

THE BAROSSA COUNCIL

TERMS OF REFERENCE OF THE BAROSSA BUSHGARDENS SECTION 41 COMMITTEE



Community Plan Link:	 Natural Environment and Built Heritage		
	 Community and Culture		
	 Infrastructure		
	 Health and Wellbeing		
	 Business and Employment		
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1. ESTABLISHMENT

- 1.1 The Barossa Council (hereinafter referred to as "the Council") at a meeting held on 6 March 2001 Minute Book Reference 2001/94 established the Barossa Bushgardens Committee (hereinafter referred to as "the Committee") pursuant to section 41 of the *Local Government Act 1999* ("the Act").
- 1.2 The Committee is established to manage the Barossa Bushgardens property ("the Bushgardens") [being a Crown Reserve for which Council has care and control, at Lot 100 Penrice Road, Part Section of Coulthard Reserve, Nuriootpa, and which is contained in Crown Record Volume 5660 Folio 149, H 160600, east of the watercourse] in accordance with the Objectives set out under clause 2 of these Terms of Reference.
- 1.3 The Committee may be wound up at any time by resolution of the Council.

2. OBJECTIVE

The Committee is established to fulfil the following functions in accordance with its allocated budget:

- 2.1 To develop and maintain the Bushgardens as:
 - 2.1.1 a model natural heritage resource for the Barossa region and South Australia;
 - 2.1.2 a vital human resource where people are valued for their contribution, knowledge and skills;
 - 2.1.3 a place of learning, where knowledge is shared and practical skills are enhanced;
 - 2.1.4 a model of sustainability through proactive seed collection, native plant propagation and garden development; and
 - 2.1.5 a Natural Resource Centre in conjunction with the Adelaide and Mt Lofty Ranges Natural Resources Management (AMLR NRM) Board.
- 2.2 To work in partnership with the Council, the community and the AMLR NRM Board in all aspects of the development outlined in clause 2.1.
- 2.3 To liaise with the Friends of Barossa Bushgardens for the specific purpose of supporting the objectives outlined in clause 2.1.
- 2.4 To keep statistical information as required by Council and the AMLR NRM Board.
- 2.5 To contribute to the future development of Bushgardens' facilities for the benefit of the community in accordance with relevant legislation including the Crown Land Management Act 2009. Council and committee will come to agreement in developing an annual maintenance plan in respect of facilities as part of the budget process.
- 2.6 To promote a community spirit towards the Bushgardens.
- 2.7 To generate funds to fulfil the above objectives.

3.	MEMBERSHIP
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- 3.1 The Committee will consist of:
 - (i) No less than 5 and no more than 11 Independent (community) members appointed by the Council; and
 - (ii) 1 Elected Member nominated by the Council.
- 3.2 The Committee will at the first meeting following every periodic Local Government election (and further annually at its determination and as recorded in its Minutes), appoint at a minimum:
 - (i) the Chairperson of the Committee (subject to clause 3.5).
- 3.3 In addition to appointing a Chairperson, the Committee may determine if there will be a Deputy Chairperson and, if so, will make the appointment. No other positions are to be formally appointed, although the Committee should determine which member or members will be responsible for recording and submitting to the Chairperson the minutes of each meeting.

- 3.4 Should there be more nominations than required then all voting will be by secret ballot.
- 3.5 Except for the Mayor or Deputy Mayor of Council, an Elected Member who has been nominated by Council pursuant to Clause 3.1 (ii) may not hold the position of Chairperson nor Deputy Chairperson on the Committee.
- 3.6 Subject to clause 3.2, membership of the Committee is for the current term of the Council unless a member resigns or is otherwise incapable of continuing as a member or is removed from office by the Council.
- 3.7 Committee members are eligible for re-appointment to the Committee at the expiration of their term of office.
- 3.8 The Committee may by a vote supported by a majority of members of the Committee make a recommendation to the Council to remove a member of the Committee from office where a member has failed (without the leave of the Committee) to attend three consecutive meetings of the Committee.
- 3.9 The Council may at its discretion, remove from membership any member of the Committee and appoint others in their place. Where Council determines to remove a Committee member from office under this clause, procedural fairness will be observed in that:
- (i) the Committee member will be informed of Council's intention to remove him/her from office;
 - (ii) the Committee member will be provided with an opportunity to comment upon his/her proposed removal from office; and
 - (iii) the Council will have regard to any submissions received from the Committee member before determining to remove him/her from office.
- 3.10 If a vacancy arises, the Committee will make a recommendation to the Council with respect to the appointment of a Committee member to fill the vacancy.
- 3.11 Independent members of the Committee and any volunteer assisting Committee members for a particular project or event must be registered as a volunteer of Council by completing Council's Volunteer Registration Form.

4.	DELEGATED POWERS
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- 4.1 In order for the Committee to perform its functions consistent with these Terms of Reference, the Council delegates to the Committee in accordance with section 137 of the Act the power to expend Council's approved budgeted funds up to \$2000 excluding GST for any one order subject to the Committee's budget allocation and Council's policies.
- 4.2 The Committee may establish a sub-committee to assist in the exercise of its power, objectives and responsibilities.
- 4.2.1 The sub-committee will not have any delegated power for the expenditure of approved budgeted funds.
- 4.2.2 The establishment, term, objectives and membership of any sub-committee must be minuted by the Committee and ratified by Council.

4.3 The Committee may raise funds through approved fees or charges to contribute to the Objectives outlined in clause 2, however, will first liaise with its assigned Council officer to ensure that the subject of the fundraising aligns with Council's overall Strategic Plan.

4.3.1 All funds raised pursuant to this clause must be deposited Council for receipting to the Committee's income account. The Committee cannot hold shares or establish a bank account in its own right nor in the names of its members held on trust for the Committee.

5. GOVERNANCE

5.1 No Committee member will be personally liable in respect of any transaction, act or omission of the Committee entered into, done or made in good faith.

5.2 Committee members do not enjoy the protection against defamation actions afforded to State and Commonwealth Parliaments and must be careful not to make remarks that could result in an aggrieved person seeking to take action against them.

5.3 Subject to clause 1.3, a recommendation by the Committee to the Council to amend the Terms of Reference must be made by majority of all Committee members.

5.4 Notwithstanding this Terms of Reference, all Committee members will observe the relevant requirements under the:

(i) Act;

(ii) Regulations;

(iii) Code of Conduct for Elected Members (for Elected Member Committee members) or Council's Volunteer Management Policy (for Independent members); and

(iv) Council's policies and processes which are relevant to the operations of the Committee.

5.5 Independent members of the Committee are not required to register their interests and complete a Register of Interest return pursuant to section 64 of the Act.

5.6 All relevant documentation will be provided to the Committee members during Induction and when Council or legislative changes require further awareness. Committee members are expected to read, comply with and, where appropriate, to seek clarification with respect to Council policies and processes relevant to these Terms of Reference.

6. CHAIRPERSON

6.1 The Chairperson will:

(i) be the contact point between Council and the Committee;

(ii) be responsible for the proper observance of these Terms of Reference;

(iii) oversee and facilitate the conduct of Committee meetings in accordance with the Act and the Local Government (Procedures at Meetings) Regulations 2013 ("the Regulations") Parts 1, 3 and 4 (noting that Part 2 does not apply);

- (iv) ensure all Committee members have an opportunity to participate in discussions in an open, respectful and encouraging manner; and
- (v) where a matter has been debated significantly and no new information is being discussed to call the meeting to order and ask for the debate to be finalised and the motion to be put.

7.	MEETINGS
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- 7.1 The meetings of the Committee will be held in accordance with Parts 1, 3 and 4 of the Regulations. Part 2 of the Regulations does not apply to this Committee.
- 7.2 Insofar as the Act and/or Regulations or these Terms of Reference do not prescribe the process to be observed in relation to the conduct of a meeting of the Committee, the Committee may determine its own process. In that case, the Committee will document that process within its Minutes.
- 7.3 Ordinary meetings of the Committee will be held bi-monthly or as determined by the Committee. The day, time and place for such meetings will be determined each year at the first ordinary meeting.
- 7.4 Quorum
- 7.4.1 A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- 7.4.2 A quorum for a meeting of the Committee is half of the current membership, ignoring any fraction resulting from the division and adding 1.
- 7.4.3 *Lack of Quorum*
- (i) If, prior to the commencement of the meeting, the number of apologies received by the Chairperson (or their delegate as the case may be) indicates that a quorum will not be present at that meeting, or
- if at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present,
- the Chairperson (or their delegate as the case may be) may adjourn the meeting to a specified day and time or continue the meeting without any motions being formally resolved.
- (ii) If the meeting is adjourned for a want of quorum, the Chairperson (or their delegate as the case may be) will record in the minutes the reason for the adjournment, the names of any members present and the date and time to which the meeting is adjourned.
- 7.5 If the Chairperson of the Committee is absent from a meeting, the Deputy Chairperson (if such position exists) will preside at that meeting in accordance with clause 6.1. If there is no position of Deputy Chairperson, or both the Chairperson and the Deputy Chairperson of the Committee are absent from a meeting of the Committee, then a member of the Committee chosen from those present will preside at that meeting until the Chairperson (or Deputy Chairperson, as appropriate) is present.

7.6 All decisions of the Committee will be made on the basis of the majority of the members present. All Committee members must (subject to a provision of the Act or Regulations to the contrary) vote on any matter arising for decision at a meeting of the Committee.

7.7 Conflict of Interest

7.7.1 No Committee member will vote or take part in debate who has a conflict of interest in any matters before the Committee that would contravene Sections 73, 74 and 75 of the Act.

7.7.2 If a Committee member has a conflict of interest in the particular matter to be voted upon or debated, he or she will declare a conflict of interest and then leave the meeting place until the matter is concluded. The declaration of a conflict and the time the member left the meeting and returned to the meeting will be recorded in the minutes.

7.8 Minutes

7.8.1 Minutes of each meeting must include:

- (i) names of members present;
- (ii) each motion carried; and
- (iii) any disclosure of interest made by a member.

7.8.2 The Committee will:

- (i) keep minutes of each meeting; and
- (ii) within five days of the meeting, forward a copy of the draft minutes to the Committee and Committee's contact officer at Council, and
- (iii) submit for confirmation the draft minutes at the next Committee meeting.

7.8.3 The Council contact officer will:

- (i) register into Council's Electronic Document Record Management System a copy of the draft minutes upon receipt;
- (ii) upload the draft minutes to Council's website as soon as reasonable practicable; and
- (iii) submit the minutes to Council's Debate Agenda at the next available Council meeting.

8. TRAINING

8.1 Following his/her appointment to the Committee, an Independent Committee member will undertake a formal induction with Council officers in accordance with Council's Volunteer Management Policy which will:

- (i) highlight member responsibilities within the Committee, including financial duties where appropriate;
 - (ii) outline relevant Council policies and processes; and
 - (iii) aid compliance with relevant legislation.
- 8.2 Committee members will be encouraged to attend training related to the management of Local Government committees as sessions become available through the Local Government Association.
- 8.3 Committee members will be entitled to reimbursement of approved expenditure in accordance with Council policies and processes.
- 8.4 Council will assign a Council Officer to provide advice and act as a contact point between Council and the Committee.

Signed

Mayor Michael Lange

Dated: 18/12/2018

