each Shareholder which each Shareholder may withhold at its sole discretion; or

**22.1.2.** unless this Agreement expressly provides otherwise.

## **23. Counterparts**

This agreement may be executed in any number of counterparts and all such counterparts when executed and taken together will constitute this Agreement.

**24. Entire Agreement**

This agreement comprises the entire agreement between the Shareholders and no earlier agreement, understanding or representation, whether oral or in writing, in relation to any matter dealt with in this Agreement will have any effect from the date of this Agreement.

**25. Further Action**

Each Shareholder must do or cause to be done or refrain from doing all such things necessary to give effect to this Agreement.

**26. Choice of Jurisdiction and Law**

This agreement will be governed by and construed in accordance with the law from time to time in force in Victoria, Australia and the Shareholders submit to the non-exclusive jurisdiction of the courts of that state.

**27. Non-Merger**

None of the terms or conditions of this Agreement, or any act, matter or thing done or by virtue of this Agreement or any other agreement, instrument or document, or judgment or order of any court or judicial proceeding, will operate as a merger of any of the rights and remedies of the Shareholders under this Agreement, and those rights and remedies will at all times continue in force.

**28. Notices**

**28.1.** Any notice given by a Shareholder under this Agreement must be in writing and addressed to the recipient at its address specified in Schedule 1 or as otherwise notified to the other Shareholders in writing from time to time.

**28.2.** A notice must be given by hand delivery, by post or sent by facsimile. Where a notice is sent by facsimile, the sending Shareholder must also send a copy of the notice by letter posted on the same or the following day, and the recipient must acknowledge receipt in writing.

**28.3.** A notice which is sent by post or facsimile will be deemed to be received on the day that the notice or the transmission of the facsimile is received by the recipient.

**28.4.** A notice which is given by hand delivery before 4 pm on a Business day will be deemed to have been received on that day and, in any other case of hand delivery, will be deemed to have been received on the Business day next following.

**29. Waiver**

**29.1.** The failure, delay or omission by a Shareholder to exercise any power or right conferred upon that Shareholder by this Agreement will not operate as a waiver of that power or right, nor will any single exercise of any such power or right preclude any other or future exercise of the power, or the exercise of any other power or right under this Agreement.

**29.2.** A waiver of any provision of this Agreement, or consent to any departure by a Shareholder from any provision of this Agreement, must be in writing and signed by all Shareholders and is effective only to the extent that it is given.

**30. Variation**

This Agreement may not be changed or modified in any way after its execution except in writing signed by all the Shareholders.

**31. Costs**

Each party must bear their own legal and other costs and expenses of and incidental to the preparation and execution of this Agreement.



**32. Paramountcy**

The provisions of this Agreement will prevail over any inconsistent section in the Constitution and the Shareholders agree that the Constitution will be amended to remove any inconsistency.

**33. No Partnership or Agency**

33.1. The rights, duties and obligations and liabilities of the Shareholders under this Agreement are several and not joint or collective. Each Shareholder will be individually responsible only for its obligations as specified in this Agreement.

33.2. Nothing contained or implied in this Agreement will create or constitute, or be deemed to create or constitute, a partnership between the Shareholders. A Shareholder must not act, represent or hold itself out as having authority to act as the agent of or in any way bind or commit the other Shareholders to any obligation.

**34. Severability**


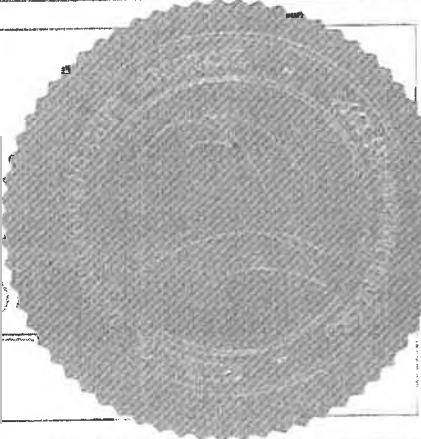
Part or all of any clause of this Agreement that is illegal or unenforceable will be severed from this Agreement and will not affect the continued operation of the remaining provisions of this Agreement.

**35. Consent**

Where this Agreement provides that any particular transaction or matter requires the consent, approval or agreement of any Shareholder that consent, approval or agreement may be given subject to such terms and conditions as that Shareholder may impose and any breach of such terms and conditions by any person will be deemed to be a breach of the terms of this Agreement.

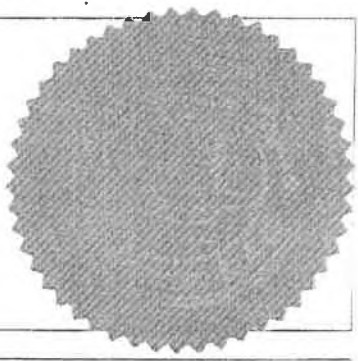
\*\*\*

**IN WITNESS WHEREOF** the parties have hereunto set their hands and seals on the day and year first hereinbefore written.

Name of Council	Signatories Block
<p><b>Banyule City Council</b></p>	<p><b>THE COMMON SEAL of BANYULE CITY COUNCIL</b> is affixed in <b>47F</b> [Redacted]</p> <p>.....COUNCILLOR</p> <p>.....CHIEF EXECUTIVE OFFICER</p>
<p><b>Brimbank City Council</b></p>	<p>The Common Seal of Brimbank City Council was affixed in the presence of:-</p> <p><b>47F</b> [Redacted] .....Councillor</p> <p>.....Chief Executive Officer</p> 
<p><b>Greater Dandenong City Council</b></p>	<p>The Common Seal of the <b>GREATER DANDENONG CITY COUNCIL</b> was hereunto affixed in the presence of:-</p> <p><b>47F</b> [Redacted]</p> <p><b>s 47F</b> [Redacted] Chief Executive Officer</p> <p><b>s 47F</b> [Redacted] Mayor</p> 
<p><b>Darebin City Council</b></p>	<p><b>THE COMMON SEAL of DAREBIN CITY COUNCIL</b> was affixed in the presence of:-</p> <p><b>47F</b> [Redacted] Chief Executive Officer</p>

<p><b>Greater Geelong City Council</b></p>	<p>THE COMMON SEAL of <b>GREATER GEELONG CITY COUNCIL</b> was affixed hereto in the presence of:</p> <p>47F</p> <p>_____</p> <p>Chief Executive Officer</p>
--	---

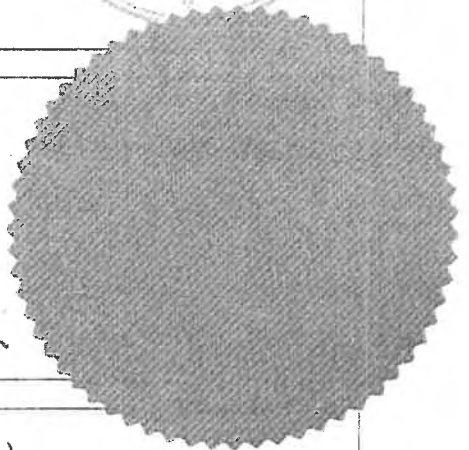
<p><b>Hobsons Bay City Council</b></p>	<p>The COMMON SEAL of the <b>HOBSONS BAY CITY COUNCIL</b> was hereunto affixed in the presence of:</p> <p>47F</p> <p>_____ Councillor</p> <p>_____ Chief Executive Officer</p>
--	--



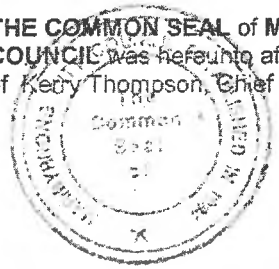
<p><b>Hume City Council</b></p>	<p>THE COMMON SEAL of <b>HUME CITY COUNCIL</b> was hereto affixed on the _____ of:</p> <p>47F</p> <p>_____ Councillor</p> <p>_____ Chief Executive Officer</p>
---------------------------------	--




<p><b>Macedon Ranges Shire Council</b></p>	<p>THE COMMON SEAL of the <b>MACEDON RANGES SHIRE COUNCIL</b> was hereto affixed on the <u>8<sup>th</sup> Nov. 2007</u> in the presence of:</p> <p>47F</p> <p>_____ COUNCILLOR</p> <p>_____ CHIEF EXEC</p>
--	--

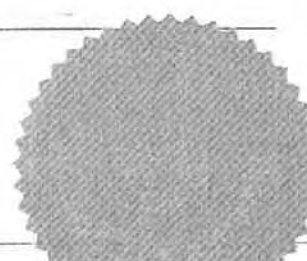


<p><b>Maribyrnong City Council</b></p>	<p>THE COMMON SEAL of <b>MARIBYRNONG CITY COUNCIL</b> was hereunto affixed in the presence of <u>Kery Thompson</u>, Chief Executive Officer</p> <p>47F</p> <p>_____</p>
--	---

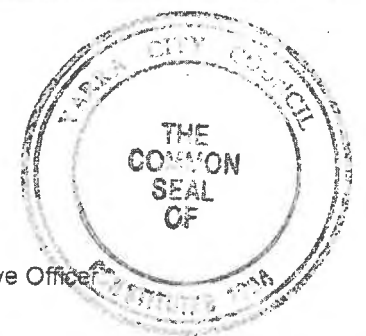


<b>Melton Shire Council</b>	<b>THE COMMON SEAL OF THE MELTON SHIRE COUNCIL</b> was hereunto affixed in the presence of: <b>47F</b> ..... Chief Executive Officer	<b>47F</b>  Councillor
-----------------------------	--	---

<b>Moonee Valley City Council</b>	Signed by and on behalf, and with the authority of the Moonee Valley City Council, by <b>s 47F</b> Chief Executive Officer, in the exercise of a power conferred by an Instrument of Delegation dated 17 October 2006, in the presence of: <b>47F</b> ..... Witness	
-----------------------------------	--	--

<b>Moreland City Council</b>	<b>SIGNED by s 47F</b> Director Social Development of the Moreland City Council, in the exercise of a power conferred by an Instrument of Delegation dated 14 November 2005 in the presence of:  <b>47F</b> _____ Witness	<b>CHIEF EXECUTIVE OFFICER</b> <b>47F</b> 
------------------------------	--	---

<b>Stonnington City Council</b>	Signed under delegation on behalf of Stonnington City Council by: <b>47F</b> ..... Chief Executive Officer in the presence of <b>47F</b> ..... Witness	
---------------------------------	--	--

<p><b>Yarra City Council</b></p>	<p>FOR MAYOR and CEO</p> <p>THE COMMON SEAL of the  <b>YARRA CITY COUNCIL</b> was          affixed hereto in the presence of.)</p> <p>47F</p> <p>..... Mayor</p> <p>..... Chief Executive Officer</p> 
----------------------------------	---



**SCHEDULE 1**

**THE SHAREHOLDERS**

Council	Postal Address	Fax Number	Shareholder Representative	Percentage of total shareholding	Number of Shares
<b>Banyule City Council</b> 275 Upper Heidelberg Road IVANHOE VIC 3079	PO Box 51 IVANHOE VIC 3079	(03) 9499 9475	47F	9.21%	921
<b>Brimbank City Council</b> Alexandra Avenue SUNSHINE VIC 3020	PO BOX 70 SUNSHINE VIC 3020	(03) 9249 4351		7.18%	718
<b>Greater Dandenong City Council</b> 39 Clow Street DANDENONG VIC 3175	PO Box 200 DANDENONG VIC 3175	(03) 9239 5196		6.83%	683
<b>Darebin City Council</b> 274 Gower Street, PRESTON VIC 3072	PO Box 91 PRESTON VIC 3072	(03) 8470 8877		13.32%	1332
<b>Greater Geelong City Council</b> 30 Gheringhap Street GEEELONG VIC 3220	PO Box 104 GEEELONG VIC 3220	(03) 52270258		10.51%	1051
<b>Hobsons Bay City Council</b> 115 Civic Parade ALTONA VIC 3018	PO Box 21 ALTONA VIC 3018	(03) 9932 1039		6.35%	635
<b>Hume City Council</b> 1079 Pascoe Vale Rd BROADMEADOWS VIC 3047	PO Box 119 DALLAS VIC 3047	(03) 9309 0109		3.29%	329

Council	Postal Address	Fax Number	Shareholder Representative	Percentage of total shareholding	Number of Shares
<b>Macedon Ranges Shire Council</b> 129 Mollison Street KYNETON VIC 3444	PO Box 151 KYNETON VIC 3444	(03) 54223623	47F	2.01%	201
<b>Maribyrnong City Council</b> Corner Hyde & Napier Streets FOOTSCRAY VIC 3011	PO Box 58 FOOTSCRAY VIC 3011	(03) 9687 7793		6.60%	660
<b>Melton Shire Council</b> 232 High Street MELTON VIC 3337	PO Box 21 MELTON VIC 3337	(03) 9743 9970		2.31%	231
<b>Moonee Valley City Council</b> 9 Kellaway Avenue MOONEE PONDS VIC 3039	PO Box 126 MOONEE PONDS VIC 3039	(03) 9377 2100		10.39%	1039
<b>Moreland City Council</b> 90 Bell Street COBURG VIC 3058	Locked Bag 10 MORELAND VIC 3058.	(03) 9240 1212		13.58%	1358
<b>Stonnington City Council</b> Corner of High Street & Glenferrie Road MALVERN VIC 3144	PO Box 21 PRAHRAN VIC 3181	(03) 8290 1150		3.42%	342
<b>Yarra City Council</b> 333 Bridge Road RICHMOND VIC 3121	PO Box 168 RICHMOND VIC 3121	(03) 8417 6666		5.00%	500

**SCHEDULE 2**  
**CONSTITUTION OF THE COMPANY**

**Dated**

**Constitution**

**CORPORATIONS ACT 2001**  
**COMPANY LIMITED BY SHARES**

**RFK Pty Ltd**

## TABLE OF CONTENTS

<b>1.</b>	<b>DEFINITIONS.....</b>	<b>47</b>
<b>2.</b>	<b>STATUS OF THIS CONSTITUTION.....</b>	<b>48</b>
<b>3.</b>	<b>NAME OF THE COMPANY.....</b>	<b>48</b>
<b>4.</b>	<b>LIABILITY OF MEMBERS .....</b>	<b>48</b>
<b>5.</b>	<b>LIMITATIONS ON COMPANY .....</b>	<b>48</b>
5.1	Members .....	48
5.2	Subscription.....	48
5.3	Deposits .....	48
5.4	Partly Paid Shares.....	48
<b>6.</b>	<b>REPLACEABLE RULES.....</b>	<b>48</b>
<b>7.</b>	<b>SHARE CAPITAL AND VARIATION OF RIGHTS .....</b>	<b>49</b>
7.1	General .....	49
7.2	Preference Shares.....	49
7.3	Class Rights .....	49
7.4	Recognition of Shares Held on Trust.....	50
7.5	Entitlement to Share Certificates .....	50
7.6	Lost or Destroyed Certificates.....	50
<b>8.</b>	<b>ALTERATION OF CAPITAL .....</b>	<b>50</b>
8.1	Larger Nominal Value.....	50
8.2	Smaller Nominal Value .....	50
<b>9.</b>	<b>GENERAL MEETINGS .....</b>	<b>51</b>
9.1	General .....	51
9.2	Circulating Resolutions.....	51
9.3	Notices .....	51
9.4	Cancellation of Meeting .....	52
<b>10.</b>	<b>PROCEEDINGS AT GENERAL MEETINGS.....</b>	<b>53</b>
10.1	General .....	53
10.2	Quorum not Present .....	53
10.3	Chair.....	54
10.4	Adjournment of Meeting.....	54
10.5	Resolutions at Meetings .....	54
10.6	Poll at Meetings.....	55
10.7	Casting Vote of Chair.....	55
10.8	Votes by Members.....	55
10.9	Entitlement to Vote .....	55
10.10	Objections to Qualification to Vote.....	55
10.11	Proxies .....	56
10.12	Time Within Which Proxies to be Lodged .....	56
10.13	Validity of Votes made by Proxy .....	57
<b>11.</b>	<b>DIRECTORS .....</b>	<b>57</b>
11.1	Remuneration of Directors.....	57
11.2	Additional Circumstances for Vacation of Office .....	57

11.3	Conflict of Interest.....	58
<b>12.</b>	<b>POWERS AND DUTIES OF DIRECTORS .....</b>	<b>58</b>
12.1	Attorney for Company.....	58
12.2	Execution of Cheques and Bills of Exchange.....	59
<b>13.</b>	<b>PROCEEDINGS OF DIRECTORS .....</b>	<b>59</b>
13.1	General .....	59
13.2	Director Interested in Contract with Company.....	59
13.3	Deputy Chair .....	59
13.4	Delegation by Directors .....	60
13.5	Committees of Directors .....	60
13.6	Resolutions of Directors.....	60
13.7	Validity of Acts of Directors .....	61
<b>14.</b>	<b>SECRETARY .....</b>	<b>61</b>
<b>15.</b>	<b>SEAL.....</b>	<b>61</b>
15.1	Custody of Seal .....	61
15.2	Use of Seal.....	61
<b>16.</b>	<b>ACCOUNTS .....</b>	<b>61</b>
<b>17.</b>	<b>DIVIDENDS AND RESERVES .....</b>	<b>62</b>
17.1	Declaration of Dividends.....	62
17.2	Interim Dividends.....	62
17.3	Interest on Dividends .....	62
17.4	Reserves .....	62
17.5	Entitlement to Dividends .....	62
17.6	Deductions from Dividends.....	63
17.7	Dividends Paid from Specific Assets.....	63
17.8	Payment of Dividends.....	63
<b>18.</b>	<b>NOTICES .....</b>	<b>63</b>
<b>19.</b>	<b>WINDING UP .....</b>	<b>64</b>
19.1	Division of Property .....	64
19.2	Vesting of Property.....	64
<b>20.</b>	<b>INDEMNITY.....</b>	<b>64</b>
20.1	Definition of Liability and Officer .....	64
20.2	Indemnity of Officers.....	64
20.3	Indemnity for proceedings .....	64
<b>21.</b>	<b>INTERPRETATION .....</b>	<b>65</b>
21.1	Persons .....	65
21.2	Legislation .....	65
21.3	This Document, Clauses and Headings.....	65
21.4	Business Day .....	65
21.5	Number and Gender.....	65
	<b>SCHEDULE .....</b>	<b>66</b>



# CONSTITUTION

---

## CORPORATIONS ACT 2001

### RFK PTY LTD A COMPANY LIMITED BY SHARES

#### 1. DEFINITIONS

---

In this Constitution:

**Act** means the Corporations Act 2001 (Commonwealth).

**ASIC** means the Australian Securities and Investment Commission.

**Business Day** means a day (other than a Saturday or Sunday) on which banks (as defined in the Banking Act 1959 (Commonwealth)) are generally open for business.

**Constitution** means this Constitution and any supplementary, substitute or amended Constitution for the time being in force.

**Company** means the abovenamed company.

**Delegate** means a person appointed as a delegate of the Directors in accordance with clause 13.4.

**Director** means a Director for the time being of the Company.

**Directors** means all Directors for the time being of the Company and if there is only one Director, that Director.

**Member** means a holder of Shares.

**Members** means all Members for the time being of the Company and if there is only one Member, that Member.

**Nominated Interest Rate** means the interest rate per annum calculated as the National Australia Bank Limited Base Rate plus 2% per annum.

**Seal** means the common seal of the Company and includes any official seal of the Company.

**Secretary** means any person appointed to perform the duties of a secretary of the Company.

**Shares** means shares in the capital of the Company.

Except so far as the contrary intention appears in this Constitution, an expression has, in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.

**2. STATUS OF THIS CONSTITUTION**

---

- 2.1 In the event that all Members execute a Shareholders' Agreement relating to the Company and terms of that agreement are inconsistent with the terms of this Constitution, the terms of the Shareholders' Agreement will apply to the extent of the inconsistency.
- 2.2 The business of the Company will be conducted as described in the Shareholders' Agreement.

**3. NAME OF THE COMPANY**

---

The name of the Company is specified at the top of page one of this Constitution.

**4. LIABILITY OF MEMBERS**

---

The liability of Members is limited.

**5. LIMITATIONS ON COMPANY**

---

**5.1 Members**

The Company limits to not more than 50 the number of its Members, counting joint holders of Shares as one person and not counting any person who is employed by the Company or any of its subsidiaries or any person who was while so employed and since then has continued to be, a Member of the Company.

**5.2 Subscription**

The Company prohibits:

- 5.2.1 any invitation to the public to subscribe for; and
- 5.2.2 any offer to the public to accept subscriptions for any Shares in, or debentures of, the Company.

**5.3 Deposits**

The Company prohibits any invitation to the public to deposit money with, and any offer to the public to accept deposits of, money with the Company for fixed periods or payable at call, whether bearing or not bearing interest.

**5.4 Partly Paid Shares**

The Company will not issue partly paid Shares.

**6. REPLACEABLE RULES**

---

Each of the sections or sub-sections of the Act which would apply to the Company as replaceable rules within the meaning of the Act, if not for this clause, are displaced and do not apply to the Company.

**7. SHARE CAPITAL AND VARIATION OF RIGHTS**

**7.1 General**

7.1.1 Shares issued will be of a class specified in the Schedule or any other class permitted by this Constitution, provided that the class of shares to be issued is approved at a meeting of Directors.

7.1.2 Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares but subject to the Act, Shares may only be issued with the approval of the Directors and any such Shares may be issued with such preferred, deferred or other special rights or such restrictions, whether with regard to dividend, voting, return of capital or otherwise, as the Directors determine.

**7.2 Preference Shares**

Subject to the Act and this Constitution, the Directors may by unanimous agreement issue any preference Shares on the terms that they are, or at the option of the Company are, liable to be redeemed.

**7.3 Class Rights**

7.3.1 The rights attached to Shares in a class of shares may be varied or cancelled only by special resolution of the Company and:

7.3.1.1 by special resolution passed at a meeting of the class of Members holding Shares in the class; or

7.3.1.2 with the written consent of Members with at least 75% of the votes in the class.

7.3.2 If the Shares in a class of Shares are divided into further classes, and after division the rights attached to all of those Shares are not the same:

7.3.2.1 the division is taken to vary the rights attached to every Share, that was in the class existing before the division; and

7.3.2.2 Members who hold Shares to which the same rights are attached after the division form a separate class.

7.3.3 If the rights attached to some of the Shares in a class of Shares are varied:

7.3.3.1 the variation is taken to vary the rights attached to every other Share that was in the class existing before the variation; and

7.3.3.2 Members who hold Shares to which the same rights are attached after the variation form a separate class.

#### **7.4 Recognition of Shares Held on Trust**

- 7.4.1 Except as required by the Act, the Company shall not recognise a person as holding a Share upon any trust.
- 7.4.2 The Company is not bound by or compelled in any way to recognise (whether it has notice of the interest or rights concerned) any equitable, contingent, future or partial interest in any Share or unit of a Share or (except as otherwise provided by this Constitution or by the Act) any other right in respect of a Share except an absolute right of ownership in the registered holder.

#### **7.5 Entitlement to Share Certificates**

- 7.5.1 A person whose name is entered as a Member in the register of Members is entitled to receive a certificate in respect of his or her Shares in accordance with the Act but, in respect of a Share or Shares held jointly by several persons, the Company is not bound to issue more than one certificate.
- 7.5.2 Delivery of a certificate for a Share to one of several joint holders is sufficient delivery to all such holders.

#### **7.6 Lost or Destroyed Certificates**

Upon the loss or destruction of a Share certificate, it may be renewed upon payment of a fee not exceeding the prescribed amount pursuant to the Act and on provision of:

- 7.6.1 a statement in writing that the certificate has been lost or destroyed, and has not been pledged, sold or otherwise disposed of and, if lost, that proper searches have been made; and
- 7.6.2 an undertaking in writing that if it is found or received by the owner it will be returned to the Company.

### **8. ALTERATION OF CAPITAL**

---

#### **8.1 Larger Nominal Value**

The Company may by resolution consolidate and divide all or any of its Share capital into Shares of larger nominal value than its existing Shares.

#### **8.2 Smaller Nominal Value**

The Company may by resolution subdivide all or any of its Shares into Shares of smaller nominal value (a subdivision must not alter the proportion between the amount paid and the amount (if any) unpaid on the Shares concerned).

## **9. GENERAL MEETINGS**

---

### **9.1 General**

- 9.1.1 Any two Directors, whenever they think fit, may convene a general meeting of Members.
- 9.1.2 The Members agree that, notwithstanding sections 249B and 249F of the Act, a general meeting of Members may only be called by Members if such a meeting is called by Members with at least 25% of the votes that may be cast at the general meeting.

### **9.2 Circulating Resolutions**

- 9.2.1 If all the Members have signed a document containing a statement that they are in favour of a resolution of the Members in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a general meeting held on the day, and at the time at which, the document was last signed by a Member.
- 9.2.2 For the purposes of clause 9.2.1, 2 or more separate documents containing statements in identical terms each of which is signed by one or more Members shall together be deemed to constitute one document containing a statement in those terms signed by those Members on the respective days on which they signed the separate documents.
- 9.2.3 A reference in clause 9.2.1 to all the Members does not include a reference to a Member who would not be entitled to vote on the resolution.
- 9.2.4 The resolution pursuant to clause 9.2.1 will not be deemed to be passed unless, where a Share is held jointly, each joint Member has signed the document.

### **9.3 Notices**

- 9.3.1 Subject to the Act and any requirement of the Act pertaining to the passing of a special resolution, at least 21 days written notice must be given of any general meeting. However, the Company may call a general meeting on shorter notice if Members with at least 95% of the vote that may be cast at the meeting agree beforehand, except at a general meeting at which a resolution will be moved to remove the Company's auditor (if any) pursuant to Section 329 of the Act.
- 9.3.2 Subject to the Act, any general meeting or any proceeding at the meeting is not invalid only because of:
  - 9.3.2.1 the non-receipt of a notice of meeting by any person entitled to such notice; or
  - 9.3.2.2 a defect in such a notice given.
- 9.3.3 Written notice of every general meeting pursuant to clause 9.3.1 must be given individually to:

- 9.3.3.1 each Member entitled to attend and vote at the meeting and in the case of joint holders to the joint holder whose name appears first in the register of Members in respect of the registered Share jointly held;
  - 9.3.3.2 each Director;
  - 9.3.3.3 the Company's auditor (if any) for the time being; and
  - 9.3.3.4 every person known to the Company as being entitled to a Share in consequence of the death, bankruptcy or mental incapacity of a Member who would otherwise be entitled to receive notice of the meeting.
- 9.3.4 No other person shall be entitled to receive notices of general meetings.
- 9.3.5 Each notice of a general meeting shall:
- 9.3.5.1 specify the place, the day, and the hour of the meeting, and if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this;
  - 9.3.5.2 state the general nature of the business to be transacted at the meeting;
  - 9.3.5.3 if a special resolution is to be proposed at the meeting, set out an intention to propose a special resolution and state the resolution; and
  - 9.3.5.4 if a member is entitled to appoint a proxy contain a statement setting out the following information:
    - 9.3.5.4.1 that the Member has a right to appoint a proxy;
    - 9.3.5.4.2 whether or not the proxy needs to be a Member of the Company;
    - 9.3.5.4.3 that a Member who is entitled to cast 2 or more votes may appoint 2 proxies and specify the proportion or number of votes each proxy is appointed to exercise; and
    - 9.3.5.4.4 comply with any other disclosure requirements of the Act.

#### **9.4 Cancellation of Meeting**

Subject to the Act and this Constitution, the Directors with the prior written approval of the Members, as they see fit, may cancel a general meeting which has been notified to the Members any time before the meeting.



52

## 10. PROCEEDINGS AT GENERAL MEETINGS

---

### 10.1 General

- 10.1.1 A general meeting may be held at 2 or more venues using any electronic means that gives the Members as a whole a reasonable opportunity to participate.
- 10.1.2 The quorum required for the purposes of a general meeting shall be:
- 10.1.2.1 a Member or Members representing not less than one half of the voting rights of all Members having the right to vote at the general meeting; or
- 10.1.2.2 a Member or Members holding Shares conferring a right to vote at the general meeting being Shares on which an aggregate sum has been paid equal to not less than one half of the total sum paid up on all the Shares conferring that right.
- 10.1.3 For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a body corporate that is a Member, shall be deemed to be a Member
- 10.1.4 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.
- 10.1.5 A reference to a Member being personally present at a meeting includes a reference to a Member participating in a meeting by electronic means.
- 10.1.6 If there is a failure of the electronic means which results in the disconnection of any or all of the Members participating in the meeting, the meeting shall be adjourned until the failure of the electronic means has been rectified. If that is not possible within 60 minutes of the initial failure, the Chairman must adjourn the meeting until such time, date and place that is considered to give the Members as a whole a reasonable opportunity to participate in the meeting.

### 10.2 Quorum not Present

If a quorum is not present within 30 minutes from the time appointed for the meeting:

- 10.2.1 where the meeting was convened upon the requisition of Members, the meeting shall be dissolved; and
- 10.2.2 in any other case:
- 10.2.2.1 the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and

- 10.2.2.2 if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting the meeting shall be dissolved.

### **10.3 Chair**

- 10.3.1 The chair of the board of Directors shall preside as chair at every general meeting.
- 10.3.2 If the Directors have elected one of the number as deputy chair, the deputy chair shall preside as chair at a general meeting if the Director elected as chair is absent or not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act.
- 10.3.3 Where a general meeting is held and both the chair of the board of Directors and the deputy chair elected as provided by clause 10.3.2 are absent or not present within 15 minutes after the time appointed for the holding of the meeting or are unwilling to act the Members present shall elect another Director of the Company to be chair of the meeting.

### **10.4 Adjournment of Meeting**

- 10.4.1 The chair may with the consent of any meeting at which a quorum is present, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 10.4.2 When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- 10.4.3 Except as provided by clause 10.4.2, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **10.5 Resolutions at Meetings**

- 10.5.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
  - 10.5.1.1 by the chair;
  - 10.5.1.2 by a Member or Members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting; or
  - 10.5.1.3 by a Member or Members holding Shares in the Company conferring a right to vote at the meeting being Shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the Shares conferring that right.

10.5.2 Unless a poll is so demanded, a declaration by the chair that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

10.5.3 The demand for a poll may be withdrawn.

**10.6 Poll at Meetings**

10.6.1 If a poll is duly demanded, it shall be taken in such manner and (subject to clause 10.6.2) either at once or after an interval or adjournment or otherwise as the chair directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

10.6.2 A poll demanded on the election of a chair or on a question of adjournment shall be taken immediately.

**10.7 Casting Vote of Chair**

In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting at which the show of hands takes place or at which the poll is demanded, in addition to his or her deliberative vote (if any), has a casting vote.

**10.8 Votes by Members**

Subject to any rights or restrictions attached to any class or classes of Shares:

10.8.1 at meetings of Members or classes of Members each Member entitled to vote may vote in person or by proxy or attorney; and

10.8.2 on a show of hands every person present who is a Member or a representative of a Member has one vote, and on a poll every person present in person or by proxy or attorney shall have one vote for each share he or she holds.

**10.9 Entitlement to Vote**

A Member shall not be entitled to vote at a general meeting unless all calls and other sums presently payable by that Member in respect of Shares in the Company have been paid.

**10.10 Objections to Qualification to Vote**

10.10.1 An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.

10.10.2 Any such objection shall be referred to the chair of the meeting, whose decision shall be final.

10.10.3 A vote not disallowed pursuant to such an objection shall be valid for all purposes.

### **10.11 Proxies**

10.11.1 An appointment of a proxy is valid if it is signed by the Member of the Company making the appointment and contains the following information:

10.11.1.1 the Member's name and address;

10.11.1.2 the Company's name;

10.11.1.3 the proxy's name or the name of the office held by the proxy; and

10.11.1.4 the meetings at which the appointment may be used.

10.11.2 An appointment may specify the way in which the proxy is to vote on a particular resolution and, where an appointment so provides, the proxy shall not be entitled to vote in the resolution except as specified in the appointment.

10.11.3 A proxy appointed to attend and vote for a member has the same rights as a member to speak at the meeting or join in demanding a poll.

### **10.12 Time Within Which Proxies to be Lodged**

10.12.1 For an appointment of a proxy to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

10.12.1.1 the proxy's appointment; and

10.12.1.2 if the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of the authority.

10.12.2 If a meeting has been adjourned an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

10.12.3 A Company receives an appointment authority when it is received at any of the following:

10.12.3.1 the Company's registered office;

10.12.3.2 a fax number at the Company's registered office; or

10.12.3.3 a place, fax number or electronic address specified for the purpose in the notice of meeting.

**10.13 Validity of Votes made by Proxy**

10.13.1 A proxy who is not entitled to vote on a resolution as a Member may vote as a proxy for another Member who can vote if their appointment specifies the way they are to vote on the resolution and they vote that way.

10.13.2 Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if before the proxy votes:

10.13.2.1 the Member revokes the proxy's appointment;

10.13.2.2 the Member revokes the authority under which the proxy was appointed by a third party; or

10.13.2.3 the Member transfers the share in respect of which the proxy was given.

**11. DIRECTORS**

---

**11.1 Remuneration of Directors**

11.1.1 The Directors shall be paid such remuneration as shall from time to time be determined by the Company in general meeting and as included in the Company's annual business plan and approved at a general meeting of Members..

11.1.2 That remuneration shall be deemed to accrue from day to day.

11.1.3 The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

**11.2 Additional Circumstances for Vacation of Office**

In addition to the circumstances in which the office of a Director shall become vacant by virtue of the Act, the office of a Director shall become vacant if the Director:

11.2.1 becomes of unsound mind or becomes a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

11.2.2 resigns his or her office by notice in writing to the Company;

11.2.3 is absent without the consent of the Directors from meetings of the Directors held during a period of 6 months;

11.2.4 without the consent of the Company in general meeting holds any other office of profit under the Company except that of managing Director or principal executive officer or executive Director; or

11.2.5 has, subject to clause 11.3, a conflict of interest and fails to declare the nature of his or her interest as required by the Act.

### **11.3 Conflict of Interest**

- 11.3.1 A Director who has a material personal interest in a matter that relates to the affairs of the Company must, unless that Director is the sole Director, give the other Directors notice of the interest held at a meeting of Directors as soon as practicable after the Director becomes aware of their interest in the matter.
- 11.3.2 The Director shall declare the full details of the nature and extent of the interest and its relation to the affairs of the Company.
- 11.3.3 The Secretary shall record the declaration of a Director's interest in the minutes of the meeting.
- 11.3.4 The Director may give the other Directors standing notice of the nature and extent of the interest in the matter either at a Directors' meeting or to the other Directors individually and in writing.
- 11.3.5 If standing notice is given to the other Directors individually in writing, it must be tabled at the next meeting of Directors after it is given.
- 11.3.6 Notwithstanding any rule of law or equity to the contrary but subject to clause 11.2.5, no Director shall be or become disqualified from his or her office by contracting with the Company either as vendor or purchaser, or promoter or otherwise or from being employed or performing any service for or on behalf of the Company in any capacity, professional or otherwise, nor shall any such contract or arrangement be liable to be impeached, affected or avoided by reason of that Director being a party to or otherwise interested in that contract or arrangement, nor shall that Director be liable to account to the Company for any profit realised by or in respect of such contract or arrangement.

## **12. POWERS AND DUTIES OF DIRECTORS**

---

### **12.1 Attorney for Company**

- 12.1.1 The Directors may, by power of attorney, appoint any corporation, firm, person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors), for such period and subject to such conditions as they think fit.
- 12.1.2 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her.



**12.2 Execution of Cheques and Bills of Exchange**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 Directors or if the Company has only one Director, by that Director or in such other manner as the Directors determine.

**13. PROCEEDINGS OF DIRECTORS**

---

**13.1 General**

13.1.1 The Directors may meet together by electronic means or otherwise for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

13.1.2 If there is a failure of the electronic means used in conducting a meeting of directors, the meeting shall be adjourned until the failure can be rectified. If that is not possible within one hour of the initial failure, the Directors who are able to communicate with each other must adjourn the meeting to a time, date and place determined by those Directors.

**13.2 Director Interested in Contract with Company**

Subject to clause 11.3, a Director may vote in respect of any contract or arrangement in which he or she is interested and may attest the affixing of the Seal to any document relating to any such contract or arrangement.

**13.3 Deputy Chair**

13.3.1 The Directors may elect one of their number as deputy chair of their meetings and may determine the period of office for which that Director is to hold office.

13.3.2 The deputy chair shall chair the meetings of the Directors where the chair is absent or not present within 10 minutes after the time appointed for the time of the meeting or is unwilling to act.

13.3.3 Where a meeting of Directors is held and:

13.3.3.1 a chair has not been elected by the Members and a deputy chair has not been elected as provided by clause 13.3.1; or

13.3.3.2 the chair and the deputy chair are both absent or not present within 10 minutes after the time appointed for the holding of the meeting or are unwilling to act,

the Directors present shall elect one of their number to be the chair of the meeting.

### 13.4 Delegation by Directors

- 13.4.1 The Directors may by resolution delegate any of their powers to a committee or committees of directors, a Director, an employee of the Company or any other person, consisting of such of their number as they think fit.
- 13.4.2 A Delegate must exercise the powers delegated in accordance with any directions of the Directors.
- 13.4.3 The exercise of the power of the Delegate is as effective as if the Directors had exercised it.
- 13.4.4 Directors who delegate their powers are responsible for the exercise of the power by the delegate as if the power had been exercised by the Directors themselves.
- 13.4.5 The Directors may specify the person to act as chair of any committee appointed under clause 13.4.1, or may specify that the members of that committee may appoint its chair.

### 13.5 Committees of Directors

- 13.5.1 If the Directors have specified under clause 13.4 that a committee may appoint its own chair, the Members of that committee may elect one of their number as chair of their meetings.
- 13.5.2 Where such a meeting is held and:
  - 13.5.2.1 a chair has not been elected as provided by clause 13.5.1; or
  - 13.5.2.2 the chair is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the Members present may elect one of their number to be chair of the meeting.
- 13.5.3 A committee may meet and adjourn as it thinks proper.
- 13.5.4 Questions arising at a meeting of a committee shall be determined by a majority of votes of the Members present and voting.
- 13.5.5 In the case of an equality of votes, the chair, in addition to his or her deliberative vote (if any), shall have a casting vote.

### 13.6 Resolutions of Directors

- 13.6.1 If all the Directors have signed a document containing a statement that they are in favour of a resolution of the Directors in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a meeting of the Directors held on the day on which the document was signed and at the time at which the document was last signed by a Director or, if the Directors signed the document on

different days, on the day on which, and at the time at which, the document was last signed by a Director.

13.6.2 For the purposes of clause 13.6.1, 2 or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be deemed to constitute one document containing a statement in those terms signed by those Directors on the respective days on which they signed the separate documents.

13.6.3 A reference in clause 13.6.1 to all the Directors does not include a reference to a Director who, at a meeting of Directors, would not be entitled to vote on the resolution.

**13.7 Validity of Acts of Directors**

All acts done by any meeting of the Directors or of a Delegate or by any person acting as a Director are effective even if the appointment or the continuance of the appointment of the Director is invalid because the Company or Director did not comply with the Constitution or any provision of the Act.

**14. SECRETARY**

---

Subject to the Act the Company is not required to appoint a Secretary. However, any Secretary appointed shall hold office on such terms and conditions, as to remuneration and otherwise, as included in the Company's annual business plan and approved at a general meeting of Members.

**15. SEAL**

---

**15.1 Custody of Seal**

If the Directors resolve to have a Seal, the Directors shall provide for the safe custody of the Seal.

**15.2 Use of Seal**

The Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal, and every document to which the Seal is affixed shall be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

**16. ACCOUNTS**

---

16.1 The Directors shall cause proper accounting and other records to be kept and also distribute copies of balance sheets as required by the Act.

16.2 The Directors shall ensure that sufficient accounting and other reports and information are provided to the Members in order to meet, and enable them to meet, the requirements of the Local Government Act 1989 (Vic).

## **17. DIVIDENDS AND RESERVES**

---

### **17.1 Declaration of Dividends**

Subject to the provisions of the Act and any special rights and restrictions attached to any Shares, the Directors may declare and pay a dividend at any time as appears to the Directors to be justified by the profits of the Company.

### **17.2 Interim Dividends**

The Directors may declare and pay at any time such interim dividends as appear to the Directors to be justified by the profits of the Company.

### **17.3 Interest on Dividends**

Interest shall not be payable by the Company in respect of any dividend.

### **17.4 Reserves**

17.4.1 The Directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied.

17.4.2 Pending any such application, the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors think fit.

17.4.3 The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

### **17.5 Entitlement to Dividends**

17.5.1 Subject to clause 17.5.4 and the rights of persons (if any) entitled to Shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the Shares in respect of which the dividend is paid.

17.5.2 All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the Shares during any portion or portions of the period in respect of which the dividend is paid, but, if any Share is issued on terms providing that it will rank for dividend as from a particular date, that Share ranks for dividend accordingly.

17.5.3 An amount paid or credited as paid on a Share in advance of a call shall not be taken for the purposes of this clause 17.5 to be paid or credited as paid on the Share.

17.5.4 Where more than one class of Shares has been issued, the Directors may declare and pay a dividend or make a distribution of capitalised profits:

17.5.4.1 on the Shares of any one or more classes to the exclusion of any other class; or

17.5.4.2 on the Shares of any one class at the same rate, or a higher or lower rate than the dividend declared and paid or distribution made on the Shares of other classes.

#### **17.6 Deductions from Dividends**

The Directors may deduct from any dividend payable to a Member all sums of money (if any) presently payable by him or her to the Company on account of calls or otherwise in relation to Shares in the Company.

#### **17.7 Dividends Paid from Specific Assets**

17.7.1 The Directors when declaring a dividend may, by resolution, direct payment of the dividend wholly or partly by the distribution of specific assets, including paid up Shares in, or debentures of, any other corporation.

17.7.2 Where a difficulty arises in regard to such a distribution, the Directors may settle the matter as they consider expedient and fix the value for distribution of the specific assets or any part of those assets and may determine that cash payments will be made to any Members on the basis of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as the Directors consider expedient.

#### **17.8 Payment of Dividends**

17.8.1 Any dividend, interest or other money payable in cash in respect of Shares may be paid by cheque sent through the post directed to:

17.8.1.1 the address of the holder as shown in the register of Members, or in the case of joint holders, to the address shown in the register of Members as the address of the joint holder just first named in that register; or

17.8.1.2 to such other address as the holder or joint holders in writing directs or direct.

17.8.2 Any one of 2 or more joint holders may give effective receipts for any dividends, interest or other money payable in respect of the Shares held by them as joint holders.

### **18. NOTICES**

---

A document may be served on the Company by leaving it at, or by sending it by post to, the registered office of the Company.

## **19. WINDING UP**

---

### **19.1 Division of Property**

If the Company is wound up, the liquidator may, with the sanction of a special resolution, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as he or she considers fair upon any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

### **19.2 Vesting of Property**

The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member shall be compelled to accept any Shares or other securities in respect of which there is any liability.

## **20. INDEMNITY**

---

### **20.1 Definition of Liability and Officer**

In this clause 20:

20.1.1 Liability means costs, losses, liabilities and expenses.

20.1.2 Officer means a Director, secretary or other officer of the Company

20.1.3 References to Officers include references to former Officers.

### **20.2 Indemnity of Officers**

Every Officer of the Company must be indemnified out of the assets of the Company against any Liability incurred by that Officer in the person's capacity as an Officer of the Company by reason of any act or thing done or omitted to be done by that person in that capacity or in any way in the discharge of that person's duties or by reason of or relating to the person's status as an Officer of the Company, but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.

### **20.3 Indemnity for proceedings**

Without limiting clause 20.2, every Officer of the Company must be indemnified out of the assets of the Company against any Liability incurred by that person in defending proceedings, whether civil or criminal, in respect of any act or thing done by the Officer in that person's capacity as such Officer but excluding any Liability from or against which the Company is not permitted by the Act to exempt or indemnify the Officer.



## **21. INTERPRETATION**

---

### **21.1 Persons**

In this Constitution, a reference to a person includes a firm, partnership, joint venture, association, corporation or other corporate body.

### **21.2 Legislation**

In this Constitution, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

### **21.3 This Document, Clauses and Headings**

In this Constitution:

- 21.3.1 a reference to this or any other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 21.3.2 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Constitution;
- 21.3.3 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form; and
- 21.3.4 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Constitution.

### **21.4 Business Day**

If a payment or other act is required by this Constitution to be made or done on a day which is not a Business Day, the payment or act must be made or done on the next following Business Day.

### **21.5 Number and Gender**

In this Constitution, a reference to:

- 21.5.1 the singular includes the plural and vice versa; and
- 21.5.2 a gender includes the other genders.

## Schedule

---

### SHARE CLASSES

#### 1. CLASSES OF SHARES

---

Subject to the provisions of clauses 7.1 and 7.2, the Directors may elect to issue shares of the following classes:

- 1.1 Ordinary Shares;
- 1.2 'A' class Shares;
- 1.3 'B' class Shares;
- 1.4 'C' class Shares;
- 1.5 'D' class Shares;
- 1.6 'E' class Shares;
- 1.7 'F' class Shares;
- 1.8 'G' class Shares;
- 1.9 'H' class Shares; and
- 1.10 Redeemable Preference Shares.

#### 2. RIGHTS AND RESTRICTIONS APPLICABLE TO SHARES OF DIFFERENT CLASSES

---

##### 2.1 Ordinary Shares

Holders of Ordinary Shares will possess the following rights and be subject to the following restrictions:

- 2.1.1 a right to receive notice of any general meeting of the Company under clause 9.3;
- 2.1.2 voting rights as specified in clause 10.8;
- 2.1.3 dividends as determined from time to time in accordance with this Constitution; and
- 2.1.4 the right to participate in the distribution of surplus assets on winding up.

##### 2.2 'A', 'B' and 'C' Class Shares

Holders of 'A', 'B' and 'C' class Shares will possess the following rights and be subject to the following restrictions:

- 2.2.1 a right to receive notice of any general meeting of the Company under clause 9.3;
- 2.2.2 voting rights as specified in clause 10.8;
- 2.2.3 dividends as determined from time to time in accordance with this Constitution; and
- 2.2.4 the right to participate in the distribution of surplus assets on winding up.

**2.3 'D', 'E' and 'F' Class Shares**

Holders of 'D', 'E' and 'F' class Shares will possess the following rights and be subject to the following restrictions:

- 2.3.1 no right to receive notice of any general meeting;
- 2.3.2 no voting rights at any general meeting of the Company;
- 2.3.3 dividends as determined from time to time in accordance with this Constitution; and
- 2.3.4 no right to participate in the distribution of surplus assets on a winding up.

**2.4 'G' Class Shares**

Holders of 'G' class Shares will possess the following rights and be subject to the following restrictions:

- 2.4.1 a right to receive notice of any general meeting of the Company under clause 9.3;
- 2.4.2 voting rights as specified in clause 10.8;
- 2.4.3 no right to specific dividends;
- 2.4.4 no right to participate in the distribution of surplus assets on winding up.

**2.5 'H' Class Shares**

Holders of 'H' class Shares will possess the following rights and be subject to the following restrictions:

- 2.5.1 no right to receive notice of any general meeting of the Company;
- 2.5.2 no voting rights;
- 2.5.3 dividends as determined from time to time in accordance with this Constitution;
- 2.5.4 the right to participate in the distribution of surplus assets on winding up.

### 3. SPECIAL PROVISIONS APPLICABLE TO REDEEMABLE PREFERENCE SHARES

---

#### 3.1 Redeemable Preference Shares

Holders of Redeemable Preference Shares (RP Shares) will possess the following rights and be subject to the following restrictions:

- 3.1.1 The right to receive notice of any general meeting of the Company under clause 9.3;
- 3.1.2 The same voting rights as the holders of Ordinary Shares, but only where the following special circumstances occur:
  - 3.1.2.1 a dividend or part of a dividend is in arrears with respect to the RP Shares;
  - 3.1.2.2 a reduction of capital is proposed;
  - 3.1.2.3 a resolution to ratify the terms of a buy-back agreement is proposed;
  - 3.1.2.4 any other proposal is put forward that affects rights which flow from ownership of the RP Shares;
  - 3.1.2.5 it is proposed that the Company be wound up;
  - 3.1.2.6 it is proposed that the whole of the Company's property, business and undertaking be disposed of.
- 3.1.3 As determined by the Directors at the date of issue:
  - 3.1.3.1 the right to a fixed cumulative dividend at a yearly rate fixed by the Directors at the date of issue;
  - 3.1.3.2 the right to a fixed non cumulative dividend at a yearly rate fixed by the Directors at the date of issue;
  - 3.1.3.3 the right to a cumulative dividend at a rate or rates determined by the Directors at any time; or
  - 3.1.3.4 the right to a non cumulative dividend at a rate or rates determined by the Directors at any time.
- 3.1.4 The right to be paid their dividends before any dividends are paid on the other classes of Shares;
- 3.1.5 The right, on a winding up or capital reduction, to a return of capital at the issue price of the RP Shares (together with any unpaid dividends on RP Shares) in priority to any other Shares which have been issued.
- 3.1.6 RP shareholders will not otherwise possess the right to participate in any surplus assets or profits.

**3.2 Redemption of RP Shares**

Subject to sections 254J and 254K of the Act, the RP Shares will be redeemable at the option of the Company, upon payment to the RP Share holders of the aggregate issue price of the RP Shares, together with any accumulated dividends.

**3.3 Notice**

The option to redeem will be exercised by providing notice in writing to the RP Shareholders at their respective registered addresses. A bank cheque to each of the RP Shareholders for the amount payable on redemption will accompany each notice.

**SCHEDULE 3**  
**DEED OF ACCESSION**

**THIS DEED** dated

**BY**

**[Name of party]** of **[address]** ("the Acceding Party")

**RECITAL**

This deed is supplemental to a Shareholders' Agreement entered into between # and the Company ("the Company") on **[date]**.

**OPERATIVE PART**

**1. Acceding Party to be Bound**

The Acceding Party confirms that it has been provided with a copy of the Shareholders' Agreement and covenants with all present parties to that agreement (whether original parties or parties by accession) to observe, perform and be bound by all the terms and conditions of the Shareholders' Agreement and the constitution of the Company so that the Acceding Party is deemed, from the date on which it is registered as a member of the Company, to be a party to the Shareholders' Agreement.

**2. Representations and Warranties**

The Acceding Party represents and warrants to the parties to the Shareholders' Agreement that:

- 2.1 it is a Council;
- 2.2 it has corporate power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by the Shareholders' Agreement;
- 2.3 it has taken all necessary corporate action to authorise the entry into and performance of this deed and to carry out the transactions contemplated by the Shareholders' Agreement;
- 2.4 neither the execution and performance by the Acceding Party of this deed nor any transaction contemplated by the Shareholders' Agreement will violate in any respect any provision of:
  - 2.4.1 its constituent documents; or
  - 2.4.2 any other document, agreement or arrangement binding upon it.



3. **Address for Legal Process and Notices**

The address of the Acceding Party for the purposes of clause 12(6) of the Shareholders' Agreement is:

[address]

4. **Governing Law**

This deed is governed by the laws of the State of Victoria.

**Executed as a deed**

**COPY**

142



**Maddocks**

Date / /2008

Lawyers  
140 William Street  
Melbourne Victoria 3000 Australia  
Telephone 61 3 9288 0555  
Facsimile 61 3 9288 0666  
Email [info@maddocks.com.au](mailto:info@maddocks.com.au)  
[www.maddocks.com.au](http://www.maddocks.com.au)  
DX 259 Melbourne

## Shareholders Agreement

The Parties named in the Schedule  
and

Regional Kitchen Pty Ltd

## Corporate and Personnel

**Is there any adverse information known about the proponent organisation's personnel or the proponent organisation's financial management practices that could put RLCIP-SP funding at risk?**

(The below questions are a guide of what to look for when answering this question)

- Yes
- No

**1a) Media reporting of criminal or civil proceedings**

- o Has there been any national media coverage?

X No

**Comment** (Document the reason for your answer):

None identified

**1b) Information provided by Regional Office?**

- Yes

**Comment** (Document the reason for your answer):

Unknown

**1c) Information disclosed in the RLCIP-SP Application? (Item D, Q17)**

X No

**Comment** (Document the reason for your answer):

**1d) Information on local government proponent?**

- o State government websites such as <www.dlg.nsw.gov.au.> contain information about individual local governments.

X No

2 SP 740  
Hobsons Bay City Council

SP 322. previous file

**Comment** (Document the reason for your answer):

**1e) Does the organisation have a suitable financial management structure in place? (Item D, Q19)**

X Yes

**Comment** (Document the reason for your answer):

Financial Management Structure:  
 Board of Directors RFK Pty Ltd  
 Board of Directors Regional Kitchens Pty Ltd  
 47F [redacted] CEO, Regional Kitchen Group (*Google searched, nothing adverse found*).  
 47F [redacted] and Co Client Representative. (*Google searched, nothing adverse found*).  
 47F [redacted] Property Consultant Services P/L Project Manager (*Google searched, nothing adverse found*). "The project manger is a qualified architect and has the relevant expertise and skills to deliver a project of this nature on time and within budget" (*IVA report from McN+ McGRATHNICOL Corporate Advisory*).

The proponent has indicated that once completed, the project will be managed by the board of directors for RFK Pty Ltd, the board of directors for Regional Kitchens Pty Ltd and the CEO of the Regional Kitchens group. The summary of experience provided demonstrates those responsible for sustaining the project have sufficient skills and expertise  
 (Extract from *IVA report from McN+ McGRATHNICOL Corporate Advisory*)

## Management of Grant Funds

**Does the Proponent demonstrate it is has the necessary skills and experience to manage RCLIP-SP and the RCLIP-SP funding agreement (contract) in accordance with requirements?**

*(The below questions are a guide of what to look for when answering this question)*

- Yes
- No

**1a) Has the proponent previously managed grant funds? (Item D Q18)**

X Yes

**Comment** (Document the reason for your answer):

Managed the following:

- Altona Leisure Centre – funding from State govt \$2.5M – Pool & Leisure construction – completed
- Altona Sports Centre – funding from Commonwealth and State govts \$900,000 – Sports Facility extention – completed
- Altona Meadows Learning Centre – funding from State govt \$400,000 – Library and Learning Centre - completed

**1b) Was funding provided by the Department of Infrastructure, or other government agencies? (Ask the Regional Office for information and Q? of the application).**

X Yes

**Comment** (Document the reason for your answer):

State Government / Council and Commonwealth Government

**1c) Did the proponent use the funding for the purpose(s) it was provided?**

X Yes

**Comment** (Document the reason for your answer):

All projects were completed

[Empty box]

**1d) Did the proponent provide the required acquittals and audit reports in a timely manner?**

Unknown

**1e) Check whether the proponent is eligible for Better Region Funding? If so, has Council submitted its Better Regions proforma?**

- Yes
- No

**Comment** (Document the reason for your answer):

[Empty box]

**1f) Information provided by the Regional Office?**

X No

**Comment** (Document the reason for your answer):

[Empty box]

## COUNCIL SEARCH

<b>2SP Number</b>	<b>740</b>
<b>Name of Council</b>	<b>Hobsons Bay City Council</b>
<b>Project Title</b>	<b>Regional Kitchen Project</b>

### External – media searches

<b>Source</b>	<b>Date</b>	<b>General Information</b>
<a href="http://www.hobsons.vic.gov.au/Page/page.asp?page_Id=3268&amp;h=0">http://www.hobsons.vic.gov.au/Page/page.asp?page_Id=3268&amp;h=0</a>	4/7/2008	Council web page advising it is successful in bid to build kitchen .
<a href="http://www.hobsonsbay.vic.gov.au/Files/AWordfromtheMayorJuly2008.pdf">http://www.hobsonsbay.vic.gov.au/Files/AWordfromtheMayorJuly2008.pdf</a>	July 2008	News on the successful bid for kitchen

### Internal – reference to project (Council minutes/decisions)

<b>Date of Council Meeting</b>	<b>Meeting No.</b>	<b>Decision</b>
16/12/2008		<b>Council to note intention of council's coordination of a RLCIP application for the Regional Kitchen project on behalf of the group of Councils involved. Council to be the lead council.</b>

6/4/2008



McN+

---

McGRATHNICOL

CORPORATE ADVISORY

**Department of Infrastructure, Transport,  
Regional Development and Local Government**

*Regional and Local Community Infrastructure Program -  
Strategic Projects*

**Independent Viability Assessment**

**Hobson's Bay City Council**

**Regional Kitchen Project**

9 February 2009

## Table of Contents

1.	<b>Executive Summary</b>	3
2.	<b>Proponent's Background</b>	7
2a	Proponent's Background	8
2b	Description of the Project	8
3.	<b>Project Delivery Viability</b>	10
3a	Risk Factor Assessment Table – Project Delivery Viability	11
3b	Risk Analysis – Project Delivery Viability	18
4.	<b>Project Sustainability</b>	21
4a	Risk Factor Assessment Table – Project Sustainability	22
4b	Risk Analysis – Project Sustainability	25

## McGrathNicol Contacts

The contacts at McGrathNicol Corporate Advisory (McN+) in connection with this report are:

+ **Shane O’Keeffe, Practice Leader (Partner equivalent)**

47F

47F

## Scope and Disclaimer

This report has been prepared in accordance with the scope prepared by the Department of Infrastructure, Transport, Regional Development and Local Government (DITRD LG). This report has been prepared for DITRD LG and should not be disclosed to any other party except as required by law, without our prior consent in writing.

We have not carried out a statutory audit and accordingly an audit opinion has not been provided. The scope of our work is different from an audit and it cannot be relied upon to provide the same level of assurance as an audit.

Our conclusions are based solely on the information provided to us by DITRD LG. We have not verified the accuracy or completeness of any of the information given to us by DITRD LG or any third party. In addition, we reserve the right to amend any conclusions, if necessary, should any further information from DITRD LG become available.

In accordance with our firm’s policy, neither the firm nor any member or employee of the firm undertakes responsibility in any way whatsoever to any person (other than DITRD LG) in respect of the information set out in this report including errors, omissions or negligence however caused.

---

# Section 1

**Executive Summary**

### Project Details

- + Name of proponent: Hobson's Bay City Council.
- + Name of project: Regional Kitchen Project.
- + Location of project: Lot 10, Drake Blvd Altona VIC 3018.
- + Description of project: The project will deliver a large scale kitchen facility to be used to provide meals under the Home and Community Care (HACC) program. The proposed kitchen facilities will produce up to 1.3 million meals each year for the aged and disabled across the 14 partner councils in Victoria, and it is expected that the facility could expand production capacity to up to 2.0 million meals per year.

The Regional Kitchen project was incorporated as Regional Kitchen Pty Ltd in April 2008 and this company is currently holding all funds that have been secured for the project. Once completed, the facility will be leased to RFK Pty Ltd trading as Community Chef who will provide the meal services to the member councils. Both Regional Kitchen Pty Ltd and RFK Pty Ltd trading as Community Chef are jointly owned by the 14 partner councils and together, the related organisations are known as the Regional Kitchen Group. The current chair of both organisations is the CEO of the proponent.

Although the Regional Kitchen Pty Ltd and RFK Pty Ltd are private companies and therefore are entitled to generate and distribute profits, it is noted that as the only shareholders are the local councils, any profits would be distributed back to the councils.

Regional and Local Community Infrastructure Program – Strategic Projects (RLCIP–SP) funding will go towards the design, construction and fit-out of the project. In addition the RLCIP–SP funding will also contribute to the work required to commission the facilities, train relevant personnel and become operational by 2010.
- + Total cost of the project: The total cost of the project is \$30 million and is comprised of the following contributions:
  - RLCIP-SP funding of \$9.0 million, representing 30% of the total project cost;
  - proponent funding of \$200,000, representing 0.67% of the total project cost;
  - the 13 other partner councils funding of \$2.05 million, representing 6.8% of the total project cost;
  - VIC Department of Human Services funding of \$6.0 million, representing 30% of the total project cost; and
  - various finance lease agreements and loans of \$10.92 million, representing 36.4% of the total project cost.
  - The 14 partner council will also contribute an additional \$500,000 in-kind contribution for project management.
- + Project time-frame: The key time-frame events are listed below:
  - Community Chef was incorporated in December 2007.
  - Regional Kitchen Pty Ltd was incorporated in April 2008.
  - The project is planned to commence in early 2009. Although a sufficiently detailed project plan with timetable has not been provided, the proponent expects that the project will be completed in December 2010.

**Proponent Viability – Are there any issues that will significantly impact on the financial capacity of the proponent to make its required contribution to the project?**

- + The Proponent Viability risk is assessed as Low. Our assessment is based on the following financial information as at 30 June 2008:
  - the proponent has generated sound profits in recent years;
  - as at 30 June 2008 the proponent holds a significant amount of net assets including \$11.2 million in cash; and
  - the proponent has minimal interest bearing liabilities.
- + However, our assessment has also identified the following key risks which impact the proponent's viability:
  - the financial capacity of the additional 13 partner councils is indeterminable; and
  - although the proponent appears to be financially capable, the proponent has not indicated that it would fund any shortfalls in the event that other partner funding is not secured.
- + In respect of the key risks identified above, we have identified Proponent Viability risk treatment strategies, which if implemented, would result in a risk assessment of Very Low.
  - If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting the proponent provide confirmation that it will contribute additional funding the project where required.

**Project Delivery Viability – Is the project likely to commence by 1 October 2009 and is it likely to be completed within budget and within the time nominated? Does the proponent have the management capacity to undertake the project?**

- + The Project Delivery Viability risk is assessed as High. Our assessment is based on the following positive factors:
  - an independent project manager has been appointed to the project;
  - \$6.0 million has been secured from the Victorian State Government;
  - cost estimates have been prepared by a quantity surveyor and are available on request;
  - a number of project milestones have already been completed; and
  - a detailed feasibility study has been undertaken.
- + However, our assessment has also identified the following key risks which impact the project's delivery viability:
  - there is a \$1.3 million funding gap between budget estimates and the amount of funding secured from the 14 partner councils;
  - no details or evidence has been provided in relation to the loan facilities or finance lease contracts to be used to fund \$10.9 million of project costs;
  - no evidence has been provided to demonstrate the proposed site has been purchased for the project;
  - approval has not yet been provided for planning and building permits; and
  - it is unclear from the project plan whether construction will commence within six months of signing the funding deed.
- + In respect of the key risks identified above, we have identified Project Delivery Viability risk treatment strategies, which if implemented, would result in a risk assessment of Low.
  - If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting the following:

**Project Delivery Viability – Is the project likely to commence by 1 October 2009 and is it likely to be completed within budget and within the time nominated? Does the proponent have the management capacity to undertake the project?**

- confirmation that the proponent will contribute additional funding where required;
  - evidence and details of any loan facilities available for the project;
  - evidence and details of any finance lease arrangements;
  - confirmation that construction will commence by October 2009; and
  - evidence of the quantity surveyor report in relation to cost estimates.
- If this application is successful, the Department may wish to consider the following as key milestones to the funding deed:
- purchase of the proposed project site by Regional Kitchens Pty Ltd;
  - engagement of any finance lease agreements for project equipment; and
  - approval for planning and building permits.

**Project Sustainability – Is the project likely to be sustainable for the next five years?**

- + The Project Sustainability risk is assessed as Moderate. Our assessment is based on the following:
  - the project will be sustainable without ongoing assistance from the proponent or other councils;
  - profits are expected to be generated within two years of project completion;
  - a schedule and budget for ongoing maintenance has been provided; and
  - a list of assumptions has been provided in relation to the forecasts.
- + However, our assessment has also identified the following key risk which impacts the project's sustainability:
  - no contingency plan has been provided in the event that the Regional Kitchen Group is no longer sustainable.
- + In respect of the key risks identified above, we have identified the following Project Sustainability risk treatment strategy, which if implemented, would result in a risk assessment of Low.
  - If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting the proponent to provide details of a contingency plan to ensure the continuation of the project if the Regional Kitchen Group is no longer sustainable.

---

## Section 2

**Proponent's Background**



2a: Proponent Details	
Legal name of council:	Hobsons Bay City Council.
Address:	115 Civic Parade, Altona VIC 3018.
ABN:	24 936 107 898.
GST registration status:	Registered for GST.

2b: Description of the Project	
Description of the project and what it will deliver:	<ul style="list-style-type: none"> <li>+ The project is the Regional Kitchen Project.</li> <li>+ The project will deliver a large scale kitchen facility to be used to provide meals under the Home and Community Care (HACC) program. The proposed kitchen facilities will produce up to 1.3 million meals each year for community meals for the aged and disabled across the 14 partner councils in Victoria and it is expected that the facility could expand production capacity to up to 2.0 million meals per year.</li> </ul> <p>The Regional Kitchen project was incorporated as Regional Kitchen Pty Ltd in April 2008 and this company is currently holding all funds that have been secured for the project. Once completed, the facility will be leased to RFK Pty Ltd trading as Community Chef who will provide the meal services to the member councils. Both Regional Kitchen Pty Ltd and RFK Pty Ltd trading as Community Chef are jointly owned by the 14 partner councils and together, the related organisations are known as the Regional Kitchen Group. The current chair of both organisations is the CEO of the proponent.</p> <p>Although the Regional Kitchen Pty Ltd and RFK Pty Ltd are Pty Ltd companies, and therefore may aim to generate profits, it is noted that as the only shareholders are the local councils, any profits would be distributed back to the councils.</p> <p>RLCIP – SP funding will go towards the design, construction and fit-out of the project. In addition the RLCIP – SP funding will also contribute to the steps required to commission the facilities, train relevant personnel and become operational by 2010.</p>
Details of project location:	<ul style="list-style-type: none"> <li>+ Lot 10, Drake Blvd Altona VIC 3018.</li> </ul>
When the project is intended to commence?	<ul style="list-style-type: none"> <li>+ Research and planning of the project commenced in 2005 following a Victorian State Government review of Meals on Wheels services in Victoria.</li> <li>+ The project is planned to commence in early 2009, no specific details have been provided.</li> </ul>
When the project is intended to be completed?	<ul style="list-style-type: none"> <li>+ The project is planned to take 12 -18 months to complete, based on a project commencement of early 2009.</li> <li>+ The project is due to be completed in December 2010.</li> </ul>

2b: Description of the Project																
Total project cost:	<ul style="list-style-type: none"> <li>+ The total cost of the project is \$30.0 million and is comprised of the following contributions:                             <ul style="list-style-type: none"> <li>- RLCIP-SP funding of \$9.0 million, representing 30% of the total project cost;</li> <li>- proponent funding of \$200,000, representing 0.67% of the total project cost;</li> <li>- the 13 other partner councils funding of \$2.05 million, representing 6.8% of the total project cost;</li> <li>- VIC Department of Human Services funding of \$6.0 million, representing 30% of the total project cost; and</li> <li>- various finance lease agreements and borrowings of \$10.92 million, representing 36.4% of the total project cost.</li> <li>- The 14 partner council will also contribute an additional \$500,000 in-kind contribution for project management.</li> </ul> </li> </ul>															
Amount of funding sought from RLCIP-SP – Strategy Projects?	<ul style="list-style-type: none"> <li>+ \$9.0 million.</li> <li>+ The above funding, if approved would account for 30% of the project's total cost.</li> </ul>															
Where applicable, the details of financial contribution of other contributing project partners:	<ul style="list-style-type: none"> <li>+ The balance of the project cost \$21.0 million or 70% will be funded by the 14 partner councils (which includes the proponent), the Victorian State Department of Human Services and other borrowings and finance leases</li> </ul> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #00A6C9; color: white;">Contributing Partner</th> <th style="background-color: #00A6C9; color: white;">Financial Contribution</th> <th style="background-color: #00A6C9; color: white;">In-Kind Contribution</th> </tr> </thead> <tbody> <tr> <td>14 partner councils</td> <td style="text-align: right;">\$2.25 million</td> <td>\$500,000 – project management</td> </tr> <tr> <td>Victorian State Department of Human Services*</td> <td style="text-align: right;">\$6.00 million</td> <td></td> </tr> <tr> <td>Unknown finance leases and borrowings</td> <td style="text-align: right;">\$10.92 million</td> <td></td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: right;"><b>\$19.17 million</b></td> <td><b>\$500,000</b></td> </tr> </tbody> </table> <p>* conditional upon project construction commencing by 1 June 2009, a registered project manager being appointed, an open tender process for construction and completion by December 2010.</p>	Contributing Partner	Financial Contribution	In-Kind Contribution	14 partner councils	\$2.25 million	\$500,000 – project management	Victorian State Department of Human Services*	\$6.00 million		Unknown finance leases and borrowings	\$10.92 million		<b>Total</b>	<b>\$19.17 million</b>	<b>\$500,000</b>
Contributing Partner	Financial Contribution	In-Kind Contribution														
14 partner councils	\$2.25 million	\$500,000 – project management														
Victorian State Department of Human Services*	\$6.00 million															
Unknown finance leases and borrowings	\$10.92 million															
<b>Total</b>	<b>\$19.17 million</b>	<b>\$500,000</b>														

---

## Section 3

**Project Delivery Viability**

**3a: Risk Factor Assessment Table**

The following table details the risk factors that might impact on the project being able to be completed on time and within budget.

Risk Factors	Assessment	Risk Treatment Strategy (if applicable)																								
1. The proponent's expertise/skills to deliver the project in a timely manner.	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The proponent has provided details of previous experience in undertaking infrastructure projects funded using Commonwealth and / or State Government grants.</li> <li>+ The proponent has indicated that the project is being developed by an experienced team with representation from a number of the partner councils. A summary of their relevant qualifications and experience has been included with the application.</li> <li>+ An independent project manager from a property consultancy firm has been appointed to the project. A summary of experience has been included that indicates that the project manger is a qualified architect and has the relevant expertise and skills to deliver a project of this nature on time and within budget.</li> </ul>	+ Not applicable.																								
2. Whether the proponent has the financial capacity to make its required contribution to the project.	<p>+ The following table provides a summary of the proponent's key financial results for the 12 months ending 30 June 2008, 30 June 2007 and 30 June 2006.</p> <table border="1" data-bbox="607 866 1585 1220"> <thead> <tr> <th></th> <th style="text-align: center;">Year Ended 30 June 2008 \$'000s</th> <th style="text-align: center;">Year Ended 30 June 2007 \$'000s</th> <th style="text-align: center;">Year Ended 30 June 2006 \$'000s</th> </tr> </thead> <tbody> <tr> <td>+ Revenue</td> <td style="text-align: center;">89,559</td> <td style="text-align: center;">82,028</td> <td style="text-align: center;">74,849</td> </tr> <tr> <td>+ Profit</td> <td style="text-align: center;">5,151</td> <td style="text-align: center;">4,768</td> <td style="text-align: center;">637</td> </tr> <tr> <td>+ Net Assets</td> <td style="text-align: center;">611,076</td> <td style="text-align: center;">520,736</td> <td style="text-align: center;">500,940</td> </tr> <tr> <td>+ Current Ratio</td> <td style="text-align: center;">1.03</td> <td style="text-align: center;">1.14</td> <td style="text-align: center;">1.33</td> </tr> <tr> <td>+ Debt / Equity Ratio</td> <td style="text-align: center;">0.00</td> <td style="text-align: center;">0.01</td> <td style="text-align: center;">0.01</td> </tr> </tbody> </table>		Year Ended 30 June 2008 \$'000s	Year Ended 30 June 2007 \$'000s	Year Ended 30 June 2006 \$'000s	+ Revenue	89,559	82,028	74,849	+ Profit	5,151	4,768	637	+ Net Assets	611,076	520,736	500,940	+ Current Ratio	1.03	1.14	1.33	+ Debt / Equity Ratio	0.00	0.01	0.01	
	Year Ended 30 June 2008 \$'000s	Year Ended 30 June 2007 \$'000s	Year Ended 30 June 2006 \$'000s																							
+ Revenue	89,559	82,028	74,849																							
+ Profit	5,151	4,768	637																							
+ Net Assets	611,076	520,736	500,940																							
+ Current Ratio	1.03	1.14	1.33																							
+ Debt / Equity Ratio	0.00	0.01	0.01																							

Risk Factors	Assessment	Risk Treatment Strategy (if applicable)
	<p>Positive</p> <ul style="list-style-type: none"> <li>+ The proponent has returned sound profits that have increased in recent years.</li> <li>+ As at 30 June 2008, the proponent had access to significant levels of cash (\$11.2 million) and appeared to be capable of providing the \$200,000 that the proponent is to contribute to the project itself, as well as additional funds if required.</li> <li>+ In addition, as at 30 June 2008, the proponent held a substantial level of net assets (\$611.1 million) that have increased in recent years.</li> <li>+ The proponent has minimal interest bearing liabilities.</li> <li>+ The proponent has secured partnership funding from the Victorian Department of Human Services (\$6.0 million) and 13 other municipal councils (\$2.1 million).</li> <li>+ Given the proponent's net asset position and current debt to equity ratio it appears that it would be capable of obtaining sufficient borrowings to fund any additional aspects of the project or partner funding that did not materialise.</li> </ul> <p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ As at 30 June 2008 the proponent's current ratio was only just greater than 1, being 1.03. Although the proponent may have some surplus cash left over, it may need to borrow additional funds to meet its project contributions or to meet any additional funding required by the project. However, the proponent's net asset position and current debt to equity ratio indicate that it would be capable of taking sufficient borrowings to fund any additional aspects of the project.</li> <li>+ The financial capacity of the other 13 partner councils to provide additional funds to the project is indeterminable. However, given that the councils are all established councils and the contributions required are relatively small, the partner councils should have the capacity to provide these funds.</li> </ul>	<ul style="list-style-type: none"> <li>+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting confirmation that the proponent will contribute additional funding to the project where required.</li> </ul>

Risk Factors	Assessment	Risk Treatment Strategy (if applicable)
<p>3. The level and status (e.g. contribution received; contribution committed but yet to be received; contribution in negotiation) of any of the funding contributions for the project and whether there are conditions attached to this funding, and whether it will be available when required.</p>	<p>+ The proponent has indicated that the project will receive additional funding from the following sources:</p> <ul style="list-style-type: none"> <li>- Victorian Department of Human Services - \$6.0 million. This grant is conditional upon building commencing by 1 June 2009, a registered project manager being appointed, an open tender process for development and completion by December 2010;</li> <li>- Banyule City Council - \$200,000 (cash) and \$29,425 (in-kind);</li> <li>- Brimbank City Council - \$20,602 (in-kind);</li> <li>- Greater Dandenong City Council - \$200,000 (cash) and \$66,793 (in-kind);</li> <li>- Darebin City Council - \$200,000 (cash) and \$66,793 (in-kind);</li> <li>- Greater Geelong City Council - \$200,00 (cash) and \$20,602 (in-kind);</li> <li>- Hume City Council – \$250,000 (cash) and \$25,013 (in-kind);</li> <li>- Macedon Ranges Shire Council - \$20,602 (in-kind);</li> <li>- Maribyrnong City Council - \$20,602 (in-kind);</li> <li>- Melton Shire Council - \$200,000 (cash) and \$25,013 (in-kind);</li> <li>- Moonee Valley City Council - \$200,000 (cash) and \$29,425 (in-kind);</li> <li>- Mooreland City Council - \$200,000 (cash) and \$29,425 (in-kind);</li> <li>- Stonnington City Council - \$200,000 (cash) and \$57,969 (in-kind);</li> <li>- Yarra City Council - \$200,000 (cash) and \$20,602 (in-kind); and</li> <li>- Regional Kitchen Pty Ltd will enter into loan and lease agreements totalling \$10.9 million.</li> </ul> <p><i>Positive</i></p> <p>+ The proponent has provided evidence that \$6.0 million has been secured from the Victorian Department of Human Services.</p> <p>+ The proponent has provided evidence that \$2.25 million has been secured from the 14 partner councils.</p>	<p>+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider obtaining the following:</p> <ul style="list-style-type: none"> <li>- details any loans facilities available for the project;</li> <li>- details of the finance leases; and</li> <li>- confirmation that the proponent will contribute additional funding where required.</li> </ul>

Risk Factors	Assessment	Risk Treatment Strategy (if applicable)
	<p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ No details or evidence of loans and finance leases to be secured by Regional Kitchens Pty Ltd have been provided. In accordance with the project budget template, the total amount to be borrowed and / or leased is \$10.9 million.</li> <li>+ Although additional funding for any project overruns will be funded by borrowings, it is unclear as to who would obtain these borrowings as no evidence or details of any facilities have been provided.</li> <li>+ There is a \$1.3 million gap between the amount of revenue secured from partner councils and the contribution to be provided by the partner councils as per the budget estimates. It is unclear as to whether these costs would be funded by the proponent or all of the 14 partner councils.</li> <li>+ However, based on the analysis undertaken in 3a (3) above, the proponent appears to have the financial capacity to meet these additional costs if it is required to do so.</li> </ul>	
<p>4. Whether there are any risks associated with the ownership of equipment or facilities or other assets to be used in the delivery of the project.</p>	<p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ No evidence has been provided that Regional Kitchens Pty Ltd has purchased the land for the proposed site.</li> <li>+ No details or evidence has been provided in relation to any lease agreements for equipment used in the fit-out of the project. The project budget template indicates that finance lease costs will be on capital aspects of the budget.</li> <li>+ The project site and any purchased equipment will not be wholly owned by the proponent.</li> </ul>	<ul style="list-style-type: none"> <li>+ If this application is successful, the Department may wish to consider the following as key milestones to the funding deed: <ul style="list-style-type: none"> <li>- the purchase of the land by Regional Kitchens Pty Ltd; and</li> <li>- the engagement of necessary finance lease contracts for project equipment.</li> </ul> </li> </ul>
<p>5. Whether there is any need for planning approvals or licenses and whether these requirements have been obtained.</p>	<ul style="list-style-type: none"> <li>+ The proponent has indicated that the project requires the following permits: <ul style="list-style-type: none"> <li>- planning permit; and</li> <li>- building permit.</li> </ul> </li> </ul> <p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ Although the proponent is responsible for issuing the above permits, approvals have not yet been provided.</li> </ul>	<ul style="list-style-type: none"> <li>+ If this application is successful, the Department may wish to consider as a key milestone to the funding deed, approvals for planning and building.</li> </ul>



Risk Factors	Assessment	Risk Treatment Strategy (if applicable)
<p>6. Whether the project plans, budget and time-frames appear reasonable and will result in construction commencing by 1 October 2009.</p>	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The proponent has indicated that some of the key milestones set out in the project plan, such as incorporating Regional Kitchen Pty Ltd and RFK Pty Ltd, and obtaining a \$6.0 million Victorian State Government grant, have already been completed.</li> <li>+ The proponent has indicated that the project is expected to be completed in December 2010.</li> <li>+ The \$6.0 million grant from the Department of Human Services requires construction to commence by June 2009.</li> </ul> <p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ The timeline has indicated that that process fit-out will occur between March 2010 and July 2010. It is unclear from the project plan as to whether construction will commence within six months of the proponent entering into a funding deed with the Department.</li> </ul>	<ul style="list-style-type: none"> <li>+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider obtaining confirmation that the construction will commence by October 2009.</li> </ul>
<p>7. Whether the cost item estimates are comprehensive, current and have been costed appropriately and realistically, and/or have quotes been obtained and have they been included with the application.</p>	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The proponent has indicated that cost items have been reviewed by an independent quantity surveyor and are available upon request from the proponent.</li> </ul> <p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ Evidence of supporting documentation to demonstrate that the cost items have been prepared by a quantity surveyor has not been included.</li> <li>+ No support has been provided for other support costs associated with the project.</li> </ul>	<ul style="list-style-type: none"> <li>+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting the quantity surveyors report and / or any other documentation to support the budget estimates.</li> </ul>
<p>8. If applicable, the results of any previous stages of this project.</p>	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ Since 2005, the proponent has completed various milestones in preparation for undertaking the project. These include:                             <ul style="list-style-type: none"> <li>- undertaking a feasibility study (2005);</li> <li>- incorporation of the project (April 2008);</li> <li>- receiving a state Government Grant (2007/08);</li> <li>- receiving equity in the project (2007/08, 2008/09); and</li> <li>- selecting a project site (June 2008).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>+ Not applicable.</li> </ul>

Risk Factors	Assessment	Risk Treatment Strategy (if applicable)
9. If applicable, whether funding for future stages is secured.	+ Not applicable.	+ Not applicable.
10. Additional relevant information from any Project Plans or Feasibility Studies provided.	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The proponent has indicated that a feasibility study was conducted on the project in 2005. The Regional Kitchen Group's 2009 business plan provides details of the key drivers for undertaking the project following the feasibility study that was conducted.</li> <li>+ These drivers indicated the following:               <ul style="list-style-type: none"> <li>- there was sufficient demand for meal services and a lack of providers;</li> <li>- there was a need to address food and health issues within the aged and disabled community currently utilising meal services;</li> <li>- the current kitchen system exposed the councils to unacceptable levels of financial risk; and</li> <li>- capital expenditure to upgrade current kitchens was beyond the reach of councils individually.</li> </ul> </li> <li>+ The details of the project demonstrate that the project is aimed at addressing the above issues.</li> <li>+ The project plan includes pre construction planning that has already been completed and includes an appropriate trial of the facility once completed.</li> <li>+ The proponent has indicated that an independent risk analysis was undertaken by Acumen Alliance in April 2007 with a number of high level risks identified.</li> <li>+ The 2009 business plan identified the following risks of immediate high level concern to the project:               <ul style="list-style-type: none"> <li>- time delay;</li> <li>- industrial relations;</li> <li>- transition (start-up);</li> <li>- communications;</li> <li>- meal pricing; and</li> <li>- project management.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>+ If this application is successful, the Department may wish to consider as a key milestone to the funding deed that the proponent provides details of any contingency plan to address the key risks identified by the proponent.</li> </ul>

Risk Factors	Assessment	Risk Treatment Strategy (if applicable)				
	<p>+ The proponent has indicated that the development of detailed contingency plans and securing additional Commonwealth funding will assist in mitigating the risks identified for the timely delivery of the project.</p> <p><i>Negative</i></p> <p>+ The proponent has not provided details of any contingency plans in relation to the above identified risks.</p>					
11. The results of any independent viability assessments if undertaken.	+ Not applicable.	+ Not applicable.				
12. Other.	<p>+ The following table identifies the amount of RLCIP-SP funding requested as a proportion of the total project costs and the proponent's total revenues respectively.</p> <table border="1" data-bbox="607 687 1603 772"> <tr> <td data-bbox="607 687 1323 730">RLCIP-SP funding as a % of total project costs</td> <td data-bbox="1323 687 1603 730">30%</td> </tr> <tr> <td data-bbox="607 730 1323 772">RLCIP-SP funding as a % of total proponent revenues</td> <td data-bbox="1323 730 1603 772">10%</td> </tr> </table> <p><i>Positive</i></p> <p>+ The project has been incorporated as Regional Kitchens Pty Ltd, whose shares are exclusively held by the 14 municipal councils associated with the project.</p> <p><i>Negative</i></p> <p>+ Although the proponents' financial capacity to provide any additional financial support has been assessed, details of the financial capacity of the other 13 partner councils to provide additional support has not been provided.</p>	RLCIP-SP funding as a % of total project costs	30%	RLCIP-SP funding as a % of total proponent revenues	10%	+ Not applicable.
RLCIP-SP funding as a % of total project costs	30%					
RLCIP-SP funding as a % of total proponent revenues	10%					

**3b: Risk Analysis**

The following tables detail our analysis of the risks identified in Assessment Area 3a. We note that proposed risk treatment strategies are limited by:

- + the fact that 100% of funding will be paid upon execution of the recipient’s Funding Agreement;
- + that the aim is for Funding Agreements to be finalised within four weeks of the letter of offer being issued; and
- + the fact that construction must commence within six months of the Funding Agreement being signed.

Risk Analysis Table		
Risk Category	Risk(s)	Proposed Treatment(s)
Proponent Viability	+ As at 30 June 2008 the proponent’s current ratio was only just greater than 1, being 1.03. Although the proponent may have some surplus cash left over, it may need to borrow additional funds to meet its project contributions or to meet any additional funding required by the project.	+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting confirmation that the proponent will contribute additional funding to the project where required.
	+ The financial capacity of the other 13 partner councils to provide additional funds to the project is indeterminable and the willingness of the proponent to fund any additional funding has not been provided.	

For further details of the Proponent Viability risks identified in the above table, please refer to section 3a (2) and of this report.

The following table provides an overall pre-treatment and post-treatment risk rating for the Proponent Viability risks based on the Department’s Risk Matrix.

Risk Rating Table		
Risk Category	Pre-treatment Risk Rating	Post-treatment Risk Rating
Proponent Viability	Low.	Very Low.

### 3 Project Delivery Viability

The following table details our analysis of the Project Delivery Viability risks as identified in Section 3a of this report. We note that the proposed Project Delivery Viability risk treatment strategies are limited by:

- + the fact that 100% of funding will be paid upon execution of the recipient's Funding Agreement;
- + that the aim is for Funding Agreements to be finalised within four weeks of the letter of offer being issued; and
- + the fact that construction must commence within six months of the Funding Agreement being signed.

Risk Analysis Table		
Risk Category	Risk(s)	Proposed Treatment(s)
Project Delivery Viability	+ No details or evidence of loans and finance leases to be secured by Regional Kitchens Pty Ltd have been provided. In accordance with the project budget template, the value of these finance leases and borrowings is \$10.9 million.	+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting the proponent to provide details of the following: <ul style="list-style-type: none"> <li>- any loans facilities available for the project; and</li> <li>- details of any finance leases.</li> </ul>
	+ There is a \$1.3 million gap between the amount of revenue secured from partner councils and the contribution to be provided by the partner councils as per the budget estimates. It is unclear as to whether these costs would be funded by the proponent or the 14 partner councils.	+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting confirmation that the proponent will contribute additional funding where required.
	+ No evidence has been provided that Regional Kitchens Pty Ltd has purchased the land for the proposed project site.	+ If this application is successful, the Department may wish to consider as a key milestone to the funding deed, the purchase of the land by Regional Kitchens Pty Ltd.
	+ No details or evidence has been provided in relation to any lease agreements for equipment to be used in the fit-out of the project.	+ If this application is successful, the Department may wish to consider as a key milestone to the funding deed, the engagement of necessary finance lease contracts for project equipment.
	+ Although the proponent is responsible for issuing the planning and building permits, approvals have not yet been provided	+ If this application is successful, the Department may wish to consider as a key milestone to the funding deed, approval for planning and building permits.
	+ It is unclear from the project plan as to whether construction will commence within six months of signing the funding deed.	+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting confirmation that the construction will commence by October 2009.

Risk Analysis Table		
Risk Category	Risk(s)	Proposed Treatment(s)
	+ The proponent has not included further supporting documentation that the budget estimates provided have been reviewed by a quantity surveyor.	+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider obtaining the quantity surveyor report and / or any other documentation to support the budget estimates.
	+ The proponent has not provided details of any contingency plans in relation to the risks identified from the risk assessment.	+ If this application is successful, the Department may wish to consider as a key milestone to the funding deed that the proponent provides details of any contingency plan to address the key risks identified by the proponent.

For further details of the Project Delivery Viability risks identified in the above table, please refer to section 3a (1) and (3) to (12) of this report.

The following table provides an overall pre-treatment and post-treatment risk rating for the Project Delivery Viability risks based on the Department's Risk Matrix.

Risk Rating Table		
Risk Category	Pre-treatment Risk Rating	Post-treatment Risk Rating
Project Delivery Viability	High	Low

---

# Section 4

**Project Sustainability**



**4a: Risk Factor Assessment Table**

The following table details the risk factors that might impact on the project being sustainable for a minimum of five years once it has been delivered.

Risk Factor	Assessment	Risk treatment strategy (if applicable)
1. The proponent's expertise/skills to sustain the project into the future.	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The proponent has indicated that once completed, the project will be managed by the board of directors for RFK Pty Ltd, the board of directors for Regional Kitchens Pty Ltd and the CEO of the Regional Kitchens group.</li> <li>+ The summary of experience provided demonstrates those responsible for sustaining the project have sufficient skills and expertise.</li> </ul>	+ Not applicable.
2. Whether there are any risks associated with the ownership of equipment or facilities or other assets that will impact on the sustainability of the project.	+ See section 3a (4).	+ See section 3a (4).
3. How the proponent proposes the project will be sustained once it has been delivered (i.e. whether the project will be self-sustaining, whether it will be sustained by the proponent, whether it will be sustained by another entity, or whether it will be sustained by some combination of the above).	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The Regional Kitchen Group 2009 business plan indicates that the project will become sustainable in the future and receive revenues through meals provided under the HACCC Program.</li> <li>+ Income projections set out in the Community Chef forecasts indicate that the project will not require further council contributions once the project has been completed in 2010, and will continue to be operated by RFK Pty Ltd trading as Community Chef.</li> <li>+ The proponent has indicated that the project will return profits from its second full year of operation (2012).</li> <li>+ Project forecasts have been provided for the next ten years and indicate that profits will continue to be generated after 2012.</li> </ul>	+ Not applicable.
4. The ongoing maintenance and management strategies (including who will be responsible).	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ Future ongoing maintenance has been budgeted for and will be the responsibility of RFK Pty Ltd trading as Community Chef.</li> <li>+ The maintenance budget is forecast to increase over time and assumptions relating to this maintenance budget have been provided.</li> </ul>	+ Not applicable.

Risk Factor	Assessment	Risk treatment strategy (if applicable)																
<p>5. Whether the cashflow projections support the ongoing viability of the project.</p>	<p>+ The following table details the project's three year profit and loss projections.</p> <table border="1" data-bbox="622 328 1576 547"> <thead> <tr> <th></th> <th>Year Ended 30 June 2009 \$'000s</th> <th>Year Ended 30 June 2010 \$'000s</th> <th>Year Ended 30 June 2011 \$'000s</th> </tr> </thead> <tbody> <tr> <td>Revenue</td> <td>1,519</td> <td>1,746</td> <td>11,321</td> </tr> <tr> <td>Expenses</td> <td>1,361</td> <td>2,463</td> <td>13,245</td> </tr> <tr> <td>Profit</td> <td>158</td> <td>(717)</td> <td>(1,924)</td> </tr> </tbody> </table> <p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The forecasts for the project once operational from December 2010 indicate that the project will be sustainable for a minimum of five years following the completion of the project.</li> <li>+ Following 2011, the proponent has indicated that the project expects to return a profit of \$814,000 for the year ending 30 June 2012, with similar profits expected in the years following.</li> </ul> <p><i>Negative</i></p> <ul style="list-style-type: none"> <li>+ The forecast profit and loss indicates that the project will be expected to make losses during the initial years when the facility is being constructed. These losses may be mitigated by the future expected profits following completion of the project.</li> <li>+ The project has been incorporated and will act independently to the proponent. It is therefore not supported by the asset base of the proponent if it experiences financial difficulty. The proponent has not provided any contingency plan in the event the Regional Kitchen is longer a sustainable entity.</li> </ul>		Year Ended 30 June 2009 \$'000s	Year Ended 30 June 2010 \$'000s	Year Ended 30 June 2011 \$'000s	Revenue	1,519	1,746	11,321	Expenses	1,361	2,463	13,245	Profit	158	(717)	(1,924)	<ul style="list-style-type: none"> <li>+ If this application is successful, prior to entering into a funding deed with the proponent, the Department may wish to consider requesting details of a contingency plan to ensure the continuation of the project if the Regional Kitchen Group is no longer sustainable. (This could include confirmation by the proponent that it and the other councils would guarantee the debts of either company in the Regional Kitchens Group).</li> </ul>
	Year Ended 30 June 2009 \$'000s	Year Ended 30 June 2010 \$'000s	Year Ended 30 June 2011 \$'000s															
Revenue	1,519	1,746	11,321															
Expenses	1,361	2,463	13,245															
Profit	158	(717)	(1,924)															

Risk Factor	Assessment	Risk treatment strategy (if applicable)
<p>6. Whether the assumptions on which the physical and financial projections within the feasibility study/business plan/project plan are valid and support the viability and sustainability of the project, in particular:</p> <p>i. whether the costs outlined in the budget are comprehensive, current, fair and reasonable; and</p> <p>ii. whether the applicant has undertaken adequate market research to demonstrate there is sufficient market demand for the product or service defined in the proposal.</p>	<p><i>Positive</i></p> <ul style="list-style-type: none"> <li>+ The proponent has provided a detailed financial projection for the project and has included a list of assumptions associated with the financial projections.</li> <li>+ These assumptions include increases over time in accordance with CPI and other increases supported by justification and evidence.</li> <li>+ Assessment of project cost items has been undertaken by a quantity surveyor, WT Partnership.</li> <li>+ A detailed feasibility study was undertaken in 2005 following a review of HACC program services in Victoria.</li> </ul>	<p>+ Not applicable.</p>
<p>7. Whether there are any relevant industry factors that may impinge on the viability of the project proposal.</p>	<p>+ Not applicable.</p>	<p>+ Not applicable.</p>
<p>8. The results of any independent viability assessments if undertaken</p>	<p>+ Not applicable.</p>	<p>+ Not applicable.</p>
<p>9. Whether funding arrangements are in place for any future stages of the project that are likely to impact on the sustainability of this stage of the project.</p>	<p>+ Not applicable.</p>	<p>+ Not applicable.</p>
<p>10. Other.</p>	<p>+ Not applicable.</p>	<p>+ Not applicable.</p>

