

Attachment 2 - 2016 - Amended Deed Poll - The Hyne Community Foundation

**DEED POLL
AMENDING
THE HYNE COMMUNITY FOUNDATION TRUST DEED**

THE HYNE COMMUNITY FOUNDATION PTY LTD
ACN 124 391 519
(Trustee)

DATE:

KELL MOORE LAWYERS
571 Kiewa Street, Albury
(PO Box 487)
DX 5804 Albury
Tel: 02 6021 2844
Fax: 02 6021 6075
Ref: ASC:160767

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DETAILS**PARTIES**

Trustee	Name	THE HYNE COMMUNITY FOUNDATION PTY LTD
	ACN	124 391 519
	Address	160 Kent Street, Maryborough Qld 4670

DATE OF DEED

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TERMS**INTRODUCTION**

- A. The Trustee is the current trustee of a trust known as The Hyne Community Foundation (Trust) established by Deed made on 26 March 2007 between the Trustee as trustee and Hyne & Son Pty Ltd of 160 Kent Street, Maryborough, Queensland 4670 as Settlor (Trust Deed).
- B. Pursuant to clause 15 of the Trust Deed the Trustee may by Deed alter, amend, add to, delete or replace any of the trusts, powers and provisions of the Trust Deed subject to amongst other things, certification by counsel or a solicitor practicing in the Supreme Court of any Australian State or Territory that in that person's opinion the alterations, amendments, additions, deletions or replacements are within the powers provided by clause 15 of the Trust Deed.
- C. Matthew Stephen Rogers a Principal of the firm Kell Moore Lawyers of 571 Kiewa Street, Albury, New South Wales 2640 being the holder of current Practising Certificate No 37382 issued by the Law Society of New South Wales has reviewed the proposed alterations to the Trust Deed set out below and has confirmed that in his opinion the alterations, amendments, additions, deletions or replacements set out below are within the power of alteration contained in clause 15 of the Trust Deed.
- D. The Trustee has determined that the Trust Deed requires amendment as set out below.
- E. This Deed is supplementary to the Trust Deed.

OPERATIVE PROVISIONS

- 1. **Interpretation**
 - 1.1 The headings in this Deed are inserted for guidance only and do not affect the content of any clauses.
 - 1.2 Words importing one gender shall import the other and neuter genders. Words importing persons shall include corporations and vice versa. Words importing the singular number shall include the plural number and vice versa.
 - 1.3 Where a party comprises two or more persons any obligation on the part of that party shall bind all such persons jointly and each of them severally.
 - 1.4 Words and phrases defined in the Introduction or Schedules or elsewhere in this shall have the meaning therein ascribed to them.
 - 1.5 A reference to a dollar sum is a reference to that sum in Australian dollars.
 - 1.6 If a period must be calculated from, after or before a day or the day of an act or event, it must be calculated excluding that day.

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2. Amendment to Trust Deed

Pursuant to the power contained in clause 15 of the Trust Deed the Trustee hereby amends the Trust Deed by:

2.1 Adding to clause 1.1 the following definition:

"Shire of Tumbarumba means the former Local Government Area known as the Shire of Tumbarumba as at 26 March 2007."

2.2 Omitting clause 4.3 and inserting in lieu thereof:

"4.3 Other than the Directors to be appointed under clause 4.2, no Director will be appointed without prior written approval of Council, such approval not to be unreasonably withheld. At least one non company director appointed is to be an elected Councillor of Council who resides in the Shire of Tumbarumba."

3. Miscellaneous

3.1 This Deed is binding on the successors of the Trustee.

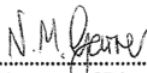
3.2 This Deed shall not give rise to any change in beneficial entitlement in the Trust or any re-settlement of the Trust and shall be void to the extent that it may result in such change.

3.3 If part or all of any provision of this Deed is illegal or unenforceable then it may be severed from this Deed and the remaining provisions of this Deed will continue in full force and effect.

3.4 This Deed shall be governed and construed in accordance with the laws of New South Wales and the Trustee irrevocably submits itself to the jurisdiction of the courts having jurisdiction in that State.

EXECUTED AS A DEED.

EXECUTED for and on behalf of **THE HYNE COMMUNITY FOUNDATION PTY LTD** ACN 124 391 519 in accordance with Section 127(1) of the *Corporations Act 2001*:


.....
Signature of Director

N.M. Garner
.....
Name of Director


.....
Signature of Director/Secretary

BERNADETTE ALMY
.....
Name of Director/Secretary

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Received
15 AUG 2016

Tumbarumba Shire Council
Our Ref: MSR:ASC:JLC:160767
Your Ref:
Reply to: ALBURY OFFICE

11 August, 2016

Attention: Ms K Whitehead
The General Manager
Snowy Valleys Council
PO Box 61
TUMBARUMBA NSW 2653

Dear Madam


Review of Hyne Community Trust Deed

We refer to your email of 7 August 2016 and now enclose:

- copy letter of opinion of Matthew Rogers addressed to the Trustee in accordance with the provisions of clause 15 of the Trust Deed;
- Deed Poll Amending the Trust Deed.

We understand that you will now prepare a report for Council to approve the proposed amendments before submitting same to the Trustee together with our letter of certification.

Thereafter, please have the amending Deed executed by the Trustee in duplicate and return the original to us for retention in our safe. Alternatively, if Council wishes to retain the original, please provide a copy to us for our records.

Yours faithfully
KELL MOORE
Per: 
Alan Chick
Senior Lawyer
Email: achick@kellmoore.com.au

KELL MOORE
LAWYERS

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KELL MOORE
L A W Y E R S

Incorporating
LETHBRIDGE & MCGOWAN

Our Ref: MSR:ASC:JLC:160767
Your Ref:
Reply to: ALBURY OFFICE

11 August, 2016

The Secretary
Hyne Community Foundation Pty Ltd
160 Kent Street
MARYBOROUGH QLD 4670

Dear Sir/Madam

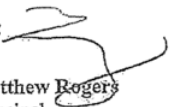
Hyne Community Foundation

In accordance with instructions provided by Snowy Valleys Council (formerly Tumbarumba Shire Council) we have:


1. reviewed the Deed of Trust of the Hyne Community Foundation dated 26 March 2007 (Trust Deed); and
2. drafted a Deed Poll Amending the Hyne Community Foundation Trust Deed (Amending Deed)

and certify that, in our opinion the alterations, amendments, additions, deletions or replacements contained in the Amending Deed are within the power to amend the Trust Deed in accordance with the provisions of clause 15 of the Trust Deed.

Yours faithfully
KELL MOORE

Per: 

Matthew Rogers
Principal
Acc. Spec in Local Govt and Planning
Email: mrogers@kellmoore.com.au



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