NOTICE OF MEETING
Notice is hereby given that the next ordinary meeting of Council will be held on Tuesday 17 July 2018 in the Council Chambers, 43 – 51 Tanunda Road, Nuriootpa, commencing at 9.00am.

Martin McCarthy
CHIEF EXECUTIVE OFFICER
THE BAROSSA COUNCIL

AGENDA

1. THE BAROSSA COUNCIL
   1.1 Welcome by Mayor Sloane - meeting declared open
   1.2 Present
   1.3 Leave of Absence
      Cr Miller
   1.4 Apologies for Absence
      Minutes of previous meetings – for confirmation:
   1.5 Ordinary Council meeting – Tuesday 19 June 2018 at 9.00am
      Special Council meeting – Wednesday 27 June 2018 at 5.00pm
   1.6 Matters arising from previous minutes
      Nil
   1.7 Notice of Motion
      Nil
   1.8 Questions on Notice
      Nil

2. MAYOR
   2.1 Mayor’s report - attached

3. COUNCILLORS’ REPORTS
4. CONSENSUS AGENDA

4.1 MAYOR

Nil

4.2 EXECUTIVE SERVICES

4.2.1 CHIEF EXECUTIVE OFFICER

4.2.1.1 Legatus Group – Rating Equity Study 7
4.2.1.2 Minister for Environment and Water – Review – Council Contributions to Regional Natural Resource Management (NRM) Levy 60
4.2.1.3 Notice of Annual General Meeting – Local Government Finance Authority of South Australia 63

4.3 CORPORATE & COMMUNITY SERVICES

4.3.1 DIRECTOR CORPORATE AND COMMUNITY SERVICES

Nil

4.3.2 MANAGER COMMUNITY AND CULTURE

Nil

4.4 WORKS AND ENGINEERING

4.4.1 DIRECTOR’S REPORT

Nil

4.5 DEVELOPMENT & ENVIRONMENTAL SERVICES

4.5.1 DEVELOPMENT SERVICES

Nil

4.5.2 ENVIRONMENTAL SERVICES

4.5.2.1 Williamstown, Lyndoch Landcare Group Inc. 66
4.5.2.2 Gawler River Floodplain Management Authority 68

4.5.3 HEALTH SERVICES

4.5.3.1 Food Recalls 74
4.5.3.2 Food Premises Inspections 75

4.5.4 REGULATORY SERVICES

Nil

4.5.5 WASTE SERVICES

Nil

5. CONSENSUS AGENDA ADOPTION

5.1 ITEMS FOR EXCLUSION FROM CONSENSUS AGENDA
5.2 RECEIPT OF CONSENSUS AGENDA
5.3 DEBATE OF ITEMS EXCLUDED FROM CONSENSUS AGENDA
6. VISITORS TO THE MEETING/ADJOURNMENT OF MEETING

6.1 VISITORS TO THE MEETING

9.30am Presentation of Youth Grant certificates to Fynn Manning, Felix Stokoe, Bradley Butler, Austin McDonald, Daniel Bussenschutt, Erin Young and Amanda Tscharke

6.2 ADJOURNMENT OF COUNCIL MEETING

7. DEBATE AGENDA

7.1 MAYOR

Nil

7.2 EXECUTIVE SERVICES

7.2.1 CHIEF EXECUTIVE OFFICER


7.2.1.2 Ngadjuri Nation #2 Native Title Claim – Change of Legal Representation and Continued Funding

7.2.1.3 Human Resource and Expenditure Approvals for Chief Executive Officer

7.2.1.4 Legatus (Formerly Central Local Government Region) – Notice of Annual General Meeting and Call for Office Bearers

7.2.1.5 Section 270 Local Government Act – Internal Review of a Council Decision – Revocation of Community Land Classification – Basedow Road, Tanunda

7.2.1.6 Local Government (Rate Oversight) Amendment Act 2018 (“the Bill”)

7.2.2 FINANCE

7.2.2.1 Monthly Finance Interim Report (as at 30 June 2018)

7.3 CORPORATE AND COMMUNITY SERVICES

7.3.1 DIRECTOR CORPORATE AND COMMUNITY SERVICES

7.3.1.1 Consideration and Adoption of Barossa Regional Gallery Committee Resolutions

7.3.1.2 Nuriootpa Centennial Park and Coulthard Reserve Master Plan – Cost Estimate Report

7.3.2 MANAGER COMMUNITY PROJECTS

7.3.2.1 Fees and Charges Register – 2018/2019 – Angaston Town Hall

7.4 WORKS AND ENGINEERING

7.4.1 DIRECTOR’S REPORTS

7.4.1.1 2018 Barossa Marathon – Road Closure Request
7.5 DEVELOPMENT AND ENVIRONMENTAL SERVICES

7.5.1 DEVELOPMENT SERVICES

Barossa Assessment Panel 568

7.5.2 ENVIRONMENTAL SERVICES

Reform of the Natural Resource Management Act 571
Consideration and Adoption of Committee Resolutions 594

7.5.3 HEALTH SERVICES

Nil

7.5.4 REGULATORY SERVICES

Nil

7.5.5 WASTE SERVICES

Nil

8. CONFIDENTIAL AGENDA

8.1 MAYOR

Chief Executive Officer’s 2017/18 Performance and Conditions of Contract Review 602

8.2 CHIEF EXECUTIVE OFFICER

Springwood Estate – Stormwater Easement Negotiation 604

8.3 MANAGER COMMUNITY PROJECTS

Santos Tour Down Under 2019 – Licence Agreement 606

9. REPRESENTATIVES ON COUNCIL COMMITTEES REPORTS

Nil

10. OTHER BUSINESS

Nil

11. NEXT MEETING

Tuesday 21 August 2018 commencing at 9.00am

12. CLOSURE
## Mayors Report to Council
### 13th June 2018 to 11th July 2018

### JUNE 2018

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>13/06/2018</td>
<td>Queen’s Birthday Celebrations at Government House</td>
</tr>
<tr>
<td>14/06/2018</td>
<td>Meeting re Rate Capping with Minister Knoll – Adelaide</td>
</tr>
<tr>
<td>15/06/2018</td>
<td>Promo photo re Stockwell footbridge</td>
</tr>
<tr>
<td>15/06/2018</td>
<td>Meeting with Deputy Mayor re CEO Review</td>
</tr>
<tr>
<td>16/06/2018</td>
<td>Mount Pleasant 175th Birthday celebrations</td>
</tr>
<tr>
<td>16/06/2018</td>
<td>Angaston &amp; District Lions Club Handover dinner</td>
</tr>
<tr>
<td>17 to 20/06/18</td>
<td>NGA 2018 Canberra – see attached report</td>
</tr>
<tr>
<td>21/06/2018</td>
<td>GRFMA Board Meeting Barossa Council offices</td>
</tr>
<tr>
<td>22/06/2018</td>
<td>Interview on FlowFM re rate capping and other matters</td>
</tr>
<tr>
<td>22/06/2018</td>
<td>Lions Club of Barossa Valley Handover dinner</td>
</tr>
<tr>
<td>25/06/2019</td>
<td>LGA Briefing re Constitution proposed changes – Balaklava</td>
</tr>
<tr>
<td>26/06/2018</td>
<td>Ratepayer re Planning issues with Cr Miller – then Gary Mavrinac</td>
</tr>
<tr>
<td>27/06/2018</td>
<td>Meeting with Cr Miller and Mr Kaesler re drainage issues</td>
</tr>
<tr>
<td>27/06/2018</td>
<td>Briefing with staff re 2018 Roads &amp; Works Conference</td>
</tr>
<tr>
<td>27/06/2018</td>
<td>Special Council Meeting</td>
</tr>
<tr>
<td>27/06/2018</td>
<td>Dinner with Auswan Wines owner and staff with Cr deVries &amp; RDA</td>
</tr>
<tr>
<td>28/06/2018</td>
<td>NFA AGM Nuriootpa</td>
</tr>
<tr>
<td>29/06/2018</td>
<td>Lyndoch Primary School – present Bike Safety certificates</td>
</tr>
<tr>
<td>29/06/2018</td>
<td>Redeemer School annual concert BACC</td>
</tr>
<tr>
<td>30/06/2018</td>
<td>Rotary Club of Barossa Valley Handover dinner</td>
</tr>
</tbody>
</table>

### JULY 2018

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>03/07/2018</td>
<td>Presentation of Cheque from Bridgestone to Nuri CFS</td>
</tr>
<tr>
<td>03/07/2018</td>
<td>Angaston Ag Bureau Social at Eden Valley Institute</td>
</tr>
<tr>
<td>04/07/2018</td>
<td>Council Workshop</td>
</tr>
<tr>
<td>05/07/2018</td>
<td>GRFMA Special Meeting at Gawler</td>
</tr>
<tr>
<td>06/07/2018</td>
<td>Meeting with CEO and Land agent re Lyndoch land</td>
</tr>
</tbody>
</table>
2018 ALGA NGA

It was good to be able to attend ALGA again this year because as elected members we serve our communities better when we are well informed and prepared for the issues and trends that are both helping and hindering local government across the country.

Attendance by Prime Minister Malcolm Turnbull at the dinner and Opposition Leader Bill Shorten at a conference session reminded us there is an election in the wind and that “all politics is local.”

It was great to hear Federal Minister for Local Government John McVeigh announce a new award from 2019 in honour of SA’s own Councillor Susan Grace Benny – Australia’s first female politician – first appointed to Brighton Council (now Holdfast Bay) a century ago in 1919.

LGA Immediate Past President Mayor Dave Burgess and LGA SA President Sue Clearihan also gained ongoing support from the ALGA Board to keep Supplementary Road Funding for SA as a key ALGA Federal Election ask. This funding is worth millions to SA communities and is a key part of our advocacy work at the federal level.

Other standouts from last week’s event included:

- The commonality of our community’s needs and challenges from representatives and communities as diverse as Cr Vonda Malone, Mayor of Torres Shire Council, Dave Cull, President of Local Government New Zealand, Cr Kirsty McBain, Mayor of Bega Shire Valley Council, our own Lord Mayor Martin Haese, and Cr Cuc Lam, Mayor of Maribyrnong City Council.
- Bernard Salt’s engaging presentation combining data and trends from the latest census, and his knowledge of the role of local government.
- The session looking at national priorities and strategies in the context of the next Federal Election, led by national President Mayor David O’Loughlin.

I would encourage you to visit the ALGA website and the reports from ALGA 2018. Copies of speeches and presentations are available.

https://alga.asn.au/?ID=16239

I gained the most information from speeches and presentations from:

- The Hon Dr John McVeigh – Minister for Regional Development Territories and Local Government
- The presentations from ALGA President David O’Loughlin
- The recycling and waste breakout session

Thank you for the opportunity to attend ALGA 2018.

Bob Sloane
4.2.1 CONSENSUS AGENDA – CHIEF EXECUTIVE OFFICER

4.2.1.1 LEGATUS GROUP - RATING EQUITY STUDY
B7486 18/44628

Attached is the final report on the matter of rating equity especially as it relates to land uses of high infrastructure intensity such as electrical generation, intensive farming and other activities. Legatus will consider the final report at its next meeting and work through SAROC to consider future strategy around addressing rating equity matters raised in the report.

RECOMMENDATION
That Report 4.2.1.1 be received and noted.
RATING EQUITY FOR COMMERCIAL AND/OR INDUSTRIAL LAND USES OUTSIDE TOWNS IN SOUTH AUSTRALIA

LEGATUS GROUP
FINAL REPORT – JUNE 2018
DOCUMENT CONTROL

Job ID: J000665
Job Name: Rating Equity for Commercial and/or Industrial Land Uses Outside Towns in SA
Client: Legatus Group
Client Contact: Simon Millcock
Project Manager: Martin Drydale
Email: martin.drydale@aecgroup Ltd.com
Telephone: (07) 3831 0577
Document Name: Final Report - Rating Equity for Commercial-Industrial Land Uses Outside Towns in SA

<table>
<thead>
<tr>
<th>Version</th>
<th>Date</th>
<th>Reviewed</th>
<th>Approved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft Version 1.0</td>
<td>07/05/2018</td>
<td>GO</td>
<td>GO</td>
</tr>
<tr>
<td>Final Draft</td>
<td>01/06/2018</td>
<td>GO</td>
<td>GO</td>
</tr>
<tr>
<td>Final</td>
<td>26/06/2018</td>
<td>GO</td>
<td>GO</td>
</tr>
</tbody>
</table>

Disclaimer:
Whilst all care and diligence have been exercised in the preparation of this report, AEC Group Pty Ltd does not warrant the accuracy of the information contained within and accepts no liability for any loss or damage that may be suffered as a result of reliance on this information, whether or not there has been any error, omission or negligence on the part of AEC Group Pty Ltd or their employees. Any forecasts or projections used in the analysis can be affected by a number of unforeseen variables, and as such no warranty is given that a particular set of results will in fact be achieved.
EXECUTIVE SUMMARY

IDENTIFIED ISSUE
SA Councils face considerable rating constraints for selected major developments (e.g. wind farms, feedlots, solar farms and mines) and exempt properties, despite such uses requiring facilitating local infrastructure and services. The most significant rating constraints preventing SA Councils from equitably allocate the rating burden and resulting in local communities cross subsidising selected land uses include:

- The inability to levy appropriate and equitable rates on electricity generators (including wind farms and solar farms) as a result of the exclusion of improvements such as electricity generating plant and equipment from capital valuations under legislation.
- The inability to effectively categorise intensive land uses for differential rating purposes given the limited permitted rating categories available under legislation.
- The loss of rates associated with the 75% rate rebates applied to SA Housing Trust properties managed by Community Housing Providers.

RATING OF ELECTRICITY GENERATORS
With respect to the rating of electricity generators:

- Queensland Councils are able to separately categorise generators on the basis of their generation capacity and impact on infrastructure and service provision, with differential rates in the dollar and minimum rates applied to ensure an appropriate amount of rate revenue is collected from each generator.
- Victoria is the only other mainland State alongside SA to feature broadscale application of capital value as the valuation method for rating purposes, albeit with the inclusion of electricity generation plant and equipment within capital valuations (rather than exclusion as occurs in SA).
- Victorian Councils are also able to receive annual payments in lieu of rates of the order of $53,446 for each power station and $1,203 per MW of electricity generating capacity from each generator under specific legislative provisions in the Electricity Industry Act 2000.
- WA Councils can levy rates based on gross rental valuation principles, which is derived as 5% of capital value. Capital value specifically excludes machinery, which has a broad definition and generally excludes items of a technical nature or consisting of moving parts and therefore means that only a portion of the capital value of power stations, solar farms and wind farms would be included (consisting of buildings and structures, concrete pads, roads, fencing, ponds, underground wiring, steel framing/footings, etc. but excluding electricity generating plant and equipment, solar panels, etc.).
- NSW Councils are presently unable to differentially rate or collect additional payments in lieu of rates from electricity generators.

RATING OF RESOURCES SECTOR/MINING
With respect to the rating of resources sector (mining) properties:

- Queensland Councils are able to separately categorise properties and recover a level of rates on whatever basis the deem appropriate via substantially higher rates in the dollar and higher minimum rates, which includes reference to levels of staff, levels of extraction, type of mining activity, valuation, land area, etc.
- Victorian Councils have not historically separately rated such properties, with land used for mining purposes having been exempt from rating. Such treatment of mines is subject to change soon under exposure draft for a new Local Government Act where they will become rateable and liable to pay rates.
- WA Councils are able to separately categorise and rate resources sector properties at a higher level than other properties given their significant impost on Council infrastructure and service provision, although approval of
higher rates in the dollar generally requires Ministerial approval (i.e. if a differential rate applied to one category is twice that applied to another category). This has become increasingly necessary following a change in the valuation of mining properties for rating purposes by the WA government.

• NSW Councils levy a differential rate on their mining rate categories generally considerably higher than levied on residential or business assessments, reflecting the greater impost placed by these properties on Council infrastructure and service provision relative to their site valuation.

EXEMPT PROPERTIES

With respect to exempt properties, the exemptions in SA do not appear to be any broader than those generally adopted in other mainland States, with the exception of:

• The exemption of electricity generating plant and equipment from capital valuation.

• The mandatory provision of a 75% rate rebate on SA Housing Trust properties managed by Community Housing Providers.

RECOMMENDED ACTIONS

Detail on the significant rating constraints presently impeding SA Councils from equitably allocating the rate burden across their communities are outlined in Table E.1 on the following page. Compared with other mainland states, ratepayers are forced to cross subsidise electricity generated for use outside of Council’s boundaries, high intensity land uses, and the provision of community housing.

In addition to SA Councils requiring more power to ensure appropriate contributions are made by major developments – including electricity generators – towards local infrastructure (particularly roads) at the point of development approval, the following actions should be considered to remove identified rating constraints:

• Changes to legislation to allow SA Councils to recover appropriate payments in lieu of rates directly from electricity generators – rather than landowners – under a regulated formula subject to indexation. This is the approach adopted in Victoria, where a fixed payment per power station/site exists along with a variable payment based on installed capacity. In terms of industry attraction and potential flow-on impacts on electricity prices, it should be realised that major electricity generation developments have continued in Victoria and Queensland despite those states having in place a longstanding rating approach for such developments that enable local Councils to levy appropriate and equitable rates, and electricity prices are determined within a national market which features generators subject to substantially higher Council rates.

• Inclusion of additional flexibility in the categorisation of different land uses for differential rating purposes to provide Councils with greater capacity to levy appropriate rates based on intensity of land use (e.g. mining/resources, feedlots).

• No longer mandate the provision of 75% rate rebates for Community Housing Providers or ensure that the State Government is responsible for the provision of contributions to fund these rebates.

A potential interim action may be for SA Councils to consider the adoption of occupancy/tenancy-based valuations (as opposed to ownership valuations), which allows for the valuation of wind turbines as individual tenancies based on the capitalisation of the lease payments made for underlying land ‘sub-parcels’. Whilst the overall property valuation is unaltered it provides capacity to apply differential rating by land use. Logically, such an approach should also extend to solar panel installations that occupy portions of rural land. It is unlikely that this approach will produce rate revenue levels that adequately reflect the rates that should be levied on equity grounds, which is why it is noted as a potential interim action rather than an ultimate solution.
Table E.1: Summary of Identified Rating Constraints Leading to Inequitable Rating Burdens on Local Communities

<table>
<thead>
<tr>
<th>Use</th>
<th>Issue</th>
<th>Interstate Comparison</th>
<th>Financial Implications</th>
<th>Case for Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Generation</td>
<td>The exemption of electricity generating plant and equipment from capital valuation prevents SA Councils from being able to appropriately and equitably allocate the rating burden across all ratepayers, and results in local communities subsidising electricity generated for use across a broader (and national) marketplace – with such a financial burden not placed on ratepayers in Queensland and Victoria. Anticipated future growth in the installation and operation of electricity generation sites will place an increasing burden and degree of cross subsidy on SA Councils and their communities.</td>
<td>Capital improved value in Victoria includes electricity generating plant and equipment, and Victorian Councils can receive payments in lieu of rates from generators consisting of base payments and generation capacity payments based on a methodology under State legislation. Queensland Councils also have the capacity to levy substantial rates on power stations, wind farms and solar farms through broad Council powers to establish specific differential rating categories with substantially higher rates in the dollar and minimum rates.</td>
<td>Case studies for Wattle Range, Port Augusta and Goyder suggest that the application of the Victorian methodology to determine payments in lieu of rates for power stations, wind farms and solar farms alone could result in additional revenue of around $700,000-$750,000 per annum for each Council which would considerably reduce the rating burden presently incurred on existing ratepayers and/or enhance the financial sustainability of both Councils. Based on selected case studies, this could enable affected Councils to reduce rates on other ratepayers by between 4% and 15%.</td>
<td>SA electricity generators should pay their fair share of the rating burden on local communities, as they do in Queensland and Victoria. While the historic exemptions regarding the payment of rates by electricity generators may have been appropriate in the context of electricity generation and service provision by the State Government, the landscape is considerably different in the current environment where such services are subject to profiteering from the land and form part of a broader electricity network and national grid.</td>
</tr>
<tr>
<td>Intensive Commercial/Industry</td>
<td>The inability for SA Councils to categorise properties based on their intensity of use (and therefore utilisation of Council infrastructure and services) leads to cross subsidisation of infrastructure and service provision by other ratepayers.</td>
<td>Queensland, NSW and WA Councils have the capacity to differentially rate such assessments to appropriately reflect their more intensive utilisation of Council infrastructure and services.</td>
<td>Not quantified.</td>
<td>SA Councils must be able to effectively rate intensive land uses to ensure that their impact on infrastructure and service provision and impost on local communities is appropriately recouped and not subsidised by other ratepayers.</td>
</tr>
<tr>
<td>Community and Public Housing</td>
<td>The provision of mandatory 75% rate rebates on SA Housing Trust properties managed by Community Housing Providers prevents SA Councils from appropriately and equitably recovering rates from substantial portions of residential communities which have the same level of access to Council infrastructure and services.</td>
<td>Other mainland states do not place a substantial financial burden on Councils by mandating a 75% rebate on community and public housing assessments.</td>
<td>Case studies for Port Adelaide Enfield, Marion and Wattle Range suggest that the appropriate recovery of lost rates associated with the State Government policy decision equating to between $10 and $100 per ratepayer.</td>
<td>The level of financial assistance provided to those requiring community and public housing has always been a State Government responsibility, and SA Council should not be financially impacted as a result of a State Government policy decision to change its model of service provision at the expense of other ratepayers.</td>
</tr>
</tbody>
</table>

Source: AEC
# TABLE OF CONTENTS

DOCUMENT CONTROL........................................................................................................I
EXECUTIVE SUMMARY .................................................................................................II
TABLE OF CONTENTS .....................................................................................................V

1. INTRODUCTION ........................................................................................................1

2. REVIEW OF CURRENT ENVIRONMENT ...................................................................2

2.1 LEGISLATIVE RATING POWERS ...........................................................................2

2.2 VALUATION METHOD ..............................................................................................2

2.3 OTHER EXEMPTIONS AND NON-RATEABLE LAND/PROPERTY ........................................3

2.4 MAJOR DEVELOPMENTS/PROJECTS ......................................................................4

2.5 GENERAL RATE BENCHMARKING ..........................................................................5

2.6 FINDINGS ..................................................................................................................6

3. RATING POWERS AND CONSTRAINTS IN OTHER STATES ......................................7

3.1 COMPARATIVE ASSESSMENT OF RATING POWERS AND CONSTRAINTS ..................7

3.2 POTENTIAL FOR NEAR TERM CHANGES ..................................................................7

3.3 EXAMPLE RATING OUTCOMES FOR SELECTED INDUSTRIES ..................................11

3.4 FINDINGS ...............................................................................................................18

4. AVAILABLE OPTIONS AND CASE STUDIES ................................................................20

4.1 KEY CONSTRAINTS AND AVAILABLE OPTIONS .......................................................20

4.2 ELECTRICITY GENERATION CASE STUDIES ............................................................22

4.3 COMMUNITY HOUSING CASE STUDIES ................................................................24

4.4 FINDINGS ...............................................................................................................24

5. FINDINGS AND RECOMMENDATIONS ....................................................................25

5.1 FINDINGS ...............................................................................................................25

5.2 RECOMMENDED ACTIONS ....................................................................................26

5.3 POTENTIAL INTERIM ACTION ...............................................................................26

REFERENCES ..................................................................................................................27

APPENDIX A: VALUATION METHOD COMPARISONS .....................................................30

APPENDIX B: SA LEGISLATION AND RELEVANT PROCLAMATIONS REGARDING THE RATING OF ELECTRICITY GENERATORS ..................................................................................................................32

APPENDIX C: VICTORIAN LEGISLATIVE PROVISION FOR PAYMENTS BY ELECTRICITY GENERATORS 38
1. INTRODUCTION

The rating powers of South Australian (SA) Councils are constrained by the inability to appropriately rate ‘major developments’ such as wind farms, feedlots, solar farms and mines, in addition to telecommunication towers and exempt properties, despite such commercial and industrial land uses requiring Councils to provide (and ratepayers to fund) facilitating local infrastructure (particularly roads) and services to these developments.

The Legatus Group comprises 15 member Councils in the Central Local Government Region, with these Councils having a substantial number of wind turbines in their local areas. In May 2017, the SA Regional Organisation on Councils (SAROC) recommended that the Local Government Association (LGA) Board request the LGA Secretariat to work with the Legatus Group and other interested regional LGAs to develop recommendations for a policy position on the rating of major developments which are currently exempt from valuation for rating purposes, with this recommendation being carried by the LGA Board (also in May 2017).

AEC Group Pty Ltd (AEC) was commissioned to undertake an assessment of:

- The actual and perceived constraints in the current powers of SA Councils to rate ‘major developments’, and the implications for SA Council rate revenue, ratepayers and overarching financial sustainability from these constraints.
- The rating powers of Councils in other States and any interstate learnings that could be applied in SA.
- Recommendations as to how rating powers could be amended to ensure SA Councils are able to balance the principles of taxation and equity between ratepayers, including the ability to appropriately rate ‘major developments’.

The focus of the assessment is on solar/wind farm major developments, although additional commentary is provided on mining, telecommunication towers, and other general exempt properties.

The report findings will be used to inform recommendations at a state-wide level for consideration by Councils, LGA and State Government.
2. REVIEW OF CURRENT ENVIRONMENT

2.1 LEGISLATIVE RATING POWERS

The legislative powers for SA Councils to rate (i.e. impose a tax on) land exist within the *Local Government Act 1999* (LG Act), under Chapter 10, Part 1 – Rates and charges on land. Specifically, Section 146 of the LG Act outlines the types of rates and charges able to be declared on land within its area, which include general rates, separate rates, service rates and service charges.

The basis of rating is outlined in Section 151 of the LG Act, with general rates able to be set on the following basis:

- Levied as a rate on the value of the land, potentially subject to a minimum rate\(^1\) (as long as no greater than 35% of assessments subject to the separate assessment of rates are subject to the minimum), or
- Levied as a fixed charge\(^2\) plus a rate on the value of the land, with fixed charge revenues not exceeding 50% of total general rate revenues.

The rate on the value of the land can be either set on a uniform basis (as a single rate irrespective of land use or location) or differential basis (as a differential rate). Section 156 of the LG Act and Section 14 of the *Local Government (General) Regulations 2013* restricts differential rates to be applied by:

- Predominant land use as defined in the *Development Regulations 2008*, including residential\(^3\), commercial shop, commercial office, other commercial, light industry, other industry, primary production, vacant land, and other.
- Location, defined as the zone in which the land is situated, whether the land is within or outside a township, and between zones and townships.
- Predominant land use and location.

Further, tiered rates in the dollar for assessments within specific valuation ranges can be adopted to lessen the impact of rates on high value properties (e.g. coastal properties) relative to low value properties.

The principles of consistency and comparability across Council areas on different sectors must be considered in setting general rate structures and levels. Any change in the basis of rating must be accompanied with a report detailing the changes and be subject to public consultation.

2.2 VALUATION METHOD

2.2.1 Available Valuation Methods

Councils may use valuations provided by the Valuer-General or are able to engage a valuer authorised under the *Land Valuer Act 1994*. Under Section 151 of the LG Act, the default valuation method for rating purposes is the capital value, which reflects the value of a parcel of land including improvements. Councils have the option to use site value (value of a parcel of land excluding improvements such as buildings and structures, wells, dams and reservoirs, and commercial tree plantations) if such valuation methods were applied to that land in the previous year, or capital value was used for the preceding three years\(^4\).

---

\(^1\) Minimum amounts are set per separate (whole) piece of rateable land (excluding marinas and marina berths) and cannot be applied to supported accommodation and independent living units within a group or complex of units, per individual caravan park or residential park site. Contiguous parcels with the same owner occupier and multiple parcels operated as a single farm enterprise are only to be subject to a single minimum amount.

\(^2\) Fixed charges are set as equal charges per separate (whole) piece of rateable land and cannot be levied on individual caravan park or residential park sites and individual marina berths. Contiguous parcels with the same owner occupier and multiple parcels operated as a single farm enterprise are only to be levied a single fixed charge.

\(^3\) If differentiated, the residential rate must be applied to land occupied by supported accommodation, independent living units and day therapy centres.

\(^4\) Annual value, or the value of the property based on gross annual rental valuation, is another option available.
The Office of the Valuer-General indicates that there are two types of valuation assessments required by Local Government based on:

- Ownership – where the valuation assessment is determined on a whole of property basis, generally a separately saleable parcel of land, where the land use code for the property will be its predominant use.
- Occupation – where the valuation that is determined on a whole of property basis, is apportioned between a separate assessment for each separate physical occupancy or tenancy on the property, and the land use code will reflect the occupancy.

Councils must nominate which method is to be applied for rating purposes. With residential valuations unlikely to differ between the above two valuation approaches, the only differential lies with the valuation of non-residential properties. In the instance of wind farms, the adoption of the occupation valuation approach would see each turbine assigned as a tenancy with the valuation derived using a market-based lease payment for the land on which the turbine resides and the application of an appropriate risk-based capitalisation rate. Whilst a rural property with a wind farm would have the same overall value under the occupation valuation approach as under the ownership valuation approach it provides capacity to apply differential rating by land use. Appendix A provides additional detail on the valuation options available to, and rating implications for, Councils.

2.2.2 Valuation Exclusions

Section 11(1) of the Valuation of Land Regulations 2005 includes a list of fixtures and improvements that are not included in the capital value or annual value of land used to levy rates:

- Machinery, plant or equipment not fixed to the land or premises or is capable of being removed without structural damage to the land or premises.
- Main, pole, transformer, wire, pipe, machinery, plant or equipment used in connection with the generation and supply of electricity, the supply of gas or water, or the provision of sewerage and is erected on land occupied by a public utility undertaking related to the supply or provision of such services.
- Trees planted for the primary purpose of commercial timber production, prevention or amelioration of degradation of land, disposal of effluent or provision of a habitat for wildlife.

Clause 3(1) of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 indicates that the land and buildings of a State-owned company are rateable property, plant and equipment, easements, rights of way or similar rights used in connection with the generation, transmission or distribution of electricity are not rateable property.

Clause 3(2) of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 indicates that plant and equipment for other proclaimed bodies for the same purpose (other than electricity generating plant and substations for converting, transforming or controlling electricity) are also non-rateable, with Clause 3(3) providing the Governor the power to declare or reduce rates payable for electricity generating plant and substations for converting, transforming or controlling electricity. Appendix B includes the relevant extracts from Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 in addition to the relevant proclamations made under Clause 3(3).

Some historic declarations have been made regarding the level of rate contributions payable by selected electricity generators and electricity generation sites. Clause 3(5) suggests that such proclamations may not be revoked and may only be varied if the future liabilities for these generators are reduced. No proclamations have been made regarding newer electricity generation developments, with the proclamations under Clause 3(3) having only occurred in 2000 following the restructure of ownership and operating arrangements for the sector.

2.3 OTHER EXEMPTIONS AND NON-RATEABLE LAND/PROPERTY

Section 147 of the LG Act specifies the following land as being non-rateable land:

- Unalienated Crown land, or land used or held by the Crown for a public purpose (including education) except under lease/licence, domestic premises, or a university established by statute.
RATING EQUITY FOR COMMERCIAL/INDUSTRIAL LAND USES OUTSIDE TOWNS IN SA

- Land used or held by Councils or subsidiaries of Councils except under lease/licence.
- Land in the District of Coober Pedy subject to a mining lease under the Mining Act 1971 or a precious stones tenement under the Opal Mining Act 1995.
- Exemptions under the Recreation Grounds Rates and Taxes Exemption Act 1981, which include publicly accessible sport or recreation land vested in, or under the care, control or management of, Councils, vested in trustees or an association, or occupied under lease, licence or permit granted by Councils and with all income derived from the land applied towards the maintenance, repair or improvement of the land.
- Emergency service exemptions under the Fire and Emergency Services Act 2005.
- Exemptions under or by virtue of another Act.

Sections 159 to 166 of the LG Act also provide for rebates of rates for selected land uses as follows:

- 100% for:
  - Land used for service delivery or administration by a hospital or health centre incorporated under the South Australian Health Commission Act 1976.
  - Land used for religious purposes.
  - Land used for public cemeteries.
  - Land used by the Royal Zoological Society of SA.

- 75% for:
  - Land used for service delivery and/or administration by not for profit community service organisations providing services below cost and not just to members and not involved in any trade or commerce (e.g. emergency and supported accommodation, food and clothing providers, disability providers, legal providers to the disadvantaged, drug or alcohol rehabilitation, research and education on diseases or illnesses, palliative care, disadvantaged persons).
  - Land occupied by a government school under lease or licence and used for educational purposes.
  - Land occupied by a registered non-government school under the Education and Early Childhood Services (Registration and Standards) Act 2011 and used for educational purposes.
  - Land used by a university or college to provide accommodation and other support to students on a not for profit basis.

2.4 MAJOR DEVELOPMENTS/PROJECTS

Section 46(1a) of Part 4, Division 2 of the Development Act 1993 defines major developments or projects as follows:

A development or project may be considered to be of major environmental, social or economic importance due to the fact that the cumulative effect of the development or project, when considered in conjunction with any other development, project or activity already being undertaken or carried on, or proposed to be undertaken or carried on, at or within the vicinity of the relevant site, gives rise to issues of major environmental, social or economic importance.

There are no legislative constraints specifically applying to the levying of rates on major developments, just those constraints highlighted in the preceding sections regarding the valuation exemptions and declaration of non-rateable land for selected land uses and ownership.

---

\( ^5 \) Section 128 of that Act only refers to exemptions for water and sewerage rates, land tax and the emergency services levy.
### Table 2.1: Benchmarking of General Rates Levied by Selected SA Councils

<table>
<thead>
<tr>
<th>Council</th>
<th>Valuation</th>
<th>Differential Rating</th>
<th>Cents in $</th>
<th>Fixed</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide Plains</td>
<td>Capital Value</td>
<td>Residential/Vacant Land/Other Commercial/Industrial</td>
<td>0.4629423</td>
<td>$102.50</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial/Industrial</td>
<td>0.6017826</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.4208671</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clare &amp; Gilbert Valleys</td>
<td>Capital Value</td>
<td>Residential/Vacant Land/Other Commercial/Industrial</td>
<td>0.4697</td>
<td>n.a.</td>
<td>$675.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial/Industrial</td>
<td>0.6341</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.3523</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Copper Coast</td>
<td>Capital Value</td>
<td>Residential</td>
<td>0.2630</td>
<td>$566.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial/Marina Berths</td>
<td>0.5763</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Light Industry</td>
<td>0.5978</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.2451</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vacant Land</td>
<td>0.4438</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other</td>
<td>0.2956</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barungua West</td>
<td>Capital Value</td>
<td>Residential/Commercial Shop,Office</td>
<td>0.3190</td>
<td>$325.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial Other, Industrial</td>
<td>0.3509</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.2552</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vacant Land</td>
<td>0.3828</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mount Remarkable</td>
<td>Capital Value</td>
<td>All</td>
<td>0.3285</td>
<td>$303.90</td>
<td>n.a.</td>
</tr>
<tr>
<td>Orroo Carrieton</td>
<td>Capital Value</td>
<td>All</td>
<td>0.3968</td>
<td>$252.00</td>
<td>n.a.</td>
</tr>
<tr>
<td>Peterborough</td>
<td>Capital Value</td>
<td>Peterborough Town</td>
<td>0.6300</td>
<td>$355.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Oodla Wirra Town</td>
<td>0.4100</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yongala Town</td>
<td>0.4800</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rural</td>
<td>0.4275</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Light</td>
<td>Capital Value</td>
<td>Residential/Other</td>
<td>0.43702</td>
<td>n.a.</td>
<td>$855.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial Shop,Office/Vacant Land</td>
<td>0.76478</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial Other</td>
<td>0.87403</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Industrial</td>
<td>1.20179</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.35398</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northern Areas</td>
<td>Capital Value</td>
<td>Urban</td>
<td>0.4770</td>
<td>$370.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rural</td>
<td>0.6250</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Port Pirie</td>
<td>Capital Value</td>
<td>Residential/Other</td>
<td>0.394</td>
<td>$465.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial/Light Industrial/Vacant Land</td>
<td>0.788</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Industrial</td>
<td>4.779(a)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.315</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goyder</td>
<td>Capital Value</td>
<td>Residential/Other</td>
<td>0.5532</td>
<td>$150.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.2984</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barossa</td>
<td>Capital Value</td>
<td>Residential/Primary Production</td>
<td>0.3472</td>
<td>$332.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial (retail, office)</td>
<td>0.5437</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Light Industrial (auto repair, workshops)</td>
<td>0.5643</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Industrial (wineries, manufacturing)</td>
<td>1.5902</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vacant Land</td>
<td>0.6343</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other (government, education, utilities)</td>
<td>0.5776</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flinders Ranges</td>
<td>Capital Value</td>
<td>Residential</td>
<td>0.6455</td>
<td>n.a.</td>
<td>$742.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial Shop</td>
<td>0.7500</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial /Office,Other/Light Industrial</td>
<td>0.8500</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Industrial</td>
<td>0.9500</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.7150</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vacant Land</td>
<td>0.7600</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wakefield</td>
<td>Capital Value</td>
<td>Residential</td>
<td>0.3497</td>
<td>$320.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial</td>
<td>0.5782</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Industrial</td>
<td>0.5659</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.3198</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Vacant Land</td>
<td>1.0018</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other</td>
<td>0.3583</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wattle Range</td>
<td>Capital Value</td>
<td>Township</td>
<td>0.5872</td>
<td>n.a.</td>
<td>$600.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rural Living</td>
<td>0.5287</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rural</td>
<td>0.4405</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yorke</td>
<td>Capital Value</td>
<td>Residential/Other</td>
<td>0.2627</td>
<td>$410.00</td>
<td>n.a.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Primary Production</td>
<td>0.1787</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes: (a) Council indicates: “A higher rate in the dollar is applied for Nyrstar and associated smelters properties, given the unique nature of these properties, and a degree of subjectivity as to their capital values. Council seeks to recover about 8% of the Council’s total rate revenue from these properties.”

Source: AEC, Council Budgets
The following outcomes are evident from the benchmarking assessment:

- A variety of different rating approaches exist.
- Three quarters of benchmarked Councils utilise a fixed charge in addition to the rate in the dollar, with the remaining Councils adopting a minimum rate.
- With respect to the application of the rate in the dollar:
  - 2 Councils levy a single rate irrespective of land use or location.
  - 3 Councils levy a differential rate based on location.
  - 11 Councils levy a differential rate in the dollar based on land use.
- The greatest differential exists in the rate in the dollar for Other Industrial in Port Pirie, where it is indicated that a higher rate in the dollar exists for Nyrstar and associated smelters properties given their unique nature and valuation, followed by Other Industrial in Barossa and Industrial in Light.
- A higher rate in the dollar generally exists for Commercial and Industrial properties, and a lower rate in the dollar generally exists for Primary Production properties.

2.6 FINDINGS

Permitted rating categories for commercial and industrial properties for general rating purposes (i.e. commercial – shop, commercial – office, commercial – other, industry – light, industry – other) are not considered reflective of intensity of activity and utilisation of Council infrastructure and services. The definitions of selected permitted rating categories exist within the Development Regulations 2008. There appears to be a level of ambiguity over the ability for Councils to utilise the commercial and industrial other categories to set higher rates for specifically selected high intensity land uses. It is noted that Port Pirie specifically categorises Nyrstar and associated smelters properties as industry other for rating purposes to ensure they sufficiently contribute to general rates revenue.

Generally, SA Councils adopt capital value as the valuation approach for rating purposes. However, the Office of the Valuer-General indicates for Local Government there are two types of valuation assessments, being valuation assessments based on ownership or occupation/tenancies, where occupancy valuation will only be created for the valuation roll if required by Council. It is important to note that the adoption of the tenancy-based valuation approach allows for the valuation of wind turbines as individual tenancies based on the capitalisation of the lease payments made for land occupation for this infrastructure/equipment (not the infrastructure/equipment). It does not provide any overall increase in value but provides capacity to apply differential rating by land use. Logically, such an approach should also extend to solar panel installations that occupy portions of rural land. It does not appear that all SA Councils with these installations have investigated the rating benefits/costs of adopting the tenancy-based valuation approach versus the ownership-based valuation approach.

While major developments are not exempt from valuation and are generally required to pay rates, selected components of major developments and other land uses are not able to be appropriately rated due to the exclusion of improvements such as plant and equipment from valuation (and rating) processes. This is definitely the case for wind turbines and solar farms where specific legislative provision exists to exempt electricity generating plant from valuations to which rates are applied. These exemptions distort the relative value of affected properties and, when combined with the rating categories available, limit the ability of SA Councils to equitably allocate the rating burden to recover the costs of infrastructure and service provision. As a consequence, local communities are often left to cross subsidise these properties.

Some proclamations were made in 2000 under Clause 3(3) of the Electricity Corporations (Restructuring and Disposal) Act 1999 regarding the maximum rate contributions payable by selected electricity generators and electricity generation sites, although no such proclamations have occurred since for any new developments.

While the historic exemptions regarding the payment of rates by electricity generators may have been appropriate in the context of electricity generation and service provision by the State Government, the landscape is considerably different in the current environment where such services are subject to profiteering and form part of a broader electricity network and national grid.
3. RATING POWERS AND CONSTRAINTS IN OTHER STATES

3.1 COMPARATIVE ASSESSMENT OF RATING POWERS AND CONSTRAINTS

A review was undertaken of the rating powers of all mainland States for comparative purposes, with a summary provided in Table 3.1. Overall, Queensland has a less prescriptive approach to the rate categories that may be applied, which can be on any basis local governments deem appropriate.

3.2 POTENTIAL FOR NEAR TERM CHANGES

Local government rating structures in NSW and Victoria have the potential to change soon as a result of reviews that have been undertaken, as outlined below:

**NSW**

A review by Independent Pricing & Regulatory Tribunal (IPART) into local government rating in December 2016 made the following recommendations (which are still yet to be acted upon):

- Allow Councils to utilise capital improved value as an alternative to unimproved value, in conjunction with the removal of minimum amounts.
- Allow Councils greater flexibility to set different residential rates based on the characteristics of individual localities.
- Allow Councils to establish new rating categories for environmental and vacant land, in addition to new sub-categories for business (e.g. commercial and industrial) and farmland (by location) properties, to better reflect the demands placed on infrastructure and service provision from different land uses.
- Modify rate exemptions so eligibility is on land use rather than ownership, with land used for commercial or residential purposes no longer eligible for exemptions.

**Victoria**

An exposure draft for a new Local Government Act has been produced, with the following changes to current arrangements:

- Making mining land rateable.
- Requiring Councils to apply capital improved value as the uniform valuation method.
- Reduce the maximum level of the municipal charge as a percentage of total rate revenue and municipal charge revenue from 20% to 10%.
- Requiring Councils to clearly specify how the application of differential rating contributes to the equitable and
### Table 3.1: Comparison of Rating Powers Across Mainland States

<table>
<thead>
<tr>
<th>Year</th>
<th>South Australia</th>
<th>Victoria</th>
<th>Queensland</th>
<th>Western Australia</th>
<th>New South Wales</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Basis of Valuation</strong></td>
<td>Capital value (land and fixed improvements) is the default valuation method, with specific exclusions being:</td>
<td>Capital improved value (land and fixed improvements), site value (unimproved value), or net annual value (annual rental value of the property net of fixed costs, at least 5% of capital improved value)</td>
<td>Site value (unimproved value); Leases under resource acts may be valued based on a multiple of the yearly rent payable for the lease</td>
<td>Gross rental value (gross annual rental from annual tenancy where the landlord is liable for all rates, taxes and other charges thereon and the insurance and other outgoings necessary to maintain the value of the land) or unimproved value</td>
<td>Unimproved value</td>
</tr>
<tr>
<td>o Machinery, plant or equipment not fixed to the land/premises</td>
<td>o Mains, poles, transformers, wires, pipes, machinery, plant and equipment used in connection with generation and supply of electricity, gas, water or sewerage</td>
<td>o Site value may be used if it was applied in the prior year, or where capital value was applied for the preceding three years</td>
<td>o Gross rental value is the default for non-rural land</td>
<td>o Where rental evidence doesn’t exist, gross rental value is proxied by 5% of capital value, with capital value excluding the value of machinery (site components not fixed and considered of a technical nature or consisting of moving parts)</td>
<td>o Where a wind farm site is leased, and direct sales evidence is not available, valuation may occur via capitalisation of the net rental return</td>
</tr>
<tr>
<td>o Trees planted for commercial timber production, effluent disposal or environmental purposes</td>
<td>o Annual value (value of the property based on gross annual rental valuation) is another option available</td>
<td>o An exposure draft for a new Local Government Act indicates a move towards the mandatory use of capital improved value</td>
<td>o Unimproved value is the default for rural land and is frequently used for mining land</td>
<td>o A change in valuation method requires Ministerial approval</td>
<td>o A rate in the dollar only</td>
</tr>
<tr>
<td><strong>Rating Structure Options Available</strong></td>
<td>A rate in the dollar only</td>
<td>A rate in the dollar only</td>
<td>A rate in the dollar only</td>
<td>A rate in the dollar only</td>
<td>A rate in the dollar only</td>
</tr>
<tr>
<td>A rate in the dollar only, subject to a minimum (&lt;=50% of properties)</td>
<td>A fixed amount (&lt;=20% of rate revenue – subject to reduction to 10% in the near future under exposure draft for a new Local Government Act) plus a rate in the dollar – the fixed amount is not payable by farm land</td>
<td>A rate in the dollar only, subject to a minimum</td>
<td>A rate in the dollar only</td>
<td>A rate in the dollar only</td>
<td></td>
</tr>
<tr>
<td>A fixed amount (&lt;=50% of rate revenue) plus a rate in the dollar</td>
<td>The Electricity Industry Act 2000 allows Councils to receive payments from electricity generators in lieu of rates as determined under Order of the Governor in Council (refer to Appendix C)</td>
<td>A rate in the dollar only, subject to a minimum</td>
<td>A fixed amount (totaling no more than 50% of rate revenue) plus a rate in the dollar</td>
<td>A rate in the dollar only, subject to a minimum rate not exceeding $526</td>
<td></td>
</tr>
</tbody>
</table>

---

*aecgroupltd.com*
### Differential Rating Permitted
- Able to levy rates on a uniform or differential basis
- Permitted rating categories based on land use include residential (including supported accommodation, independent living units and day therapy centres), commercial shop, commercial office, commercial other, industry light, industry other, primary production, vacant land and other
- Rating categories can also exist for different locations (e.g. zoning, inside or outside townships), or a mixed of land uses and locations
- Tiered rates in the dollar can be used within valuation ranges to lessen the impact of rates on high value properties

### Limitation of Rate Increases
- No limitation on rate increases
- Highest differential rate cannot be more than 4 times the lowest differential rate
- Increases in rates are limited by a cap set each year by the Minister following advice from Essential Services Commission
- Councils can apply to Essential Services Commission to seek higher rate increases via a special order
- No limitation on rate increases
- Ministerial approval required for differential rates more than twice the lowest proposed, or if there are minimum payments on more than half of vacant properties
- General rate revenue is not to be more than 110% or less than 90% of the identified budget deficiency for the year
- IPART sets the upper limit (maximum percentage) that general income can be increased each year (rates and other annual charges such as drainage levies), based on the Local Government Cost Index less a deduction for productivity factor
- The ‘rate peg’ does not apply to stormwater, waste collection, water and sewerage charges
- Councils can apply to IPART to seek higher increases via a special rate variation

<table>
<thead>
<tr>
<th>Year</th>
<th>South Australia</th>
<th>Victoria</th>
<th>Queensland</th>
<th>Western Australia</th>
<th>New South Wales</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Able to levy rates on a uniform or differential basis</td>
<td>Able to levy rates on a uniform or differential basis</td>
<td>Able to levy rates on a uniform or differential basis</td>
<td>Able to levy rates on a uniform or differential basis</td>
<td>Able to levy rates on a uniform or differential basis</td>
</tr>
<tr>
<td></td>
<td>Permitted rating categories based on land use include residential (including supported accommodation, independent living units and day therapy centres), commercial shop, commercial office, commercial other, industry light, industry other, primary production, vacant land and other</td>
<td>Where capital improved value is not utilised, differential rate categories are limited to farm land, urban farm land and residential use</td>
<td>Able to establish the number and type of rating categories that best reflect the local situation, without restriction (“the local government may do so in any way it considers appropriate”)</td>
<td>Able to levy differential rates according to whether land is the principal place of residence of the owner</td>
<td>Able to levy rates on a uniform or differential basis</td>
</tr>
<tr>
<td></td>
<td>Rating categories can also exist for different locations (e.g. zoning, inside or outside townships), or a mixed of land uses and locations</td>
<td>Under capital improved value, there is a degree of flexibility in the determination of differential rate categories based on use, location, zoning, building types or any other criteria deemed relevant by Councils</td>
<td>Able to levy differential rates according to whether land is the principal place of residence of the owner</td>
<td>The minimum rate can differ by rating category, can be based on the number of units on a timeshare property, and can differ for a mining lease for minerals &lt;2ha, a mining lease associated with mining for minerals &lt;4ha and land subject to a mining claim</td>
<td>Able to levy rates on a uniform or differential basis</td>
</tr>
<tr>
<td></td>
<td>Tiered rates in the dollar can be used within valuation ranges to lessen the impact of rates on high value properties</td>
<td>Appropriate categories are noted as general, residential, farm, commercial, industrial, retirement village, vacant, derelict, cultural and recreational</td>
<td>The minimum rate can differ by rating category, can be based on the number of units on a timeshare property, and can differ for a mining lease for minerals &lt;2ha, a mining lease associated with mining for minerals &lt;4ha and land subject to a mining claim</td>
<td>Differential rates may only apply based on zoning, predominant use and/or whether land is vacant</td>
<td>Able to levy rates on a uniform or differential basis</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Categories noted as needing careful consideration include holiday rental, extractive, landfill, dry land farming, irrigation farm, automobile manufacture, petroleum production and aluminium production</td>
<td>Different rates set to meet a desired policy objective/outcome or based on ownership characteristics are not permitted</td>
<td>The minimum rate can differ by rating category and valuation method</td>
<td>Different rates set to meet a desired policy objective/outcome or based on ownership characteristics are not permitted</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Minister has prohibition powers for rates deemed inconsistent with the relevant rating guidelines</td>
<td>Local Government Minister must approve a differential general rate more than twice the lowest differential rate</td>
<td>The fixed amount (if applied), minimum rate (if applied) and rate in the dollar can all differ by rating category or sub-category</td>
<td>Local Government Minister must approve a differential general rate more than twice the lowest differential rate</td>
</tr>
</tbody>
</table>

---

**RATING EQUITY FOR COMMERCIAL/INDUSTRIAL LAND USES OUTSIDE TOWNS IN SA**

---

_{aecgroupltd.com}
### Rating Equity for Commercial/Industrial Land Uses Outside Towns in SA

<table>
<thead>
<tr>
<th>Year</th>
<th>South Australia</th>
<th>Victoria</th>
<th>Queensland</th>
<th>Western Australia</th>
<th>New South Wales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exemption from Rating</td>
<td>Unalienced Crown land</td>
<td>Land used/held by the Crown for a public purpose including education except under lease/licence, domestic premises, or a university established by statute</td>
<td>Land used or held by Councils or subsidiaries of Councils except under lease/licence</td>
<td>Land in the District of Coober Pedy subject to a mining lease under the Mining Act 1971 or a precious stones tenement under the Opal Mining Act 1995</td>
<td>Public sport/recreation land under the Recreation Grounds Rates and Taxes Exemption Act 1981 where all income is applied to land maintenance/repair/improvement</td>
</tr>
<tr>
<td></td>
<td>Land used/held by the Crown for a public purpose including education except under lease/licence, domestic premises, or a university established by statute</td>
<td>Land used/hold by the Crown for a public purpose (property of Crown, vested in a Minister, Council, a public statutory body or trustees to hold land for public or municipal purposes)</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Land held in trust for memorial of war veterans</td>
<td>100% rebates provided for land used for hospital/health centre under the South Australian Health Commission Act 1976, religious purposes, public cemeteries and Royal Zoological Society of SA</td>
</tr>
<tr>
<td></td>
<td>Land used/hold by the Crown for a public purpose including education except under lease/licence, domestic premises, or a university established by statute</td>
<td>Land used/hold by the Crown for a public purpose (property of Crown, vested in a Minister, Council, a public statutory body or trustees to hold land for public or municipal purposes)</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Land held in trust for memorial of war veterans</td>
<td>75% rebates for land used by selected not for profits, government school under lease or licence, registered non-government school under the Education and Early Childhood Services (Registration and Standards) Act 2011, and university/college providing not for profit accommodation and support to students</td>
</tr>
<tr>
<td></td>
<td>Unallocated State land</td>
<td>Land used for a public purpose (property of Crown, vested in a Minister, Council, a public statutory body or trustees to hold land for public or municipal purposes)</td>
<td>Unallocated State land</td>
<td>Unoccupied Crown land used for a public purpose</td>
<td>Crown land not under private lease</td>
</tr>
<tr>
<td></td>
<td>State/government entities (other than non-exempt government-owned corporations), excluding leased land</td>
<td>State forest or timber reserve (other than under occupation or stock grazing permit)</td>
<td>State/government entities (other than non-exempt government-owned corporations), excluding leased land</td>
<td>Council land</td>
<td>Council land</td>
</tr>
<tr>
<td></td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Aboriginal/Torres Strait Islander land (other than residential or commercial)</td>
<td>State forest or timber reserve (other than under occupation or stock grazing permit)</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>National parks and conservation areas</td>
</tr>
<tr>
<td></td>
<td>Land held in trust for memorial of war veterans</td>
<td>Eligible strategic port/airport land</td>
<td>State forest or timber reserve (other than under occupation or stock grazing permit)</td>
<td>Non-government schools</td>
<td>Land used for religious or exclusively charitable purposes</td>
</tr>
<tr>
<td></td>
<td>Land used exclusively for mining or forestry purposes (subject to removal in the near future under exposure draft for a new Local Government Act)</td>
<td>Commercial corridor land not leased</td>
<td>State forest or timber reserve (other than under occupation or stock grazing permit)</td>
<td>Land vested in trustees for agricultural or horticultural show purposes</td>
<td>Land connected with education</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Council land</td>
<td>Public hospital/health centre</td>
<td>Co-operative Bulk Handling Ltd land used for grain storage where contributions are made to Council</td>
<td>Land vested in Aboriginal Land Councils</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Religious land &lt;20ha used for religion, education, health, community, administration or associated housing</td>
<td>Public hospitals and public hospitals/health and safety centres</td>
<td>Unoccupied Crown land used for a public purpose</td>
<td>Public rail infrastructure</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Recreation/sporting land</td>
<td>Recreational/sporting land</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Land below high-water market for oysters</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Land used for charitable purposes</td>
<td>Public places and reserves</td>
<td>Non-government schools</td>
<td>Land leased to the Crown for cattle dipping</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Public places and reserves</td>
<td>Public hospital</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Public places and reserves</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Public hospitals and public hospitals/health and safety centres</td>
<td>Cemeteries</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Public cemeteries</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Land owned by a community organisation for education, training, student accommodation or child protection</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Land used for religious or exclusively charitable purposes</td>
<td>Public libraries</td>
</tr>
</tbody>
</table>

Notes: (a) The valuation approach for mining properties is outlined in Section 3.3.2.3. Grazing land held under a lease granted under the Land Administration Act 1997, land held under lease/licence/permit under the Conservation and Land Management Act 1984, land held under agreement with the Crown and scheduled to an Act, and other Crown land temporarily occupied for private purposes (without title or authority is valued at the lesser of 20 times the annual rental or the value of land in fee simple. Land comprised in the annual cutting section allotted by the Department in respect of areas of State forests, timber reserves or other Crown land and held under a sawmilling permit or licence for cutting and removing timber is valued at $3.75 per hectare. Crown land held or used under any other lease, licence or concession with the right to take any profit is valued at $2.50 per hectare.

3.3 EXAMPLE RATING OUTCOMES FOR SELECTED INDUSTRIES

3.3.1 Electricity Generation

3.3.1.1 Victoria

Section 94(6A) of the Electricity Industry Act 2000 provides electricity generators to make payments to Council in lieu of general rates (as opposed to landowners). The prescribed methodology for the payments was established by order in Council and published via Government Gazette on 25th August 2005 and is based on the following components (indexed from June 2005):

- Base Payment of $40,000 for each power station of the generation company.
- Capacity Payment of $900 per MW.

Indexation using the Melbourne Consumer Price index suggests that these payments would be $53,446 and $1,203, respectively, for the 2017/18 financial year.

The following table provides a summary of the estimated rate revenue received by selected Victorian Councils from electricity generators in 2017/18.

<table>
<thead>
<tr>
<th>Council</th>
<th>Example Generator Type/s</th>
<th>Generator Rate Revenue</th>
<th>Total Rate Revenue</th>
<th>Contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latrobe</td>
<td>1,480MW Power Station 432MW Power Station 300MW Power Station</td>
<td>$9,261,534(1)</td>
<td>$65,199,679</td>
<td>14.5%</td>
</tr>
<tr>
<td>Moyne</td>
<td>550MW Power Station 420MW Wind Farm</td>
<td>$1,300,987</td>
<td>$18,186,845</td>
<td>7.2%</td>
</tr>
<tr>
<td>Ararat</td>
<td>240MW Wind Farm 52.5MW Wind Farm</td>
<td>$428,357</td>
<td>$14,515,377</td>
<td>3.0%</td>
</tr>
<tr>
<td>Glenelg</td>
<td>94MW Wind Farm</td>
<td>$346,000</td>
<td>$22,426,000</td>
<td>1.5%</td>
</tr>
<tr>
<td>Hobsons Bay</td>
<td>500MW Power Station</td>
<td>$332,980</td>
<td>$91,490,028</td>
<td>0.4%</td>
</tr>
<tr>
<td>Wyndham</td>
<td>320MW Power Station</td>
<td>$188,836</td>
<td>$160,561,482</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

Notes: (1) No separate reporting of the composition of this figure exists within the budget document and it is assumed for the purposes of this study that all rates in lieu are due to electricity generation.

Source: AEC, Council Budgets

3.3.1.2 Queensland

The following table provides some information on the general rates applied to the electricity generation sector for selected Councils. Both the rate in the dollar and minimum rates are used to ensure sufficient revenue is recovered from each property.

<table>
<thead>
<tr>
<th>Council</th>
<th>Categories</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Etheridge</td>
<td>Large Scale Renewable Energy Farm</td>
<td>38.2041</td>
<td>$10,000</td>
</tr>
<tr>
<td>Gladstone</td>
<td>Commercial Utilities (communication, energy)</td>
<td>74.5396</td>
<td>$900</td>
</tr>
<tr>
<td>Lockyer Valley</td>
<td>Electricity Generation</td>
<td>13.269</td>
<td>$2,517</td>
</tr>
<tr>
<td>Rockhampton</td>
<td>Power Stations &lt;=50MW</td>
<td>2.4519</td>
<td>$50,990</td>
</tr>
<tr>
<td></td>
<td>Power Stations &gt;50MW</td>
<td>2.6971</td>
<td>$101,980</td>
</tr>
<tr>
<td>South Burnett</td>
<td>Power Generation</td>
<td>4.8500</td>
<td>$2,670</td>
</tr>
<tr>
<td>Toowoomba</td>
<td>Power Station &lt;=400MW</td>
<td>13.4024</td>
<td>$32,734</td>
</tr>
<tr>
<td></td>
<td>Power Station &gt;400MW</td>
<td>31.8208</td>
<td>$227,287</td>
</tr>
</tbody>
</table>
### Western Downs

<table>
<thead>
<tr>
<th>Categories</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal Fired Power Station</td>
<td>174.478</td>
<td>$514,708</td>
</tr>
<tr>
<td>Gas Fired Power Station &lt;50MW</td>
<td>154.016</td>
<td>$9,884</td>
</tr>
<tr>
<td>Gas Fired Power Station 50-199MW</td>
<td>42.198</td>
<td>$96,074</td>
</tr>
<tr>
<td>Gas Fired Power Station 200-449MW</td>
<td>240.180</td>
<td>$223,582</td>
</tr>
<tr>
<td>Gas Fired Power Station 450-549MW</td>
<td>558.784</td>
<td>$343,034</td>
</tr>
<tr>
<td>Gas Fired Power Station &gt;550MW</td>
<td>671.784</td>
<td>$396,352</td>
</tr>
<tr>
<td>Solar Farm 1-49MW</td>
<td>23.333</td>
<td>$30,000</td>
</tr>
<tr>
<td>Solar Farm 50-99MW</td>
<td>21.667</td>
<td>$70,000</td>
</tr>
<tr>
<td>Solar Farm 100-199MW</td>
<td>18.333</td>
<td>$130,000</td>
</tr>
<tr>
<td>Solar Farm 200-299MW</td>
<td>16.667</td>
<td>$220,000</td>
</tr>
<tr>
<td>Solar Farm 300-399MW</td>
<td>15.417</td>
<td>$300,000</td>
</tr>
<tr>
<td>Solar Farm 400-499MW</td>
<td>14.333</td>
<td>$370,000</td>
</tr>
<tr>
<td>Solar Farm 500-699MW</td>
<td>12.619</td>
<td>$430,000</td>
</tr>
<tr>
<td>Solar Farm 700-899MW</td>
<td>11.111</td>
<td>$530,000</td>
</tr>
<tr>
<td>Solar Farm 900-1,099MW</td>
<td>10.000</td>
<td>$600,000</td>
</tr>
<tr>
<td>Solar Farm &gt;=1,100MW</td>
<td>8.974</td>
<td>$660,000</td>
</tr>
</tbody>
</table>

### Whitsunday

<table>
<thead>
<tr>
<th>Categories</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power Generation</td>
<td>60.161</td>
<td>$10,839</td>
</tr>
<tr>
<td>Solar Farm &lt;=100MW</td>
<td>2.553</td>
<td>$15,000</td>
</tr>
<tr>
<td>Solar Farm 101-200MW</td>
<td>5.513</td>
<td>$30,000</td>
</tr>
<tr>
<td>Solar Farm &gt;200MW</td>
<td>7.653</td>
<td>$45,000</td>
</tr>
</tbody>
</table>

Source: AEC, Council Budgets

### 3.3.1.3 Western Australia

No separate categorisation exists for the rating of electricity generation assessments. Discussions with the State’s Valuer Landgate indicated the following:

- Councils have the ability to levy rates based on rental value, based on 5% of the capital value of the property, excluding machinery.
- For electricity generation properties, it was indicated that only a portion of site capital works would be included for valuation purposes which may roughly equate to around 15% of total capital value (including buildings and structures, concrete pads, roads, fencing, ponds, underground wiring).
- For solar farms, it was indicated that the value of the solar panels themselves would be excluded from capital value for rating purposes, with steel framing and footings included.
- For wind farms, it was indicated that such valuation is yet to occur and as such there is a degree of uncertainty over what components would be included and excluded, although the ‘moving parts’ would be classed as machinery and therefore excluded.

### 3.3.1.4 New South Wales

Unimproved value is adopted and no separate categorisation of land as electricity generation is allowable. As such, electricity generation properties would be rated as per the underlying land use. However, NSW Valuer General (2017) allows for the valuation of land used as a wind farm to be based on capitalising the net rental return received on the land.

In its 2017/18 Operational Plan, Bogan Shire Council included the following commentary of its desire to separately rate the AGL Solar Farm located within its boundaries:

> The AGL Solar farm has been included in the Business Category for rating purposes. Council has requested that as part of its review of the Local Government Act, the State Government create a separate category for land used for Renewable Energy generation.

### 3.3.2 Resources Sector

#### 3.3.2.1 Victoria

Historically, land used exclusively for mining purposes has been exempt from rating, although this exemption is subject to removal in the near future under exposure draft for a new Local Government Act. Consequently, Councils do not currently separately categorise mining land. There are examples whereby payments are made by significant resources sector assessments to Councils under rate agreements or in lieu of rates, with Portland Aluminium providing annual payments to Glenelg Shire Council.
The following table provides some information on the general rates applied to the resources sector (including quarrying) for selected Queensland Councils. It is evident that there is considerable variation in the categorisation and level of rating, depending on the Council. Many Queensland Councils adopt very high rates in the dollar and/or very high minimum rates for resources sector properties deemed to provide a significant impost on infrastructure and service provision.

Table 3.4: Rates Levied on the Resources Sector by Selected Queensland Councils, 2017/18

<table>
<thead>
<tr>
<th>Council</th>
<th>Categories</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balonne</td>
<td>Extractive &lt;5,000tpa</td>
<td>1.380795</td>
<td>$1,374.10</td>
</tr>
<tr>
<td></td>
<td>Extractive 5,000-100,000tpa</td>
<td>1.7909619</td>
<td>$2,747.20</td>
</tr>
<tr>
<td></td>
<td>Extractive &gt;100,000tpa</td>
<td>1.7909619</td>
<td>$5,494.20</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases &lt;1,000ha</td>
<td>69.0441570</td>
<td>$3,022.40</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases 1,000ha-10,000ha</td>
<td>4.7988031</td>
<td>$6,043.70</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases &gt;10,000ha</td>
<td>1.8039476</td>
<td>$12,087.30</td>
</tr>
<tr>
<td></td>
<td>Petroleum Other &lt;400ha</td>
<td>371.4103300</td>
<td>$3,022.40</td>
</tr>
<tr>
<td></td>
<td>Petroleum Other &gt;=400ha</td>
<td>371.4103300</td>
<td>$6,044.00</td>
</tr>
<tr>
<td></td>
<td>Mining Leases &lt;50FTE</td>
<td>11.4283806</td>
<td>$1,374.10</td>
</tr>
<tr>
<td></td>
<td>Mining Leases &gt;=50FTE</td>
<td>11.4283806</td>
<td>$10,988.50</td>
</tr>
<tr>
<td>Banana</td>
<td>Extractive Coal</td>
<td>28.95</td>
<td>$35,000</td>
</tr>
<tr>
<td></td>
<td>Extractive Quarries &gt;100,000tpa</td>
<td>22.00</td>
<td>$25,000</td>
</tr>
<tr>
<td></td>
<td>Extractive Other</td>
<td>14.16</td>
<td>$11,350</td>
</tr>
<tr>
<td></td>
<td>Petroleum &lt;=1,000ha</td>
<td>91.80</td>
<td>$17,350</td>
</tr>
<tr>
<td></td>
<td>Petroleum 1,001-10,000ha</td>
<td>57.10</td>
<td>$33,700</td>
</tr>
<tr>
<td></td>
<td>Petroleum &gt;10,000ha</td>
<td>54.05</td>
<td>$85,750</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>Coal Mining &lt;100FTE or &lt;=$125k</td>
<td>11.8574</td>
<td>$38,247</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 100-500FTE &amp; &gt;$125k</td>
<td>23.0995</td>
<td>$38,247</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 501-1,000FTE &amp; &gt;$125k</td>
<td>27.8922</td>
<td>$229,481</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 1,001-1,500FTE &amp; &gt;$125k</td>
<td>35.8888</td>
<td>$305,975</td>
</tr>
<tr>
<td></td>
<td>Coal Mining &gt;1,500FTE &amp; &gt;$125k</td>
<td>50.3882</td>
<td>$382,470</td>
</tr>
<tr>
<td></td>
<td>Extractive Quarries &lt;5,000tpa</td>
<td>1.9610</td>
<td>$6,571</td>
</tr>
<tr>
<td></td>
<td>Extractive Quarries 5,001-100,000tpa</td>
<td>3.9230</td>
<td>$13,141</td>
</tr>
<tr>
<td></td>
<td>Extractive Quarries &gt;100,000tpa</td>
<td>7.8450</td>
<td>$26,282</td>
</tr>
<tr>
<td></td>
<td>Other Mines / Extractive &lt;=900sqm</td>
<td>9.3546</td>
<td>$454</td>
</tr>
<tr>
<td></td>
<td>Other Mines / Extractive 900sqm-2ha</td>
<td>7.9261</td>
<td>$578</td>
</tr>
<tr>
<td></td>
<td>Other Mines / Extractive &gt;2ha</td>
<td>8.9154</td>
<td>$676</td>
</tr>
<tr>
<td></td>
<td>Gas Extraction / Processing</td>
<td>10.9480</td>
<td>$32,686</td>
</tr>
<tr>
<td></td>
<td>Water Storage, Delivery &amp; Drainage</td>
<td>3.2271</td>
<td>$13,286</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases</td>
<td>11.6080</td>
<td>$32,686</td>
</tr>
<tr>
<td></td>
<td>Mining Claims &lt;900sqm</td>
<td>9.3546</td>
<td>$454</td>
</tr>
<tr>
<td></td>
<td>Mining Claims 900sqm-2ha</td>
<td>7.9261</td>
<td>$578</td>
</tr>
<tr>
<td>Etheridge</td>
<td>Mining Claims</td>
<td>59.3550</td>
<td>$175</td>
</tr>
<tr>
<td></td>
<td>Mining UV &lt;2.500</td>
<td>20.2335</td>
<td>$588</td>
</tr>
<tr>
<td></td>
<td>Mining UV $2.501-$6.500</td>
<td>36.3000</td>
<td>$630</td>
</tr>
<tr>
<td></td>
<td>Mining UV $6.501-$15.000</td>
<td>37.6775</td>
<td>$1,500</td>
</tr>
<tr>
<td></td>
<td>Mining UV $15.001-$35.000</td>
<td>36.8767</td>
<td>$3,000</td>
</tr>
<tr>
<td></td>
<td>Mining UV $35.001-$60.000</td>
<td>60.9195</td>
<td>$6,000</td>
</tr>
<tr>
<td></td>
<td>Mining UV &gt;$60,000</td>
<td>72.9015</td>
<td>$12,000</td>
</tr>
<tr>
<td>Gladstone</td>
<td>Major Industry/Manufacturing/Future LNG Use</td>
<td>13.269</td>
<td>$2,517</td>
</tr>
<tr>
<td></td>
<td>Strategic Port Land Storage &amp; Handling Facility</td>
<td>10.988</td>
<td>$2,517</td>
</tr>
<tr>
<td></td>
<td>Other Port Storage &amp; Handling</td>
<td>10.856</td>
<td>$1,045</td>
</tr>
<tr>
<td></td>
<td>Bulk Liquid Storage Facility &gt;1,000,000L</td>
<td>12.843</td>
<td>$1,045</td>
</tr>
<tr>
<td></td>
<td>Built Oil Recycling Facility</td>
<td>5.804</td>
<td>$67,697</td>
</tr>
<tr>
<td></td>
<td>Extractive/Mining Lease</td>
<td>2.335</td>
<td>$1,045</td>
</tr>
<tr>
<td></td>
<td>Operational LNG Processing Facility</td>
<td>68.676</td>
<td>$757,200</td>
</tr>
<tr>
<td>Goondiwindi</td>
<td>Petroleum Lease &lt;1,000ha</td>
<td>25.8700</td>
<td>$14,926</td>
</tr>
<tr>
<td></td>
<td>Petroleum Lease &gt;=1,000ha</td>
<td>20.5270</td>
<td>$40,698</td>
</tr>
<tr>
<td></td>
<td>Petroleum Other &lt;1,000ha</td>
<td>25.8700</td>
<td>$6,754</td>
</tr>
<tr>
<td></td>
<td>Petroleum Other &gt;=1,000ha</td>
<td>20.5270</td>
<td>$13,632</td>
</tr>
<tr>
<td></td>
<td>Extractive Quarries 5,000-100,000tpa</td>
<td>13.4980</td>
<td>$4,750</td>
</tr>
<tr>
<td></td>
<td>Extractive Quarries &gt;100,000tpa</td>
<td>20.5270</td>
<td>$13,632</td>
</tr>
<tr>
<td></td>
<td>Extractive Mining &lt;50ha &amp; &lt;50FTE</td>
<td>17.9651</td>
<td>$1,586</td>
</tr>
<tr>
<td></td>
<td>Extractive Mining &gt;50ha &amp; &gt;=50FTE</td>
<td>19.9370</td>
<td>$26,136</td>
</tr>
<tr>
<td></td>
<td>Extractive Mining &gt;50ha &amp; &gt;50FTE</td>
<td>19.5462</td>
<td>$3,450</td>
</tr>
<tr>
<td></td>
<td>Extractive Mining &gt;50ha &amp; &gt;50FTE</td>
<td>16.6168</td>
<td>$54,464</td>
</tr>
<tr>
<td>Council</td>
<td>Categories</td>
<td>C in $</td>
<td>Minimum</td>
</tr>
<tr>
<td>-------------------------</td>
<td>----------------------------------------------------------------------------</td>
<td>--------</td>
<td>-----------------------</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 30-100FTE</td>
<td>8.4189</td>
<td>$93,254.96</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 101-250FTE</td>
<td>9.4550</td>
<td>$155,424.26</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 251-350FTE</td>
<td>9.4550</td>
<td>$194,280.58</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 351-450FTE</td>
<td>10.3616</td>
<td>$220,184.44</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 451-550FTE</td>
<td>11.0088</td>
<td>$239,613.10</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 551-650FTE</td>
<td>11.0088</td>
<td>$284,944.64</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 651-800FTE</td>
<td>11.0088</td>
<td>$310,848.52</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 801-900FTE</td>
<td>11.0088</td>
<td>$349,704.82</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 901-1,000FTE</td>
<td>11.0088</td>
<td>$414,465.00</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 1,001-1,400FTE</td>
<td>11.0088</td>
<td>$453,321.34</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 1,401-2,000FTE</td>
<td>11.0088</td>
<td>$498,653.86</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 2,000-2,850FTE</td>
<td>15.5423</td>
<td>$556,937.84</td>
</tr>
<tr>
<td></td>
<td>Coal Mining &gt;2,850FTE</td>
<td>15.5423</td>
<td>$595,794.16</td>
</tr>
<tr>
<td></td>
<td>Other Coal</td>
<td>9.4550</td>
<td>$49,217.86</td>
</tr>
<tr>
<td></td>
<td>Quarries &lt;100,000tpa</td>
<td>0.7337</td>
<td>$12,879.08</td>
</tr>
<tr>
<td></td>
<td>Quarries &gt;100,000tpa</td>
<td>0.8000</td>
<td>$27,268.66</td>
</tr>
<tr>
<td></td>
<td>Other Mines / Extractive</td>
<td>8.9847</td>
<td>$877.36</td>
</tr>
<tr>
<td></td>
<td>Gas Processing &lt;=20,000</td>
<td>114.4092</td>
<td>$32,380.10</td>
</tr>
<tr>
<td></td>
<td>Gas Processing &gt;20,000</td>
<td>70.6696</td>
<td>$197,875.46</td>
</tr>
<tr>
<td></td>
<td>Extractive &amp; Mining Lease &lt;5,000</td>
<td>2.3737</td>
<td>$9,192</td>
</tr>
<tr>
<td></td>
<td>Extractive &amp; Mining Lease 5,000-100,000tpa</td>
<td>2.8024</td>
<td>$21,210</td>
</tr>
<tr>
<td></td>
<td>Extractive &amp; Mining Lease &gt;100,000tpa</td>
<td>7.8260</td>
<td>$41,242</td>
</tr>
<tr>
<td></td>
<td>Refinery</td>
<td>208.39208378</td>
<td>$157,504.43</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases &lt;=10,000ha</td>
<td>57.2505725</td>
<td>$45,800.46</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases 10,001-20,000ha</td>
<td>48.6882512</td>
<td>$87,310.24</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases &gt;20,000ha</td>
<td>43.1961182</td>
<td>$124,728.93</td>
</tr>
<tr>
<td></td>
<td>Other Gas &amp; Oil &lt;=6ha</td>
<td>35.0238796</td>
<td>$10,572.03</td>
</tr>
<tr>
<td></td>
<td>Other Gas &amp; Oil &gt;6ha</td>
<td>46.6985062</td>
<td>$16,863.34</td>
</tr>
<tr>
<td></td>
<td>Other Gas &amp; Oil &gt;1,000ha</td>
<td>58.3731327</td>
<td>$41,509.78</td>
</tr>
<tr>
<td></td>
<td>Extractive No/Minimal Activity &lt;=5FTE</td>
<td>2.220584</td>
<td>$682</td>
</tr>
<tr>
<td></td>
<td>Extractive 6-50FTE, &lt;=1,000,000tpa</td>
<td>2.320576</td>
<td>$7,050</td>
</tr>
<tr>
<td></td>
<td>Extractive 51-500FTE, 1,000,001-2,000,000tpa</td>
<td>2.360000</td>
<td>$11,747</td>
</tr>
<tr>
<td></td>
<td>Coal Mine &gt;300FTE, &gt;2,000,000tpa</td>
<td>27.543800</td>
<td>$93,972</td>
</tr>
<tr>
<td></td>
<td>Extractive &lt;=5,000tpa</td>
<td>2.6043</td>
<td>$1,418</td>
</tr>
<tr>
<td></td>
<td>Extractive 5,000-100,000tpa</td>
<td>3.0554</td>
<td>$4,259</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 30-100FTE</td>
<td>9.4550</td>
<td>$194,280.58</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 101-250FTE</td>
<td>9.4550</td>
<td>$194,280.58</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 251-350FTE</td>
<td>9.4550</td>
<td>$194,280.58</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 351-450FTE</td>
<td>10.3616</td>
<td>$220,184.44</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 451-550FTE</td>
<td>11.0088</td>
<td>$239,613.10</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 551-650FTE</td>
<td>11.0088</td>
<td>$284,944.64</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 651-800FTE</td>
<td>11.0088</td>
<td>$310,848.52</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 801-900FTE</td>
<td>11.0088</td>
<td>$349,704.82</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 901-1,000FTE</td>
<td>11.0088</td>
<td>$414,465.00</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 1,001-1,400FTE</td>
<td>11.0088</td>
<td>$453,321.34</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 1,401-2,000FTE</td>
<td>11.0088</td>
<td>$498,653.86</td>
</tr>
<tr>
<td></td>
<td>Coal Mining 2,000-2,850FTE</td>
<td>15.5423</td>
<td>$556,937.84</td>
</tr>
<tr>
<td></td>
<td>Coal Mining &gt;2,850FTE</td>
<td>15.5423</td>
<td>$595,794.16</td>
</tr>
<tr>
<td></td>
<td>Other Coal</td>
<td>9.4550</td>
<td>$49,217.86</td>
</tr>
<tr>
<td></td>
<td>Quarries &lt;100,000tpa</td>
<td>0.7337</td>
<td>$12,879.08</td>
</tr>
<tr>
<td></td>
<td>Quarries &gt;100,000tpa</td>
<td>0.8000</td>
<td>$27,268.66</td>
</tr>
<tr>
<td></td>
<td>Other Mines / Extractive</td>
<td>8.9847</td>
<td>$877.36</td>
</tr>
<tr>
<td></td>
<td>Gas Processing &lt;=20,000</td>
<td>114.4092</td>
<td>$32,380.10</td>
</tr>
<tr>
<td></td>
<td>Gas Processing &gt;20,000</td>
<td>70.6696</td>
<td>$197,875.46</td>
</tr>
<tr>
<td></td>
<td>Extractive &amp; Mining Lease &lt;5,000</td>
<td>2.3737</td>
<td>$9,192</td>
</tr>
<tr>
<td></td>
<td>Extractive &amp; Mining Lease 5,000-100,000tpa</td>
<td>2.8024</td>
<td>$21,210</td>
</tr>
<tr>
<td></td>
<td>Extractive &amp; Mining Lease &gt;100,000tpa</td>
<td>7.8260</td>
<td>$41,242</td>
</tr>
<tr>
<td></td>
<td>Refinery</td>
<td>208.39208378</td>
<td>$157,504.43</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases &lt;=10,000ha</td>
<td>57.2505725</td>
<td>$45,800.46</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases 10,001-20,000ha</td>
<td>48.6882512</td>
<td>$87,310.24</td>
</tr>
<tr>
<td></td>
<td>Petroleum Leases &gt;20,000ha</td>
<td>43.1961182</td>
<td>$124,728.93</td>
</tr>
<tr>
<td></td>
<td>Other Gas &amp; Oil &lt;=6ha</td>
<td>35.0238796</td>
<td>$10,572.03</td>
</tr>
<tr>
<td></td>
<td>Other Gas &amp; Oil &gt;6ha</td>
<td>46.6985062</td>
<td>$16,863.34</td>
</tr>
<tr>
<td></td>
<td>Other Gas &amp; Oil &gt;1,000ha</td>
<td>58.3731327</td>
<td>$41,509.78</td>
</tr>
<tr>
<td></td>
<td>Extractive No/Minimal Activity &lt;=5FTE</td>
<td>2.220584</td>
<td>$682</td>
</tr>
<tr>
<td></td>
<td>Extractive 6-50FTE, &lt;=1,000,000tpa</td>
<td>2.320576</td>
<td>$7,050</td>
</tr>
<tr>
<td></td>
<td>Extractive 51-500FTE, 1,000,001-2,000,000tpa</td>
<td>2.360000</td>
<td>$11,747</td>
</tr>
<tr>
<td></td>
<td>Coal Mine &gt;300FTE, &gt;2,000,000tpa</td>
<td>27.543800</td>
<td>$93,972</td>
</tr>
<tr>
<td></td>
<td>Extractive &lt;=5,000tpa</td>
<td>2.6043</td>
<td>$1,418</td>
</tr>
<tr>
<td></td>
<td>Extractive 5,000-100,000tpa</td>
<td>3.0554</td>
<td>$4,259</td>
</tr>
</tbody>
</table>
### Table 3.5: Rates Levied on Accommodation Work Camps by Selected Queensland Councils, 2017/18

<table>
<thead>
<tr>
<th>Council</th>
<th>Categories</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balonne</td>
<td>Intensive Accommodation 100+ person</td>
<td>4.7989214</td>
<td>$10,988.50</td>
</tr>
<tr>
<td>Banana</td>
<td>Barracks &amp; Quarters &lt;50</td>
<td>9.90</td>
<td>$12,250</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters &gt;500</td>
<td>14.216</td>
<td>$93,257</td>
</tr>
<tr>
<td>Central Highlands</td>
<td>&lt;5</td>
<td>1.4451</td>
<td>$833</td>
</tr>
<tr>
<td></td>
<td>5-40</td>
<td>11.1170</td>
<td>$16,833</td>
</tr>
<tr>
<td></td>
<td>41-85</td>
<td>11.7683</td>
<td>$41,319</td>
</tr>
<tr>
<td></td>
<td>86-150</td>
<td>136.4790</td>
<td>$61,212</td>
</tr>
<tr>
<td></td>
<td>151-200</td>
<td>32.2357</td>
<td>$114,773</td>
</tr>
<tr>
<td></td>
<td>201-300</td>
<td>1.7217</td>
<td>$135,432</td>
</tr>
<tr>
<td></td>
<td>&gt;300</td>
<td>1.7217</td>
<td>$146,908</td>
</tr>
<tr>
<td>Gladstone</td>
<td>1-500 Rooms, Suites, Caravan Sites</td>
<td>14.216</td>
<td>$93,257</td>
</tr>
<tr>
<td></td>
<td>&gt;500 Rooms, Suites, Caravan Sites</td>
<td>90.722</td>
<td>$357,700</td>
</tr>
<tr>
<td>Isaac</td>
<td>Barracks &amp; Quarters 50-120</td>
<td>13.7956</td>
<td>$24,948.12</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 121-250</td>
<td>13.7956</td>
<td>$60,371.36</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 251-350</td>
<td>25.0516</td>
<td>$125,235.06</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 351-450</td>
<td>45.8491</td>
<td>$175,128.28</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 451-650</td>
<td>45.8491</td>
<td>$225,022.52</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 651-850</td>
<td>47.7536</td>
<td>$324,809.98</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 851-1,200</td>
<td>47.7536</td>
<td>$424,597.42</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters 1,200-2,000</td>
<td>57.3011</td>
<td>$599,224.22</td>
</tr>
<tr>
<td></td>
<td>Barracks &amp; Quarters &gt;2,000</td>
<td>57.3011</td>
<td>$966,526.60</td>
</tr>
<tr>
<td>Mackay</td>
<td>Workforce Accommodation</td>
<td>6.9516</td>
<td>$5,812</td>
</tr>
</tbody>
</table>
### RATING EQUITY FOR COMMERCIAL/INDUSTRIAL LAND USES OUTSIDE TOWNS IN SA

#### 3.3.2.3 Western Australia

Separate resources sector categories exist for rating purposes, with examples for selected WA Councils provided in the following table.

**Table 3.6: Rates Levied on the Resources Sector by Selected WA Councils, 2017/18**

<table>
<thead>
<tr>
<th>Council</th>
<th>Categories</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Karratha</td>
<td>Workforce Accommodation GRV</td>
<td>32.4699 (493% of Res)</td>
<td>$1,490 (= Res)</td>
</tr>
<tr>
<td></td>
<td>Mining/Other UV</td>
<td>13.7651 (138% of Pastoral)</td>
<td>$313 (= Pastoral)</td>
</tr>
<tr>
<td>East Pilbara</td>
<td>Workforce Accommodation GRV</td>
<td>4.4963 (142% of Res)</td>
<td>$663 (= Res)</td>
</tr>
<tr>
<td></td>
<td>Other (Mining) UV</td>
<td>17.7505 (300% of Pastoral)</td>
<td>$230 (= Pastoral)</td>
</tr>
<tr>
<td>Ashburton</td>
<td>Mining/Industrial UV</td>
<td>38.2467 (636% of Pastoral)</td>
<td>$1,037.50 (= Pastoral)</td>
</tr>
<tr>
<td>Port Hedland</td>
<td>Workforce Accommodation GRV</td>
<td>26.00 (474% of Res)</td>
<td>$2,000 (= Res)</td>
</tr>
<tr>
<td></td>
<td>Mining UV</td>
<td>37.93 (360% of Pastoral)</td>
<td>$270 (14% of Pastoral)</td>
</tr>
</tbody>
</table>

Source: AEC, Council Budgets

The valuation of mining properties is not based on normal unimproved valuation (UV) principles and is instead based on a multiple of annual rent or fees payable. Generally, the use of this valuation results in a considerable reduction in value when compared to normal principles.

The UV for mining tenements held pursuant to an agreement with the Crown is determined based on:

- 5 times annual rent per ha for the first 1,000 ha.
- 2.5 times annual rent per ha for the next 9,000 ha.
- 0.25 times the annual rent per hectare thereafter.

UV for exploration licences held under the Mining Act 1978 is determined based on:

- 2.5 times the annual rent payable for the licence under the Mining Act 1978 if it is the first year of the term of the licence.
- 5 times the annual rent payable for the licence under the Mining Act 1978 for any other licence.
• 2.5 times the annual fee payable for a licence or lease held under the Petroleum and Geothermal Energy Resources Act 1967.
• Equal to the annual fee payable for a permit of drilling reservation under the Petroleum and Geothermal Energy Resources Act 1967.
• 5 times the rent payable if the land were held as a mining lease under the Mining Act 1978 for any mineral estate or interest in land registered under the Transfer of Land Act 1893.

3.3.2.4 New South Wales

The following table provides some information on the general rates applied to mining for selected NSW Councils. It is evident that both the base/minimum charges and rates in the dollar are generally significantly higher than that applied to base residential assessments to reflect the greater impost on Council infrastructure and service provision from mining assessments.

Table 3.7: Rates Levied on the Resources Sector by Selected NSW Councils, 2017/18

<table>
<thead>
<tr>
<th>Council</th>
<th>Categories</th>
<th>Base</th>
<th>C in $</th>
<th>Minimum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bogan</td>
<td>Mining</td>
<td>n.a.</td>
<td>7.94235 (778% of Res)</td>
<td>$360 (141% of Res)</td>
</tr>
<tr>
<td>Broken Hill</td>
<td>Mining</td>
<td>$0 (0% of Res)</td>
<td>11.425988 (468% of Res)</td>
<td>n.a.</td>
</tr>
<tr>
<td>Lake Macquarie</td>
<td>Mining</td>
<td>$1,015.08 (149% of Res)</td>
<td>2.539362 (1055% of Res)</td>
<td>n.a.</td>
</tr>
<tr>
<td>Lithgow</td>
<td>Mining – Coal Mines</td>
<td>$9,822 (3446% of Res)</td>
<td>9.709068 (1676% of Res)</td>
<td>n.a.</td>
</tr>
<tr>
<td>Muswellbrook</td>
<td>Mining</td>
<td>$15,000 (6250% of Res)</td>
<td>5.453788 (1323% of Res)</td>
<td>n.a.</td>
</tr>
<tr>
<td>Queanbeyan-Palerang</td>
<td>Mining</td>
<td>$1,034.50 (217% of Res)</td>
<td>0.5006 (351% of Res)</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

Source: AEC, Council Budgets

3.3.3 Telecommunication Towers

No separate rating treatment of telecommunication towers was evident from the review undertaken of rating structures allowed and adopted in other states.

3.3.4 Exempt Properties

Table 3.1 details the properties exempt from rating in each mainland State. There are a number of differences in the treatment of certain land uses and owners/occupies across each State. In general, the exemptions cover Crown land, Council land, land used for religious or charitable purposes, and all other land used for a public purpose.

For the most part, the exemptions in South Australia do not appear to be any broader than those generally adopted in other States except for:

• The exemption of electricity generating plant and equipment from capital valuation when capital valuation is applied as the valuation method for rating purposes distorts the capacity to recover rates from such developments.
• The mandatory provision of a 75% rate rebate on SA Housing Trust properties managed by Community Housing Providers does not allow for the appropriate recovery of rates from substantial portions of residential communities, therefore placing a greater burden on all other ratepayers particularly in Council areas where there is a relatively high incidence of these properties. The definition of charitable entities generally does not extend to Community Housing Providers in other states and as such public housing is generally liable to pay rates.
3.4 FINDINGS

A review of the rating powers of other mainland States highlights considerable differences in the manner in which properties are valued and categorised, and rates are able to be levied.

With respect to valuation method:

- Victorian Councils levy rates generally based on capital value and is the only other mainland State alongside SA to feature broadscale application of capital value as the valuation method. Capital improved value for electricity generators includes electricity generating plant and equipment.

- Queensland and NSW Councils levy rates based on site value (or unimproved value), necessitating more complex rating structures to exist to overcome anomalies (e.g. levying of rates on multi-residential properties on a single assessment).

- WA Councils levy rates on the basis of either gross rental value (often proxied as 5% of capital value) or unimproved value.

With respect to overall rating powers:

- Queensland Councils have the greatest flexibility in the selection of differential rate categories and the application of rates which can be established on whatever basis the Councils deem appropriate given individual circumstances. This allows for a degree of ‘targeted’ rating to ensure that certain types of properties placing a large impost on Council infrastructure and service provision are levied an equitable share of the rating burden.

- Victorian Councils have a degree of flexibility in the determination of differential rate categories, subject to the limitations that the highest rate can be no more than four times the lowest rate and rate categories cannot be narrowly defined.

- WA Councils are subject to a relatively high degree of control from the State Government relative to other mainland States, particularly in relation to the need to obtain Ministerial approval for certain aspects of rating structures.

- A greater degree of focus is placed on the rate in the dollar for recovering rate revenue (over the base charge or minimum charge) in Victoria and New South Wales compared to Queensland.

With respect to the rating of electricity generation sites (including wind and solar farms):

- Queensland Councils can separately categorise generators on the basis of their generation capacity and impact on infrastructure and service provision, with differential rates in the dollar and minimum rates applied to ensure an appropriate amount of rate revenue is collected from each generator.

- Victorian Councils levy rates generally based on capital value and is the only other mainland State alongside SA to feature broadscale application of capital value as the valuation method. Capital improved value for electricity generators includes electricity generating plant and equipment.

- Victorian Councils can receive annual payments in lieu of rates of the order of $53,446 for each power station and $1,203 per MW of electricity generating capacity from each generator under specific legislative provisions in the Electricity Industry Act 2000.

- WA Councils can levy rates based on gross rental valuation principles, which is derived as 5% of capital value. Capital value specifically excludes machinery, which has a broad definition and generally excludes items of a technical nature or consisting of moving parts and therefore means that only a portion of the capital value of power stations, solar farms and wind farms would be included (consisting of buildings and structures, concrete pads, roads, fencing, ponds, underground wiring, steel framing/footings, etc. but excluding electricity generating plant and equipment, solar panels, etc.).

- NSW Councils are presently unable to differentially rate or collect additional payments in lieu of rates from generators.

- SA Councils are significantly disadvantaged when compared to the approaches adopted in Queensland and Victoria.
With respect to the rating of resources sector (mining) properties:

- Queensland Councils can separately categorise properties and recover a level of rates on whatever basis the council deems appropriate via substantially higher rates in the dollar and higher minimum rates, which includes reference to levels of staff, levels of extraction, type of mining activity, valuation, land area, etc.

- Victorian Councils have not historically separately rated such properties, with land used for mining purposes having been exempt from rating. Such treatment of mines is subject to change soon under exposure draft for a new Local Government Act where they will become rateable and liable to pay rates.

- WA Councils can separately categorise and rate resources sector properties at a higher level than other properties given their significant impost on Council infrastructure and service provision, although approval of higher rates in the dollar generally requires Ministerial approval (i.e. if a differential rate applied to one category is twice that applied to another category). This has become increasingly necessary following a change in the valuation of mining properties for rating purposes by the WA government.

- NSW Councils levy a differential rate on their mining categories generally considerably higher than levied on residential or business assessments, reflecting the greater impost placed by these properties on Council infrastructure and service provision relative to their site valuation.

- SA Councils are significantly disadvantaged when compared to the approaches adopted in Queensland, WA and NSW.

With respect to the valuation and rating of telecommunication towers, no separate rating treatment of telecommunication towers was evident from the review of rating structures allowed and adopted in other states.

With respect to exempt properties, the exemptions in SA generally do not appear to be any broader than those generally adopted in other States, with two key exceptions:

- The exemption of electricity generating plant and equipment from capital valuation when capital valuation is applied as the valuation method for rating purposes distorts the capacity to recover rates from such developments.

- The mandatory provision of a 75% rate rebate on SA Housing Trust properties managed by Community Housing Providers does not allow for the appropriate recovery of rates from substantial portions of residential communities, therefore placing a greater burden on all other ratepayers particularly in Council areas where there is a relatively high incidence of these properties.
# 4. AVAILABLE OPTIONS AND CASE STUDIES

## 4.1 KEY CONSTRAINTS AND AVAILABLE OPTIONS

The most significant constraints placed on SA Councils relative to other jurisdictions, and the available options to remove these constraints are outlined in the following table. The options assessment to ensure appropriate contributions from electricity generators highlights that the adoption of a regulated formula for payments in lieu of rates (per the Victorian approach) is most favourable and least complex, in addition to providing the greatest certainty to both generators and Councils.

### Table 4.1: Available Options to Overcome Rating Constraints on SA Councils

<table>
<thead>
<tr>
<th>Constraints</th>
<th>Issue Description</th>
<th>Available Options</th>
<th>Assessment of Options</th>
</tr>
</thead>
</table>
| Exemption of Electricity Generating Plant from Rating | The exemption of electricity generating plant and equipment from capital valuation for rating purposes does not allow for an equitable allocation of the rating burden across ratepayers and means that electricity generators do not pay their fair share of rates relative to what occurs in other states such as NSW and Queensland. | Change in valuation approach by removing the exemption from, and specifically including electricity generating plant and equipment in, capital valuation for rating purposes | • Landowners would be levied higher rates (which could include additional Emergency Services Levy and possibly SA Water charging), and depending on the agreed payment arrangements with electricity generators could leave some landowners with financial exposure  
• The valuation of electricity generating plant and equipment requires highly complex assessments given a lack of sales evidence, and could potentially result in considerable challenges and uncertain outcomes for both valuers and Councils |
| Adoption of appropriate payments in lieu of rates from electricity generators under a regulated formula (subject to indexation) as adopted by Victoria, i.e. based on a fixed payment per power station/site and a variable payment based on installed capacity | Payments would be made directly from generators to Councils  
There would be certainty over the level of payments to be made for both generators and Councils, allowing for effective budgeting  
No need for complex valuation processes, with electricity generating plant and equipment still exempt from valuation processes | • Payments would be made directly from generators to Councils  
There would be certainty over the level of payments to be made for both generators and Councils, allowing for effective budgeting  
No need for complex valuation processes, with electricity generating plant and equipment still exempt from valuation processes |
| Additional flexibility in the categorisation of different land uses for differential rating purposes | Council would have the ability to levy rates in a manner to ensure that an appropriate amount is paid by generators  
There would be differentials in the rates levied across Council areas, depending on each Council’s targeted rate recovery from generators  
Landowners would be levied higher rates (and land taxes), and depending on the agreed payment arrangements with electricity generators could leave some landowners with financial exposure | • Council would have the ability to levy rates in a manner to ensure that an appropriate amount is paid by generators  
There would be differentials in the rates levied across Council areas, depending on each Council’s targeted rate recovery from generators  
Landowners would be levied higher rates (and land taxes), and depending on the agreed payment arrangements with electricity generators could leave some landowners with financial exposure |
## Constraints

<table>
<thead>
<tr>
<th>Constraints</th>
<th>Issue Description</th>
<th>Available Options</th>
<th>Assessment of Options</th>
</tr>
</thead>
</table>
| Restrictions on Rating Categories    | The inability to categorise properties based on intensity of use means that many land uses are not able to be rated in a manner which reflects their utilisation of, or impost placed upon, Council infrastructure and services. By comparison, NSW Councils have the capacity to levy much higher rates on mining properties and Queensland Councils have the capacity to levy much higher rates on all property types deemed to benefit from greater utilisation of Council infrastructure and services through broad powers to establish differential rating categories. | Additional flexibility in the categorisation of different land uses for differential rating purposes            | • Council would have the ability to levy rates in a manner to ensure that an appropriate amount is paid by additional rating categories based on intensity of use  
• There would be differentials in the rates levied across Council areas, depending on each Council’s targeted rate recovery from different land uses |
| Mandatory Rebates on Community Housing | The transfer of management of public housing from the SA Housing Trust to Community Housing Providers has necessitated the provision of 75% rebates on rates levied on these properties simply due to how they are managed under State Government public housing policy. The inability to collect rates from such properties results in a substantial loss of revenue that does not occur in other jurisdictions and must be recouped from other ratepayers. | Legislative amendment to specifically exclude these properties from the mandatory rebate                      | • This approach would effectively remove the rating constraint without issue                                                                                  |
|                                      |                                                                                                                                                                                                                  | Provision of rate contributions from the State Government equal to the rebate provided on public housing, or making the State Government responsible for provision of the rebate | • This approach would effectively remove the rating constraint without issue                                                                                  |

Source: AEC
4.2 ELECTRICITY GENERATION CASE STUDIES

Three case studies are provided below to highlight the financial implications for Councils and communities from the adoption of a more appropriate rating policy for electricity generators, based on the adoption of the Victorian model of receiving payments in lieu of rates directly from generators (power stations, solar farms and wind farms) consisting of an annual base payment of $53,446 plus an annual capacity payment of $1,203 per MW.

4.2.1 Wattle Range

Wattle Range Council identifies the following properties that are presently not contributing their fair share towards general rates revenue as a direct consequence of the valuation exemptions for electricity generating plant (i.e. the turbines themselves are not rateable given they are electricity generating plant exempted under Section 11(1) of the Valuation of Land Regulations 2005):

- Snuggery diesel power station (3 turbines, 63MW).
- Ladbroke Grove gas power station (2 turbines, 80MW).
- Canunda wind farm (23 turbines, 46MW).
- Lake Bonney wind farm (112 turbines, 278.5MW)

The following table provides a summary of the financial implications for Wattle Range Council. With 2017/18 general rates after rebates budgeted at $14.84 million, recovery of an identified shortfall of $745,032 from power generation properties would enable it to reduce the general rates levied on other ratepayers by 5.0%.

Table 4.2: Comparison of Current vs Potential Rates Levied on Power Generators, Wattle Range

<table>
<thead>
<tr>
<th>Property/Land Use</th>
<th>Current Rate</th>
<th>Potential Rate</th>
<th>Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Snuggery Power Station</td>
<td>$600</td>
<td>$129,205</td>
<td>$128,605</td>
</tr>
<tr>
<td>Ladbroke Grove Power Station</td>
<td>$600</td>
<td>$149,648</td>
<td>$149,048</td>
</tr>
<tr>
<td>Canunda Wind Farm</td>
<td>$5,066</td>
<td>$108,762</td>
<td>$103,696</td>
</tr>
<tr>
<td>Lake Bonney</td>
<td>$24,668</td>
<td>$388,350</td>
<td>$363,682</td>
</tr>
<tr>
<td>Total</td>
<td>$32,100</td>
<td>$775,966</td>
<td>$745,032</td>
</tr>
</tbody>
</table>

Notes: The current rate levied on wind farms is based on estimated land value of $50,000 per turbine and application of the rural rate in the dollar and rural minimum rate. Snuggery Power Station is the subject of a 7th September 2000 proclamation which states that maximum rates levied are to be $500 indexed for inflation and as such may not be allowed to have higher rates levied – this table has included it regardless to show the potential impact of that historic proclamation compared to the Victorian approach.

Source: AEC, Wattle Range Council

4.2.2 Port Augusta

City of Port Augusta identifies the following properties that are presently not contributing their fair share towards general rates revenue as a direct consequence of the valuation exemptions for electricity generating plant:

- Bungala solar farm (within boundary component, 100MW).
- DP Energy renewable energy park stage 1 (59 wind turbines plus solar, 375MW).

The following table provides a summary of the financial implications for City of Port Augusta. With 2017/18 general rates after rebates budgeted at $16.40 million, recovery of an identified shortfall of $673,818 from power generation properties would enable it to reduce the general rates levied on other ratepayers by 4.1%.

Table 4.3: Comparison of Current vs Potential Rates Levied on Power Generators, Port Augusta

<table>
<thead>
<tr>
<th>Property/Land Use</th>
<th>Current Rate</th>
<th>Potential Rate</th>
<th>Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bungala Solar Farm</td>
<td>$1,285</td>
<td>$173,699</td>
<td>$172,414</td>
</tr>
<tr>
<td>DP Energy Renewable Energy Park</td>
<td>$2,990</td>
<td>$504,395</td>
<td>$501,405</td>
</tr>
<tr>
<td>Total</td>
<td>$4,275</td>
<td>$673,818</td>
<td>$673,818</td>
</tr>
</tbody>
</table>

Notes: City of Port Augusta has requested new valuations for the wind farm, whereby each of the 59 turbines are to be valued as separate tenancies based on the tenancy-based capital valuation approach – the revised valuation outcomes are not yet available.

Source: AEC, City of Port Augusta

Council indicates that renewable energy projects are impacting on Council infrastructure, with the Bungala solar farm causing damage to unsealed roads because of trucks transporting materials to site. Council also indicates that projects located outside of its boundary will also impact local infrastructure, in addition to having pipelines, towers and other infrastructure passing over its boundary.
4.2.3 Goyder

Regional Council of Goyder identifies the following properties that are presently not contributing their fair share towards general rates revenue as a direct consequence of the valuation exemptions for electricity generating plant:

- Hallett gas/diesel power station (12 turbines, 180MW).
- Hallett wind farm (167 turbines, 350.4MW).

The following table provides a summary of the financial implications for Regional Council of Goyder. With 2017/18 general rates after rebates budgeted at $4.59 million, recovery of an identified shortfall of $718,666 from power generation properties would enable it to reduce the general rates levied on other ratepayers by 15.6%.

<table>
<thead>
<tr>
<th>Property/Land Use</th>
<th>Current Rate</th>
<th>Potential Rate</th>
<th>Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hallett Power Station</td>
<td>$1,131</td>
<td>$269,901</td>
<td>$268,770</td>
</tr>
<tr>
<td>Hallett Wind Farm</td>
<td>$24,916</td>
<td>$474,812</td>
<td>$449,896</td>
</tr>
<tr>
<td>Total</td>
<td>$26,047</td>
<td>$744,714</td>
<td>$718,666</td>
</tr>
</tbody>
</table>

Notes: The current rate levied on wind farms is based on estimated land value of $50,000 per turbine and application of the primary production rate in the dollar and primary production minimum rate.

Source: AEC, Regional Council of Goyder

The Regional Council of Goyder indicates that these properties have a significant impact on infrastructure and service provision that is not reflected in the level of rates they pay, including:

- Considerable impact on the road network, given that it is generally not constructed and maintained in a manner to support larger scale projects in the areas in which these projects are located and asset lives and condition are considerably reduced as a result.
- Increase in maintenance requirements to unsealed surfaces generated by high traffic volumes – by primarily heavy vehicles – through the construction, renewal and maintenance phases and higher traffic volumes as a result of ongoing operation.
- Concentration of road traffic activity during the dryer time of year which compounds damage caused to an unsealed road due to dry seasonal conditions in addition to generating dust.
- Flow-on effect on the maintenance requirement on surrounding roads, which are likely to experience increased usage when the condition of the normal route road deteriorates.
- Unsealed road pavements can deteriorate very quickly to the point of reconstruction when exposed to high impact traffic, even if only occurring in the short term, with Council estimating the financial cost of reconstruction at between $17,000-$25,000 per km.
- Consequential impacts of increased use from heavier vehicles include the need to upgrade/improve road geometry, intersections, pavements, drainage infrastructure and signage to a standard that meets necessary road safety standards.

The infrastructure implications from major developments including electricity generation will differ across SA depending on the Council and location of the major development, although in general the high prevalence of unsealed roads will mean that impacts are significant at least during the initial stages of development.

HDS Australia has undertaken some work for the Legatus Group Transport Committee on the extent of work required to be undertaken by Councils to ensure local road networks are appropriately maintained and renewed, and this information may provide further insight into the implications of historic/additional road damage on Council finances. Even in instances where the road impacts are not considered significant, it is believed that the electricity generators must pay a fairer share of rates on equity principles.
4.3 COMMUNITY HOUSING CASE STUDIES

Three case studies in relation to the financial implications for Councils and communities from the transfer of properties from the SA Housing Trust to Community Housing Providers and the subsequent change in treatment for rates levied on these properties to be subject to mandatory 75% rebates are provided below:

- An actual loss for the City of Port Adelaide Enfield of more than $0.80 million ($14 per ratepayer), with the potential for this to quadruple to $3.20 million ($56 per ratepayer) if all public housing was managed in this manner.
- A potential loss for the City of Marion of $3.20 million ($100 per ratepayer).
- A potential loss for the Wattle Range Council of $0.90 million ($10 per ratepayer).

These impacts reflect the loss in revenue experienced as a result of a change in State Government public housing policy and arrangements, and therefore any change in legislation or funding mechanism for the rebate would simply result in the reinstatement of rate revenue rather than a request for additional rate revenue.

4.4 FINDINGS

SA Councils face three key rating constraints that prevent them from ensuring the rates burden is equitably distributed across their communities when compared with other jurisdictions:

- Inability to equitably rate electricity generators.
- Restrictions on the number and type of differential rate categories that can be used.
- Provision of mandatory rebates on community housing.

In addition to SA Councils requiring more power to ensure appropriate contributions are made by major developments – including electricity generators – towards local infrastructure (particularly roads) at the point of development approval, the following rating options are available for further consideration to ensure appropriate ongoing rates are payable:

The following actions should be considered to remove these rating constraints:

- Adoption of appropriate payments in lieu of rates from electricity generators under a regulated formula (subject to indexation) as adopted by Victoria, i.e. based on a fixed payment per power station/site and a variable payment based on installed capacity. Based on selected case studies, this could enable affected Councils to reduce rates on other ratepayers by between 4% and 15%.
- Inclusion of additional flexibility in the categorisation of different land uses for differential rating purposes to provide Councils with greater capacity to levy appropriate rates based on intensity of land use.
- No longer mandate the provision of 75% rate rebates for Community Housing Providers or ensure that the State Government is responsible for the provision of contributions to fund these rebates. Based on selected case studies, this could enable affected Councils to remove the impost placed on ratepayers by a State Government policy position of between $10 and $100 per ratepayer.
5. FINDINGS AND RECOMMENDATIONS

5.1 FINDINGS

Appropriate consideration should be given to removing the significant rating constraints presently impeding SA Councils in equitably allocating the rate burden across their communities. Compared with other mainland states, ratepayers are forced to cross subsidise high intensity land uses, electricity generated for use outside of Council’s boundaries and State Government decision-making on how community housing is provided.

Table 5.1: Summary of Identified Rating Constraints Leading to Inequitable Rating Burdens on Local Communities

<table>
<thead>
<tr>
<th>Use</th>
<th>Issue</th>
<th>Interstate Comparison</th>
<th>Financial Implications</th>
<th>Case for Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Generation</td>
<td>The exemption of electricity generating plant and equipment from capital valuation prevents SA Councils from being able to appropriately and equitably allocate the rating burden across all ratepayers, and results in local communities subsidising electricity generated for use across a broader (and national) marketplace – with such a financial burden not placed on ratepayers in Queensland and Victoria. Anticipated future growth in the installation and operation of electricity generation sites will place an increasing burden and degree of cross subsidy on SA Councils and their communities.</td>
<td>Capital improved value in Victoria includes electricity generating plant and equipment, and Victorian Councils can receive payments in lieu of rates from generators consisting of base payments and generation capacity payments based on a methodology under State legislation. Queensland Councils also have the capacity to levy substantial rates on power stations, wind farms and solar farms through broad Council powers to establish specific differential rating categories with substantially higher rates in the dollar and minimum rates.</td>
<td>Case studies for Wattle Range, Port Augusta and Goyder suggest that the application of the Victorian methodology to determine payments in lieu of rates for power stations, wind farms and solar farms alone could result in additional revenue of around $700,000-$750,000 per annum for each Council which would considerably reduce the rating burden presently incurred on existing ratepayers and/or enhance the financial sustainability of both Councils. Based on selected case studies, this could enable affected Councils to reduce rates on other ratepayers by between 4% and 15%.</td>
<td>SA electricity generators should pay their fair share of the rating burden on local communities, as they do in Queensland and Victoria. While the historic exemptions regarding the payment of rates by electricity generators may have been appropriate in the context of electricity generation and service provision by the State Government, the landscape is considerably different in the current environment where such services are subject to profiteering from the land and form part of a broader energy network and national grid.</td>
</tr>
<tr>
<td>Intensive Commerce/Industry</td>
<td>The inability for SA Councils to categorise properties based on their intensity of use (and therefore utilisation of Council infrastructure and services) leads to cross subsidisation of infrastructure and service provision by other ratepayers.</td>
<td>Queensland, NSW and WA Councils have the capacity to differentially rate such assessments to appropriately reflect their more intensive utilisation of Council infrastructure and services.</td>
<td>Not quantified.</td>
<td>SA Councils must be able to effectively rate intensive land uses to ensure that their impact on infrastructure and service provision and impost on local communities is appropriately recouped and not subsidised by other ratepayers.</td>
</tr>
<tr>
<td>Community and Public Housing</td>
<td>The provision of mandatory 75% rate rebates on SA Housing Trust properties managed by Community Housing Providers prevents SA Councils from appropriately and equitably recovering rates from substantial portions of residential communities which have the same level of access to Council infrastructure and services.</td>
<td>Other mainland states do not place a substantial financial burden on Councils by mandating a 75% rebate on community and public housing assessments.</td>
<td>Case studies for Port Adelaide Enfield, Marion and Wattle Range suggest that the appropriate recovery of lost rates associated with the State Government policy decision equating to between $10 and $100 per ratepayer.</td>
<td>The level of financial assistance provided to those requiring community and public housing has always been a State Government responsibility, and SA Council should not be financially impacted as a result of a State Government policy decision to change its model of service provision at the expense of other ratepayers.</td>
</tr>
</tbody>
</table>

Source: AEC

aecgroupltd.com

25
5.2 RECOMMENDED ACTIONS

In addition to SA Councils requiring more power to ensure appropriate contributions are made by major developments – including electricity generators – towards local infrastructure (particularly roads) at the point of development approval, the following actions should be considered to remove identified rating constraints:

- Changes to legislation to allow SA Councils to recover appropriate payments in lieu of rates directly from electricity generators – rather than landowners – under a regulated formula subject to indexation. This is the approach adopted in Victoria, where a fixed payment per power station/site exists along with a variable payment based on installed capacity. In terms of industry attraction and potential flow-on impacts on electricity prices, it should be realised that major electricity generation developments have continued in Victoria and Queensland despite those states having in place a longstanding rating approach for such developments that enable local Councils to levy appropriate and equitable rates, and electricity prices are determined within a national market which features generators subject to substantially higher Council rates.

- Inclusion of additional flexibility in the categorisation of different land uses for differential rating purposes to provide Councils with greater capacity to levy appropriate rates based on intensity of land use (e.g. mining/resources, feedlots).

- No longer mandate the provision of 75% rate rebates for Community Housing Providers or ensure that the State Government is responsible for the provision of contributions to fund these rebates.

5.3 POTENTIAL INTERIM ACTION

The Office of the Valuer-General indicates that there are two types of valuation assessments that are required by Local Government, being valuation assessments based on ownership or occupation/tenancies. Where a Council chooses to rate on occupation the Valuer-General will also determine for that area occupancy valuations for that purpose. Adoption of the tenancy-based valuation approach allows for the valuation of wind turbines as individual tenancies based on the capitalisation of the lease payments made for land occupation for this infrastructure/equipment (not the infrastructure/equipment), in addition to rural land valuation. While it does not provide any overall increase in value for rating purposes, it does provide Councils with the capacity to apply differential rating by occupation – being the primary production component and the electricity generation component. Logically, such an approach should also extend to solar panel installations that occupy portions of rural land.

While it is unlikely that this approach will produce rate revenue levels that adequately reflect the rates that should be levied on equity grounds, it may still be worthwhile for SA Councils featuring these installations to investigate the rating benefits/costs of adopting the tenancy-based valuation approach versus the ownership-based valuation approach as an interim measure ahead of any potential progress on the above recommended actions.
REFERENCES

SA Legislation & Proclamations
Local Government Act 1999
Local Government (General) Regulations 2013
Local Government (Financial Management) Regulations 2011
Valuation of Land Act 1971
Valuation of Land Regulations 2005
Development Act 1993
Development Regulations 2008
Electricity Corporations (Restructuring and Disposal) Act 1999
Fire and Emergency Services Act 2005
Mining Act 1971
Mining Regulations 2011
Recreation Grounds Rates and Taxes Exemption Act 1981

Interstate Legislation & Guiding Principles
(QLD) Local Government Act 2009
(QLD) Local Government Regulation 2012
(QLD) Land Valuation Act 2010
(NSW) Local Government Act 1993
(NSW) Local Government (General) Regulation 2005
(NSW) Valuation of Land Act 1916
(WA) Local Government Act 1995
(WA) Local Government (Financial Management) Regulations 1996
(WA) Valuation of Land Act 1978
(WA) Valuation of Land Regulations 1979

SA Rating
Regional Council of Goyder. Annual Business Plan and Budget 2017/18, Adoption of Valuation and Declaration of Rates.


**Interstate Rating (Victoria)**


Wyndham City. 2017/19 Integrated Plan & Budget.


**Interstate Rating (NSW)**


Lake Macquarie City Council. Your Rates Explained.


**Interstate Rating (QLD)**


Gladstone. Budget Summary and Schedule of Rates & Charges 2017-18 Financial Year.


Isaac Regional Council. 2017-18 Property Rates.


Toowoomba Regional Council. Minutes of the Special Meeting of Council, 29 June 2017.
Western Downs Regional Council. 2017-18 Revenue Statement.

**Interstate Rating (WA)**

**Other Reference Documents**
APPENDIX A: VALUATION METHOD COMPARISONS

The Office of the Valuer-General determines two valuations:

1. Site Value:
   - Effectively representing land value only.
   - Used by 7 Regional Councils for rating and taxing.
   - Used for Land Tax.

2. Capital Value:
   - Effectively representing land and improvements which are not exclusions.
   - Used by the balance of Councils.
   - Used by SA Water and for the Emergency Services Levy.

Two types of valuation assessments are required by Local Government, based on:

1. Ownership:
   - Valuation is determined on a whole of property basis, generally a separately saleable parcel of land.
   - The land use code for the property will be its predominant use.

2. Occupation:
   - Valuation is determined on a whole of property basis and is apportioned between a separate assessment for each separate physical occupancy or tenancy on the property.
   - A land use code will exist for each occupancy.

The table on the following page provides detail surrounding the method of valuation and the means by which Councils are able to rate an example rural property with a wind farm onsite.
Table A.1: Valuation Examples for a Rural Property with a Wind Farm

<table>
<thead>
<tr>
<th>Value</th>
<th>Site Value</th>
<th>Capital Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ownership Valuation</td>
<td>Occupation Valuation</td>
</tr>
<tr>
<td>Value</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ownership Valuation</td>
<td>Occupation Valuation</td>
</tr>
<tr>
<td>Example</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Primary Production = $1m</td>
<td>Primary Production = $0.6m</td>
</tr>
<tr>
<td>Value by Valuer General Land Use Code</td>
<td>Electricity Generation – Wind = $0.4m</td>
<td></td>
</tr>
<tr>
<td>Potential Rating Outcome</td>
<td>Property rated as primary production based on $1m site value</td>
<td>Property rated as a mix of primary production ($0.6m site value) and other(^{(d)}) ($0.4m site value), allowing for a differential rate in the dollar to apply</td>
</tr>
</tbody>
</table>

Notes: (a) $/ha including site improvements. (b) Calculated on the capitalised income approach, where the income is the imputed market income (rental) that is paid, divided by a market capitalisation rate. (c) Improvements not excluded by regulation or legislation, such as houses, fencing and sheds. (d) The Valuer General Land Use Code of Electricity Generation – Wind is decoded to a 9, which for Councils is the ‘Other’ category.

Source: AEC, Office of Valuer General
APPENDIX B: SA LEGISLATION AND RELEVANT PROCLAMATIONS REGARDING THE RATING OF ELECTRICITY GENERATORS

ELECTRICITY CORPORATIONS RESTRUCTURING AND DISPOSAL ACT 1999 (SCHEDULE 1)

 Liability of certain bodies to council rates or amounts in lieu of rates

3. (1) The following provisions apply in relation to the liability of a State-owned company to pay rates under the Local Government Act 1934, despite the provisions of that Act:

(a) a State-owned company is liable to pay rates;

(b) land and buildings of a State-owned company are rateable property within the meaning of that Act;

(c) the following are not rateable property within the meaning of that Act:

(i) plant or equipment used by a State-owned company in connection with the generation, transmission or distribution of electricity (whether or not the plant or equipment is situated on land owned by the corporation);

(ii) easements, rights of way or other similar rights (including such rights arising by virtue of a licence) that have been granted or operate in connection with the generation, transmission or distribution of electricity.

(2) Despite the Local Government Act 1934, the following are not rateable property within the meaning of that Act:

(a) plant or equipment (other than electricity generating plant and substations for converting, transforming or controlling electricity) used by a body specified by proclamation for the purposes of this clause in connection with the generation, transmission or distribution of electricity (whether or not the plant or equipment is situated on land owned by the body);

(b) easements, rights of way or other similar rights (including such rights arising by virtue of a licence) that have been granted or operate in connection with the generation, transmission or distribution of electricity.

(3) Despite the Local Government Act 1934, the Governor may, by proclamation, declare that the rates payable under that Act in respect of specified land on which is situated any electricity generating plant, or substation for converting, transforming or controlling electricity, used by a body specified in the proclamation are reduced to a specified amount or an amount determined in a specified manner.

(4) The holder of a licence authorising the generation of electricity at Torrens Island must, as required by proclamation, make payments to the Treasurer for the credit of the Consolidated Account of amounts determined in accordance with the provisions of the proclamation (being provisions framed having regard to rates imposed under the Local Government Act 1934 in the adjoining council areas).

(5) A proclamation made for the purposes of this clause may not be revoked and may be varied only by regulation and if the variation reduces the future liabilities of the body to which the proclamation relates.
GOVERNMENT GAZETTE 27/01/2000 (P.502)

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999 SCHEDULE 1, CLAUSE 3 (2): CERTAIN PLANT AND EQUIPMENT OF SPECIFIED BODIES NOT RATEABLE PROPERTY

Proclamation By The Governor

(L.S.) E. J. Neal

PURSUANT to Schedule 1, clause 3 (2) of the Electricity Corporations (Restructuring and Disposal) Act 1999 and with the advice and consent of the Executive Council, I declare each of the following bodies to be a specified body for the purposes of that clause:

CKI Utilities Development Limited (ARBN 090 718 880)
CKI Utilities Holdings Limited (ARBN 091 142 380)
HEI Utilities Development Limited (ARBN 090 718 951)
HEI Utilities Holdings Limited (ARBN 091 142 362)
CKI/HEI Utilities Distribution Limited (ARBN 091 143 038).

Given under my hand and the Public Seal of South Australia, at Adelaide, 27 January 2000.

By command,

Iain Evans, for Acting Premier

T&F 117/99 CS
RATING EQUITY FOR COMMERCIAL/INDUSTRIAL LAND USES OUTSIDE TOWNS IN SA

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999 SCHEDULE 1, CLAUSE 3 (3); REDUCTION OF COUNCIL RATES FOR ELECTRICITY GENERATING PLANTS, MINNARO, PORT AUGUSTA, PORT LINCOLN AND SNUGGERY

Proclamation By The Governor

(L.S.) E J NEAL

PURSUANT to clause 3 (3) of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 and with the advice and consent of the Executive Council, I declare that—

(a) this proclamation applies to rates that fall due under the Local Government Act 1999 on or after the date of this proclamation whether in respect of a financial year commencing before or after that date,

(b) if—

(i) the rates payable for a particular financial year under the Local Government Act 1999 in respect of land exceed the maximum amount for the land, calculated as set out in the table below, the rates payable for that financial year under that Act in respect of that land are reduced to that amount so calculated:

<table>
<thead>
<tr>
<th>Land</th>
<th>Maximum amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$3,500 multiplied by the relevant indexation factor</td>
</tr>
<tr>
<td>(Dry Creek Power Station)</td>
<td>$1,500 multiplied by the relevant indexation factor</td>
</tr>
<tr>
<td>(Minnaro Power Station)</td>
<td>$125,000 multiplied by the relevant indexation factor</td>
</tr>
<tr>
<td>(Northern Power Station and Playford B Power Station)</td>
<td>$500 multiplied by the relevant indexation factor</td>
</tr>
<tr>
<td>(Port Lincoln Power Station)</td>
<td>$500 multiplied by the relevant indexation factor</td>
</tr>
<tr>
<td>(Snuggery Power Station)</td>
<td>$500 multiplied by the relevant indexation factor</td>
</tr>
</tbody>
</table>

(c) if rates are separately assessed against two or more pieces or sections of land comprising land specified in a single entry in the table in paragraph (b)—

(i) that paragraph only applies in respect of such of those pieces or sections of land as have electricity generating plant situated on them; and

(ii) the reference in that paragraph to rates payable in respect of the land is to be read as a reference to the aggregate of the rates payable in respect of such of those pieces or sections of land as have electricity generating plant situated on them; and

(d) if land specified in the table in paragraph (b) is rateable under the Local Government Act 1999 for portion, but not for the whole, of a financial year, the proportionate reduction in the amount of rates that would be applied under that Act must also be applied in respect of the amount of rates determined in accordance with that paragraph;

in this proclamation—

"CEF" means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;

"relevant indexation factor" means the quotient obtained by dividing the CEF for the quarter ending 31 March last preceding the relevant financial year by the CPI for the quarter ending 31 March 2000.

Given under my hand and the Public Seal of South Australia, at Adelaide, 7 September 2000.

By command,

MARK BENDALL, for Premier

T&F 84/2000 CS

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999 SCHEDULE 1, CLAUSE 3 (3); REDUCTION OF COUNCIL RATES FOR SUB-STATIONS

Proclamation By The Governor

(L.S.) E J NEAL

PURSUANT to clause 3 (3) of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 and with the advice and consent of the Executive Council, I declare that—

(a) this proclamation applies to rates that fall due under the Local Government Act 1999 on or after the date of this proclamation whether in respect of a financial year commencing before or after that date;

(b) this proclamation applies to land if—

(i) rates are separately assessed against the land under the Local Government Act 1999; and

(ii) a substitution for contracting transforming or controlling electricity used by the holder of a prescribed generation licence, prescribed transmission licence or prescribed distribution licence (other than a State-owned company) is situated on the land; and

(iii) the land is predominantly used for the purposes of the substations;

(c) if the rate payable for a particular financial year under the Local Government Act 1999 in respect of land to which this proclamation applies exceed the greater of—

(i) the amount set out in the Schedule as the maximum rate for the area in which the rate land is situated multiplied by the relevant indexation factor; or

(ii) the amount calculated by multiplying the rate value of the land for that financial year by 1.12 and then by the figure set out in the Schedule as the rate value factor for the area in which the land is situated, the rate payable for that financial year under that Act in respect of that land are reduced to that of those amount;

(d) for the purposes of paragraph (c), land is only to be regarded as situated in the area of a council specified in the Schedule if it is situated in the area of the council as that area and council existed at the date of this proclamation;

(e) if land to which this proclamation applies is rateable under the Local Government Act 1999 for portion, but not for the whole, of a financial year, the proportionate reduction in the amount of rates that would be applied under that Act must also be applied in respect of the amount determined in accordance with subparagraph (i) and (ii) of paragraph (b), if any.
(o) in this proclamation—

“CPI” means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;

“prescribed distribution licence” means—

(a) a specially issued licence authorising the operation of a distribution network; or

(b) a licence authorising the operation of a distribution network the operation of all or part of which was previously authorised by a specially issued licence.

whether issued before, on or after the date of this proclamation.

“prescribed generation licence” means—

(a) a specially issued licence authorising the operation of an electricity generating plant; or

(b) a licence authorising the operation of an electricity generating plant if—

(i) the operation of the plant was previously authorised by a specially issued licence; or

(ii) the plant is situated on the same, or part of the same, parcel of land as that on which electricity generating plant operated pursuant to a specially issued licence is or was previously situated.

whether issued before, on or after the date of this proclamation.

“prescribed transmission licence” means—

(a) a specially issued licence authorising the operation of a transmission network; or

(b) a licence authorising the operation of a transmission network the operation of all or part of which was previously authorised by a specially issued licence.

whether issued before, on or after the date of this proclamation.

“relevant indexation factor” means the quotient obtained by dividing the CPI for the quarter ending 31 March last preceding the relevant financial year by the CPI for the quarter ending 31 March 2000.

“site value” of land for a financial year means the site value of that land last determined by the Value-General under the Valuation of Land Act 1971 before the commencement of that financial year.

SCHEDULE

PART I

CERTAIN COUNCIL AREAS

<table>
<thead>
<tr>
<th>Area of council (both the area and the council being as at the date of this proclamation)</th>
<th>Minimum rate $</th>
<th>Site value factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide, The Corporation of the City of</td>
<td>100.00</td>
<td>0.00970000</td>
</tr>
<tr>
<td>Adelaide Hills Council</td>
<td>350.00</td>
<td>0.00600000</td>
</tr>
<tr>
<td>Alexandrina Council</td>
<td>350.00</td>
<td>0.00480000</td>
</tr>
<tr>
<td>The Barossa Council</td>
<td>160.00</td>
<td>0.01000000</td>
</tr>
<tr>
<td>Barossa West, District Council of</td>
<td>135.00</td>
<td>0.00460000</td>
</tr>
<tr>
<td>The Barossa Council</td>
<td>265.00</td>
<td>0.00585000</td>
</tr>
<tr>
<td>Barmera, City of</td>
<td>400.00</td>
<td>0.00356100</td>
</tr>
<tr>
<td>Campbelltown, The Corporation of the City of</td>
<td>400.00</td>
<td>0.00443291</td>
</tr>
<tr>
<td>Ceduna, The District Council of</td>
<td>262.20</td>
<td>0.00023650</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Area of council (both the area and the council being as at the date of this proclamation)</th>
<th>Minimum rate $</th>
<th>Site value factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charles Sturt, City of</td>
<td>380.00</td>
<td>0.00800000</td>
</tr>
<tr>
<td>Clare and Gilbert Valleys Council</td>
<td>300.00</td>
<td>0.00453000</td>
</tr>
<tr>
<td>Cleve, The District Council of</td>
<td>130.00</td>
<td>0.00960000</td>
</tr>
<tr>
<td>The Coorong District Council</td>
<td>230.00</td>
<td>0.00700000</td>
</tr>
<tr>
<td>Cooper Coast, District Council of</td>
<td>160.00</td>
<td>0.00550000</td>
</tr>
<tr>
<td>Ellioton, The District Council of</td>
<td>190.00</td>
<td>0.00355000</td>
</tr>
<tr>
<td>The Flinders Ranges Council</td>
<td>100.00</td>
<td>0.00460000</td>
</tr>
<tr>
<td>Franklin Harbour, The District Council of</td>
<td>100.00</td>
<td>0.00100000</td>
</tr>
<tr>
<td>Goolwa, The Corporation of the Town of</td>
<td>481.00</td>
<td>0.02184700</td>
</tr>
<tr>
<td>Goolwa, Regional Council of</td>
<td>120.00</td>
<td>0.00470000</td>
</tr>
<tr>
<td>Grant, District Council of</td>
<td>300.00</td>
<td>0.00730000</td>
</tr>
<tr>
<td>Holdfast Bay, City of</td>
<td>402.00</td>
<td>0.00430000</td>
</tr>
<tr>
<td>Kangaroo Island Council</td>
<td>160.00</td>
<td>0.00540000</td>
</tr>
<tr>
<td>Kangaroo Island Council</td>
<td>100.00</td>
<td>0.00720000</td>
</tr>
<tr>
<td>Kangaroo Island Council</td>
<td>100.00</td>
<td>0.00840000</td>
</tr>
<tr>
<td>Kingston District Council</td>
<td>265.00</td>
<td>0.00673000</td>
</tr>
<tr>
<td>Leif, The District Council of</td>
<td>100.00</td>
<td>0.00660000</td>
</tr>
<tr>
<td>Light Regional Council</td>
<td>370.00</td>
<td>0.00510000</td>
</tr>
<tr>
<td>Lower Eyre Peninsula, District Council of</td>
<td>243.00</td>
<td>0.00394500</td>
</tr>
<tr>
<td>Loxton Wairakei, District Council of</td>
<td>240.00</td>
<td>0.00160000</td>
</tr>
<tr>
<td>Mallala, The District Council of</td>
<td>355.00</td>
<td>0.00700000</td>
</tr>
<tr>
<td>Marion, The Corporation of the City of</td>
<td>487.00</td>
<td>0.00533000</td>
</tr>
<tr>
<td>Mid Murray Council</td>
<td>200.00</td>
<td>0.00500000</td>
</tr>
<tr>
<td>Mitcham, City of</td>
<td>415.00</td>
<td>0.00465400</td>
</tr>
<tr>
<td>Mount Barker, The District Council of</td>
<td>460.00</td>
<td>0.00700000</td>
</tr>
<tr>
<td>Mount Gambier, City of</td>
<td>300.00</td>
<td>0.01820000</td>
</tr>
<tr>
<td>Mount Remarkable, The District Council of</td>
<td>230.00</td>
<td>0.00550000</td>
</tr>
<tr>
<td>Murray Bridge, Rural Council of</td>
<td>435.00</td>
<td>0.00685000</td>
</tr>
<tr>
<td>Naracoorte Lucindale Council</td>
<td>260.00</td>
<td>0.00500000</td>
</tr>
<tr>
<td>Northern Areas Council</td>
<td>120.00</td>
<td>0.00482200</td>
</tr>
<tr>
<td>Norwood Payneham St Peter, The Corporation of the City of</td>
<td>350.00</td>
<td>0.00453000</td>
</tr>
<tr>
<td>Oaklands, City of</td>
<td>426.00</td>
<td>0.00582900</td>
</tr>
<tr>
<td>Orroroo/Carrington, District Council of</td>
<td>100.00</td>
<td>0.10840000</td>
</tr>
<tr>
<td>Peterborough, District Council of</td>
<td>100.00</td>
<td>0.01420000</td>
</tr>
<tr>
<td>Playford, City of</td>
<td>324.00</td>
<td>0.01060000</td>
</tr>
<tr>
<td>Port Adelaide Enfield, City of</td>
<td>350.00</td>
<td>0.01073000</td>
</tr>
<tr>
<td>Port August, The Corporation of the City of</td>
<td>443.00</td>
<td>0.00270000</td>
</tr>
</tbody>
</table>
### ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999 SCHEDULE 1, CLAUSE 3 (4): PAYMENTS TO CONSOLIDATED ACCOUNT BY HOLDERS OF LICENCE AUTHORIZING GENERATION OF ELECTRICITY AT TORNERS ISLAND

**Proclamation By The Governor**

(L.S.)  E. J. NEAL

Pursuant to clause 3 (4) of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 and with the advice and consent of the Executive Council, I require the holder of a licence authorising the generation of electricity at Torners Island to make payments to the Treasurer for the credit of the Consolidated Account as follows:

(a) for each financial year the amount to be paid is $150 000 multiplied by the relevant indexation factor;

(b) this amount will fall due on 31 March of the financial year for which the amount is payable.

In this proclamation—

"CPI" means the Consumer Price Index (All Groups) for the City of Adelaide published by the Australian Bureau of Statistics;

"relevant indexation factor" means the quotient obtained by dividing the CPI for the quarter ending 31 March last preceding the relevant financial year by the CPI for the quarter ending 31 March 2000.

Given under my hand and the Public Seal of South Australia, at Adelaide, 7 September 2000.

By command,

MARK BRINDAL, for Premier

T&F 84/2000 CS

### ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999 SCHEDULE 2, CLAUSE 3 (2): CERTAIN PLANT AND EQUIPMENT OF SPECIFIED BODIES NOT RATEABLE PROPERTY

**Proclamation By The Governor**

(L.S.)  E. J. NEAL

Pursuant to clause 3 (2) of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 and with the advice and consent of the Executive Council, I declare that—

(a) the holder of a prescribed generation licence, prescribed transmission licence or prescribed distribution licence (other than a State-owned company) is a specified body for the purposes of that clause;

(b) this proclamation does not affect any previous declaration of specified bodies for the purposes of that clause;

(c) in this proclamation—

"prescribed distribution licence" means—

(a) a specially issued licence authorising the operation of a distribution network;

(b) a licence authorising the operation of a distribution network the operation of all or part of which was previously authorised by a specially issued licence.

Given under my hand and the Public Seal of South Australia, at Adelaide, 7 September 2000.

By command,

MARK BRINDAL, for Premier

T&F 84/2000 CS
"prescribed generation licence" means—
(a) a specially issued licence authorising the
operation of electricity generating plant; or
(b) a licence authorising the operation of electricity
generating plant if—
(i) the operation of the plant was previously
authorised by a specially issued licence; or
(ii) the plant is situated on the same, or part of
the same, parcel of land as that on which
electricity generating plant operated
pursuant to a specially issued licence is or was
previously situated,
whether issued before, on or after the date of this
proclamation;

"prescribed transmission licence" means—
(a) a specially issued licence authorising the
operation of a transmission network; or
(b) a licence authorising the operation of a
transmission network the operation of all or part
of which was previously authorised by a specially
issued licence,
whether issued before, on or after the date of this
proclamation.

Given under my hand and the Public Seal of South Australia, at
Adelaide, 7 September 2000.

By command,

MARK BRINDAL, for Premier

T&F 84/2000 CS
APPENDIX C: VICTORIAN LEGISLATIVE PROVISION FOR PAYMENTS BY ELECTRICITY GENERATORS

Extracts of the Electricity Industry Act 2000 and order in Council published via Government Gazette regarding payments from electricity generation entities in lieu of general rates in Victoria are provided below for information purposes.

Electricity Industry Act 2000
No. 68 of 2000
Part 5—Powers of electricity corporations

94 Rateability of certain property

S. 94(1) repealed by No. 22/2009 s.14.

(2) Despite anything to the contrary in the Local Government Act 1989, land is not occupied land for the purposes of that Act merely because any pole, wire or cable of a distribution company, transmission company or generation company is on, under or over that land.

Authorised by the Chief Parliamentary Counsel
167
Electricity Industry Act 2000
No. 68 of 2000
Part 5—Powers of electricity corporations

(3) The Loy Yang B land is rateable land and an agreement under section 27 of the Loy Yang B Act 1992 in force immediately before 8 May 1997 has effect as if it had been entered into under subsection (4)(a) of this section.

(4) Despite anything in the Local Government Act 1989—

(a) a generation company, an associated entity of a generation company or an exempt generator that is liable to pay rates in respect of land used for generation functions may, instead of paying rates in respect of that land, elect by notice in writing given to the relevant council to pay amounts agreed or determined under subsection (5); or

(b) the relevant council may, by notice in writing given to a generation company, an associated entity of a generation company or an exempt generator that is liable to pay rates in respect of land used for generation functions, require that company, associated entity or exempt generator to pay, instead of rates in respect of that land, amounts agreed or determined under subsection (5).

(5) A generation company, associated entity or exempt generator that elects to, or is required to, pay amounts under this subsection must pay to the relevant council—

(a) such amount or amounts as are agreed between the generation company, associated entity or exempt generator and the relevant council, at such times as are so agreed; or

(b) if, at any time, the amount required to be paid is not the subject of an agreement under paragraph (a) or the prior determination of an
Electricity Industry Act 2000
No. 68 of 2000
Part 5—Powers of electricity corporations

arbitrator, such amount and at such times as are determined by an arbitrator jointly appointed by the generation company, associated entity or exempt generator and the relevant council or, if within a reasonable time they fail to agree on such an appointment, by the chairperson of the Victoria Grants Commission as arbitrator or by another arbitrator nominated by that chairperson.

(6) In determining an amount required to be paid under subsection (5), an arbitrator must have regard to any methodology prescribed by an Order under subsection (6A).

(6A) The Governor in Council may, by Order published in the Government Gazette, prescribe a methodology for determining amounts payable under subsection (5).

(6B) A power may only be exercised under subsection (6A) on the joint recommendation of the Minister and the Minister administering the Local Government Act 1989.

(7) The Commercial Arbitration Act 2011 applies to arbitrations under this section.

(8) Section 221 of the Local Government Act 1989 does not apply in relation to land owned or occupied by a generation company, an associated entity of a generation company or an exempt generator which is land used for generation functions.

(8A) A generation company, an associated entity of a generation company or an exempt generator is deemed for the purposes of this section to be liable to pay rates in respect of land used for generation functions if the generation...
company, the associated entity or the exempt generator—

(a) is liable to pay rates in respect of the land under the Local Government Act 1989; or

(b) is liable to pay rates in respect of the land under an agreement with the person who is liable to pay rates in respect of the land under the Local Government Act 1989.

(9) In this section—

associated entity, in relation to a generation company, means a person to whom an exemption under section 17 applies in respect of an activity relating to the generation of electricity for supply or sale, being an activity for which the generation company holds a licence under Part 2;

exempt generator means a person to whom an exemption under an Order made under section 17 applies in respect of the generation of electricity for supply or sale;

land used for generation functions means land used primarily for the generation of electricity on which a generation facility is situated—

(a) whether or not the land consists of more than one parcel of land; and

(b) if the land consists of more than one parcel, whether or not those parcels are contiguos or in the same ownership;

Electricity Industry Act 2000
No. 68 of 2000
Part 5—Powers of electricity corporations

_relevant council_ means any council in whose
municipal district any land used for
generation functions (or any part of that
land) is situated.

Section 5 of the relevant council
substituted by
No. 35 of 1989
s. 42(10)
ORDERS IN COUNCIL

Electricity Industry Act 2000
ORDER UNDER SECTION 94
Order in Council

The Governor in Council, acting under section 94(6A) of the Electricity Industry Act 2000 (the “Act”) makes the following Order:

1. Objective
The objective of this Order is to prescribe a methodology for determining amounts payable under section 94(5) of the Act by a generation company or associated entity of a generation company to a relevant council in respect of land used for generation functions.

2. Commencement
This Order commences on the date on which it is published in the Government Gazette.

3. Prescribed methodology
For the purposes of section 94(6A) of the Act, the prescribed methodology for determining amounts required to be paid under section 94(5) of the Act by a generation company or an associated entity of a generation company to a relevant council in respect of land used for generation functions, is as follows:

(a) the generation company or associated entity of the generation company shall pay to the relevant council in respect of each financial year:

(1) for each power station of the generation company located on the land used for generation functions and within the municipal district of the relevant council, $40,000, as escalated; and

(2) for each MW of the nameplate rating for each generating unit comprising the power station, $900, as escalated;

(b) where, in any financial year, the power station operates at an average capacity factor of:

(1) less than 10%, the amount otherwise payable under paragraph 3(a), shall be reduced by 50%;

(2) between 10% and 20%, the amount otherwise payable under paragraph 3(a), shall be reduced by 25%;

(c) the amount otherwise payable under paragraphs 3(a) and (b) may be further increased or decreased with the parties’ agreement, having regard to other factors presented by the parties and which the arbitrator considers relevant, which may include:

(1) the age of the power station, where this may be shown to have a demonstrated effect on the efficiency of the output of the power station; and

(2) the impact of the generation company or associated entity on the local area;

(d) where the land used for generation functions lies within more than one municipal district, the amount determined in accordance with paragraph 3 is payable to more than one relevant council and payments shall be apportioned between each relevant council on a pro rata basis, having regard to the proportion of the nameplate rating of the power station located in each municipal district; and

(e) the amounts referred to in paragraph 3 may be estimated by the relevant council at the commencement of the financial year, using an estimate of the average capacity factor of the power station for the financial year, and the generation company or associated entity shall pay this estimated amount to the relevant council during the
financial year. If at the end of the financial year the amount estimated by the relevant council is different to the amounts referred to in paragraph 3 calculated using the actual average capacity factor of the power station for the year, then this difference shall be paid by the generation company or associated entity to the relevant council, or by the relevant council to the generation company or associated entity, as appropriate.

2. Definitions and Interpretation
   (a) In this Order:
       “nameplate rating” means the maximum continuous output of a generating unit, expressed in MW; and
       “power station” means:
       (1) where the fuel source for electricity produced is coal or gas, a generating unit or group of generating units connected to a common connection point;
       (2) where the fuel source for electricity produced is water or wind, a generating unit or group of generating units connected to one or more connection points, but forming part of the same scheme, as determined by the arbitrator, having regard to the scheme ownership structure, relevant planning approvals and environment effects statements.
   (b) A reference to ‘as escalated’ in this Order is to be read as if it means “as adjusted in accordance with the following formula:
       \[ A_2 = \frac{A_1 \times CPI_t}{CPI_i} \]
       Where:
       \( A_2 \) = the adjusted amount;
       \( A_1 \) = the amount to be adjusted;
       \( CPI_t \) = the Consumer Price Index; All Groups Index for Melbourne as published by the Australian Bureau of Statistics (ABS) for the March quarter immediately preceding the beginning of the relevant financial year;
       \( CPI_i \) = the Consumer Price Index; all Groups Index for Melbourne as published by the ABS for the June 2005 quarter.
   (c) A reference to ‘average capacity factor’ in this Order means the percentage figure determined in accordance with the following:
       \[ ACF = \left( \frac{SOG}{NR \times 8760} \right) \times 100 \]
       Where:
       ACF = average capacity factor for a financial year;
       SOG = unless otherwise agreed between the generation company and relevant council, the sent out generation for a power station being, the total amount of electricity supplied by all generating units to the transmission or distribution network for a financial year, measured at its connection point or points, in MWh;
       NR = the total nameplate rating for all generating units comprising the power station.

Dated 24 August 2005

Responsible Minister
THEO THEOPHANOUS
Minister for Energy Industries

RUTH LEACH
Clerk of the Executive Council
4.2.1 CONSENSUS AGENDA – CHIEF EXECUTIVE OFFICER

4.2.1.2 MINISTER FOR ENVIRONMENT AND WATER – REVIEW – COUNCIL CONTRIBUTIONS TO REGIONAL NATURAL RESOURCE MANAGEMENT (NRM) LEVY

B6283 18/30884

Attached is correspondence from David Speirs MP, Minister for Environment and Water advising Council of his approval to South Australia’s Natural Resource Management (NRM) Boards to consult on his behalf regarding the proposed council contributions to the regional NRM levy as identified in the NRM Boards’ approved business plans for 2018-19.

RECOMMENDATION
That Report 4.2.1.2 be received and noted.
Dear Mr McCarthy

I write to advise that I have recently given approval for South Australia’s natural resources management (NRM) boards to consult on my behalf with constituent councils regarding the proposed council contributions to the regional NRM levy, identified in the NRM boards’ approved business plans for 2018-19.

I would like to take the opportunity to acknowledge the ongoing efforts of local government in collecting the NRM levy on behalf of the NRM boards. I recognise that the levy collection process is an imposition on councils but it remains the most cost efficient and transparent method of collecting the NRM levy. I understand that councils are able to recover costs associated with the levy collection process.

While NRM levies for 2018-19 were established before the government I am part of was elected, my intention is that as part of the changes to natural resources management across the state, we will introduce caps on levies as of 2019-20. This will reduce cost pressures on landowners, part of the Marshall Liberal Government’s commitment to lower costs for households and businesses.

The legislative reforms we will introduce to parliament over the coming year, I believe, will lead to significant improvements in the way that the NRM system operates in South Australia. I want to simplify the processes in managing natural resources, which has become overly complicated and expensive. As part of working through these important reforms, there will be an extensive consultation process with local councils, landowners, NRM boards and other key stakeholders.

Once established, I want the Landscape boards to develop simple, publically accessible plans that focus the environmentally sustainable management of our land, water, soils and biodiversity. I envision the Landscape boards will work closely with key stakeholder groups and will outsource much of the work that will need to be undertaken to help manage these priorities. I encourage you and your council to be pivotal in helping to drive investment in NRM activities across the State.
I believe that the best way to achieve successful and ongoing environmental outcomes is to forge strong partnerships with the community and key stakeholders such as you and your council who have the capacity and experience to help achieve genuine community driven NRM reform in South Australia.

I look forward to working closely with you and your council in bringing about real change in natural resources management across the state.

Yours sincerely

DAVID SPEIRS MP
Minister for Environment and Water

May 2018
4.2.1 CONSENSUS AGENDA – CHIEF EXECUTIVE OFFICER

4.2.1.3
NOTICE OF ANNUAL GENERAL MEETING – LOCAL GOVERNMENT FINANCE AUTHORITY OF SOUTH AUSTRALIA
B584
Correspondence, as attached, has been received notifying Council that the Annual General Meeting of the Local Government Finance Authority (LGFA) will be held on Friday 26 October 2018. Cr Milne is Council’s representative and will be attending the meeting.

Nominations to fill two positions on the Board have been called and must be submitted not later than Friday 17 August 2018. Notices of Motion must also be submitted by this time.

RECOMMENDATION
That Report 4.2.1.3 be received
TO: Chief Executive Officers  
   Secretaries - Regional Associations

FROM: Chief Executive Officer

RE: Annual General Meeting – Friday 26 October 2018

Advance notice is hereby given that the Annual General Meeting of the Local Government Finance Authority of South Australia will be held on Friday 26 October 2018, in the Adelaide Entertainment Centre, 88 Port Road, Hindmarsh SA 5007. This meeting will again coincide with the Annual General Meeting of the Local Government Association of S.A. with the commencement time being 10.40am.

1. Appointment of Council Representative

Section 15(1) of the Local Government Finance Authority of South Australia Act 1983, provides that:

"Every Council is entitled to appoint a person to represent it at a general meeting of the Authority."

As the Meetings of the Local Government Association of South Australia will also be held on the above day, it is suggested that the same person be appointed to represent your Council on the Association and the Authority.

A form is attached for your convenience to notify us of your representative. (Appendix 1) Please return same to this Authority no later than Friday 17 August 2018.

2. Nominations for Members of the Board

We draw your attention to Section 7(1)(a) of the Local Government Finance Authority of South Australia Act 1983 regarding membership of the Board which provides:

"(a) two are persons elected in accordance with the rules of the Authority;"

and to Section 8(1) which provides:

"8. (1) Subject to this section, a representative member of the Board holds office for a term of two years commencing on the first day of January in the year next succeeding the year in which he or she was elected or appointed."

Kindly note that in accordance with the Rules of the Authority if more than two persons are nominated an election for two representative members will again be determined by postal ballot. The successful candidates will be declared elected at the Annual General Meeting.

Local Government Finance Authority  
Of South Australia  
Suite 1205 147 Pirie Street  
ADELAIDE SA 5000  
P: 08 8223 1550  F: 08 8223 6085  
www.lgfa.com.au  
ABN: 80 189 672 209
Nominations are hereby called to fill the two positions provided by Section 7(1)(a) currently held by Ms Annette Martin (City of Charles Sturt) and by Cr John W Frogley (Councillor City Norwood Payneham & St Peters).

Nominations must be lodged at the Local Government Finance Authority of South Australia office not later than 17 August 2018.

For information we advise that Section 7 (2) of the LGFA Act states:-

“At least one member of the Board must be a woman and at least one member must be a man”

Our current gender status is 4 men and 2 women, 1 vacancy.

Councils may wish to consider nominating a candidate of each sex.

A nomination form is attached for your convenience. (Appendix 2)

Those councils nominating a Member or Officer may wish to forward separately a brief résumé of their nominee which will later be circulated to all Councils with the Agenda and Ballot Paper (if a ballot is required).

A résumé form in the REQUIRED FORMAT is attached for this purpose. (Appendix 3)

3. Notice of Motion

The Rules of the Authority in relation to Annual General Meeting procedures require that a Notice of Motion specifying the resolution which is to be proposed has been given in writing to the Chief Executive Officer not less than forty two days prior to the meeting and to comply with this Rule, it is necessary for Notices of Motion to be submitted to the Local Government Finance Authority of South Australia office on or prior to Friday 17 August 2018.

Member Councils are requested to lodge the Notice of Motion in the following manner:-

(a) Notice of Motion
(b) Reason
(c) Suggested Action

A copy of the appropriate form is attached for your convenience. (Appendix 4)

[Signature]

PAUL SLATER
CHIEF EXECUTIVE OFFICER

3 July 2018
4.5.2 CONSENSUS AGENDA – ENVIRONMENTAL SERVICES REPORT

4.5.2.1 WILLIAMSTOWN, LYNDÖCH LANDCARE GROUP INC.
B2791, 18/42780

Minutes of the Williamstown, Lyndoch Landcare Group Inc. Meeting held 28 March 2018 are attached for information.

RECOMMENDATION:
That report items 4.5.2.1 be received.
Williamstown, Lyndoch Landcare Group Inc.

Minutes of meeting held on March 28th 2018
Meeting started 7.40pm

Present  Eric & Noreen Walton, Don & Shirley Wegener
Brian & Margaret Teskey, Diana Dancer, Elke & Joerg Wiese, Carol & Brian Green.

Apologies  Anthony Randell, John Seymour

Previous Minutes Accepted, moved by Brian Green, seconded by Diana Dancer. Carried

Business Arising.
Active Tree Services left message on the gate and Joerg left message for them to attend
Thursday mornings only.
New member John Seymour does bird surveys in our reserve, usually on a Wednesday.
Call from council about aquatic survey – waterways, fish stocks; native and feral. Arrange
meeting, collecting nets Thursday morning.
New Track – Don and Rod are looking into it – men from council have been around and will
talk to Heritage people. Rod mentioned some washed out track....ongoing.

$5.70 in donation tin
Brian Teskey moved report accepted, Seconded Eric Walton... All agreed.

Correspondence.
In.. Austcover renewal notice. Contact NRM re insurance for volunteers.
Membership money from J Seymour
Out. Thank you letter to J & K. Knight
Carol moved correspondence accepted, seconded Diana Dancer All agreed

Chairman’s report  No report  meeting paused and Carol explained her health situation
Next months meeting date is Anzac Day, no meeting to take place.

Treasurers report
Account passed for payment. #3.300.00 to Amanda for weeding
$5000.00 grant is now in bank.
Joerg Wiese moved account be accepted, seconded Elke Wiese. All agreed.

Publicity. No report
General Business
Confirmed there will be no meeting next Month.
Brian Green moved business be accepted, seconded Diana Dancer. All agreed.
Meeting closed 8.37pm

Signed...........................................................date.................................

Note  Following the above meeting, Carols ill health resulted in major surgery. She is
slowly recovering but will not take an active role in the Group for a while.
4.5.2 CONSENSUS AGENDA – ENVIRONMENTAL SERVICES REPORT

4.5.2.2 GAWLER RIVER FLOODPLAIN MANAGEMENT AUTHORITY
B7490
Minutes of the Gawler River Floodplain Management Authority meeting held 21 June 2018 are attached for information.

RECOMMENDATION:
That report items 4.5.2.2 be received.
M E E T I N G  M I N U T E S

Committee  Gawler River Floodplain Management Authority
Held On  Thursday 21 June 2018 at 9.45 am
Location  The Barossa Council, Nuriootpa.

WELCOME

Mr Ian Baldwin formally welcomed Board Members, Deputy Board Members, Observers and the Executive Officer and opened the 104th meeting of the Board.

PRESENT

Mr Ian Baldwin, Independent Board Member, Chair
Mr Marc Salver, Adelaide Hills Council, Deputy Board Member
Cr Malcolm Herrmann, Adelaide Hills Council, Board Member
Mayor Bob Sloane, The Barossa Council, Board Member
Mr Gary Mavrinac, The Barossa Council, Board Member
Mr Sam Dilena, Gawler Council, Board Member
Cr Paul Koch, Gawler Council, Deputy Board Member
Mr Mal Hemmerling, City of Playford, Board Member
Cr Denis Davey, City of Playford, Board Member
Mr James Miller, Adelaide Plains Council, Board Member
Cr Mel Lawrence, Adelaide Plains Council, Board Member
Mr Andrew Philpott, Light Regional Council, Deputy Board Member
Cr William Close, Light Regional Council, Board Member
Mr David Hitchcock, Executive Officer

GRB 18/35 Observers

Moved: Mr. J Miller  Seconded: M Lawrence

That, Cr Terry-Anne Keen, Adelaide Plains Council and Mr. Greg Pattinson City of Playford be appointed as Observers.

CARRIED

APOLOGIES

Mr. Brian Carr, Light Regional Council, Board Member
Cr Adrian Shackley, Gawler Council, Board Member
GRB 18/36 Minutes of the 19/4/18 GRFMA meeting

Moved: Mr. G Mavrinac                      Seconded: Cr D Davey

That the Minutes of the Gawler River Floodplain Management Authority Board meeting held 19/4/18 be confirmed as a true and accurate record of that meeting.

CARRIED

It was noted that amendments will be made to reflect consistency in reference to the Northern Floodway Project and the Northern Floodway Project Prospectus and will then be utilised as formal titles in all future reference.

GRB 18/37 Confidential Minutes of the 19/4/18 GRFMA Meeting

Moved: Mr. A Philpott                      Seconded: Mayor B Sloane

That the Confidential Minutes of the Gawler River Floodplain Management Authority Board meeting held 19/4/18 be confirmed as a true and accurate record of that meeting.

CARRIED

GRB 18/38 Minutes of the 17/5/18 GRFMA Special Meeting

Moved: Cr. M Herrmann                      Seconded: Mr. Salver

That the Minutes of the Gawler River Floodplain Management Authority Board Special Meeting held 17/5/18 be confirmed as a true and accurate record of that meeting.

CARRIED

It was noted that a record would be made of the presence of Mr Dino Musolino, Gallery Observer and a Lower Gawler River representative and Board’s invitation to provide comment on matters relating to local land ownership and the proposed Northern Floodway Project.

Actions on previous resolutions
The Board noted proposed changes to the NRM Act and NRM Boards and will monitor developments relating to the proposed Landscape Bill so that opportunity might be taken to provide input into the matter of ownership and responsibility for rivers and creeks, including levy banks.

GRB 18/39 Minutes of the Audit Committee Meeting held 18/6/18

Moved: Mr. J Miller                      Seconded: Mr. S Dilena

That the Minutes of the Gawler River Floodplain Management Authority Audit Committee Meeting held 18/6/18 be received.

CARRIED
**GRB 18/40** Minutes of the Technical Assessment Panel Meeting held 11/5/18

Moved: Mr. G Mavrinac  Seconded:  Cr. P Koch

That the Minutes of the Gawler River Floodplain Management Authority Technical Assessment Panel Meeting held 11/5/18 be received.  

CARRIED

Moved: Mr. A Philpott  Seconded:  Cr D Davey

That

1. The Executive Officer facilitate correspondence to landholders within the Lower Gawler River floodplain (that will feasibly be impacted) to understand their views of the proposed Northern Floodway project; and
2. The GRFMA Board allocate a sum of $10,000 to initiate commencement of a desilting and Lower Gawler River clean-up program.

LOST

**GRB 18/41** Special Meeting of the GRFMA 5/7/18

Moved: Mr. M Hemmerling  Seconded: Mayor B Sloane

That a Special Meeting of the GRFMA to discuss the Northern Floodway Project be held 9.45 am Thursday 5 July 2018. Venue to be advised

CARRIED

The meeting adjourned at 11.30 am for a short break.

The meeting reconvened at 11.40 am.

Mr Andrew Philpott and Mayor B Sloane left the meeting at 11.30 am.

**GRB 18/42** Funding Applications

Moved: Cr. M Herrmann  Seconded: Mr. J Miller

That the GRFMA:

1. Receive the report; and
2. Note details of funding contributions required for the Natural Disaster Resilience Program Application and the LGA Research and Development Scheme as:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Budget:</td>
<td>155,480</td>
</tr>
<tr>
<td>NDRP Funding sought</td>
<td>99,400</td>
</tr>
<tr>
<td>LGR&amp;DS Funding Sought:</td>
<td>30,000</td>
</tr>
<tr>
<td>GRFMA in Kind</td>
<td>14,080</td>
</tr>
<tr>
<td>CRC Cash contribution</td>
<td>12,000</td>
</tr>
</tbody>
</table>

CARRIED
GRFMA Special Meeting Minutes 17/5/18

GRB 18/43  Financial Report

Moved Cr. M Lawrence  Seconded: Mr. S Dilena

That the GRFMA:

1. Adopts the Budget Review Documents for 31 May 2018 for the
   2017/2018 financial year and the variances contained within as the
   amended; and current budget for the period ending 30 June 2018; and
2. That the financial report as at 31 May 2018 showing a balance of total
   funds available of $ 28,527 received.

CARRIED

GRB 18/44  Depreciation of Assets (Bruce Eastick North Para Flood Mitigation Dam)

Moved: Mr. M Hemmerling  Seconded: Mr. G Mavrinac

That the GRFMA:

1. Receive the report; and
2. Revisit the matter of maintenance and renewal funding of assets
   pending a further report on asset management planning to be provided
   by December 2018.

CARRIED

GRB 18/45  Business Plan 2018 - 2021

Moved: Mr. G Mavrinac  Seconded: Mr. M Hemmerling

That pursuant to Clause 12.1 of the Charter, the Business Plan 2018 - 2021 be adopted.

CARRIED

GRB 18/46  GRFMA Budget 2018 - 2019

Moved: Mr. S Dilena  Seconded: Mr. M Hemmerling

That pursuant to Section 25, Schedule 2 Part 2 of the Local Government Act 1999, that
the GRFMA Budget 2018 - 2019 be adopted; and

That pursuant to Clause 10.2 of the Charter that the subscriptions scheduled below be
subscriptions payable for the 2018 - 2019 year:

The Schedule

Part A  Flood Mitigation Works – No subscriptions.
**Part B**  
**Capital works and Maintenance** – A total of $89,476 calculated by the percentage shares prescribed in Clause 10.1 of the Charter:

<table>
<thead>
<tr>
<th>Council</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide Hills Council</td>
<td>$ 1,548</td>
</tr>
<tr>
<td>Adelaide Plains Council</td>
<td>$25,867</td>
</tr>
<tr>
<td>The Barossa Council</td>
<td>$ 7,758</td>
</tr>
<tr>
<td>Town of Gawler</td>
<td>$15,515</td>
</tr>
<tr>
<td>Light Regional Council</td>
<td>$ 7,758</td>
</tr>
<tr>
<td>City of Playford</td>
<td>$31,030</td>
</tr>
<tr>
<td>Total</td>
<td>$89,476</td>
</tr>
</tbody>
</table>

**Part C**  
**Operation** – A total of $142,100 calculated by even shares prescribed in Clause 10.1 of the Charter

<table>
<thead>
<tr>
<th>Council</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide Hills Council</td>
<td>$23,683</td>
</tr>
<tr>
<td>Adelaide Plains Council</td>
<td>$23,683</td>
</tr>
<tr>
<td>The Barossa Council</td>
<td>$23,683</td>
</tr>
<tr>
<td>Town of Gawler</td>
<td>$23,683</td>
</tr>
<tr>
<td>Light Regional Council</td>
<td>$23,684</td>
</tr>
<tr>
<td>City of Playford</td>
<td>$23,684</td>
</tr>
<tr>
<td>Total</td>
<td>$142,100</td>
</tr>
</tbody>
</table>

CARRIED

**GRB 18/47 Achievements against the Business Plan 2017-2020**

Moved: Mr. J Miller  
Seconded: C.r M Herrmann


CARRIED

**Closure of meeting**

The Chairperson thanked the Barossa Council for hospitality as host and noted:
- The next Ordinary Board Meeting will be held 9.45 am, Thursday 16 August 2018 at the Town of Gawler; and
- That a Special Meeting of the GRFMA to discuss the Northern Floodway Project will be held 9.45 am Thursday 5 July 2018. Venue to be advised

Meeting closed 12.03 pm

**Confirmed Chairperson** ...........................................
4.5.3 CONSENSUS AGENDA – HEALTH SERVICES REPORT

4.5.3.1 FOOD RECALLS

B7637
Consumer Level recalls were monitored for:

- SA Sprout alfalfa products with the use by dates up to and including 28 June 2018 -
  - Gourmet Sprouts Trio Pack Alfalfa, Snow Peas and Small Sprouted Bean 100g
  - Fresh Organic Sprouts Alfalfa and Chinese Cabbage 125g
  - Fresh Organic Sprouts Alfalfa and Onion 125g
  - Fresh Organic Sprouts Alfalfa and Garlic 125g
  - Fresh Organic Sprouts Green Alfalfa 125g
  - Fresh Organic Sprouts Alfalfa 125g, 200g, 1kg
  - Fresh Organic Sprouts Alfalfa and Mustard 125g
  - Fresh Organic Sprouts Alfalfa and Radish 125g
  - Fresh Organic Sprouts Salad Mix 175g

RECOMMENDATION:
That the report item 4.5.3.1 be received.
4.5.3 CONSENSUS AGENDA – HEALTH SERVICES REPORT

4.5.3.2 FOOD PREMISES INSPECTIONS
B4573
During the month of June 2018 the following food businesses were inspected for their compliance with the Food Act 2001.

- Beans and Cream – Follow up inspection
- Barossa Gourmet Cakes – Routine inspections
- Kidsworld Barossa - – Routine inspection
- Cockatoo Valley General Store – Routine inspection
- Blond Coffee – Routine inspection
- Booth Transport – Routine inspection
- Valley Wine Tankers – Routine Inspection

FOOD SAFETY AUDITS
- Stepping Stone Child Care Centre

RECOMMENDATION:
That the report items 4.5.3.2 be received.
7.2.1. DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.1 ANNUAL REPORT ON THE INTERNAL REVIEW OF COUNCIL DECISIONS 2017-2018

B5726

PURPOSE

Council is asked to approve the annual report on the Internal Review of Council decision applications for the financial year as is required under the Local Government Act 1999.

RECOMMENDATION


(2) That Council notes that the policy and process for Section 270 Review requests will be reviewed and any proposed amendments brought to Council for consideration.

REPORT

Background

Section 270 (1) of the Local Government Act 1999 (“the Act”) requires a Council to establish procedures for the review of decisions of:

(a) the council;
(b) employees of the council;
(c) other persons acting on behalf of the council.

Section 270(8) of the Act further states:
“A Council must, on an annual basis, initiate and consider a report that relates to –
(a) The number of applications for review made under this section; and
(b) The kinds of matters to which the applications relate; and
(c) The outcome of applications under this section; and
(d) Such other matters as may be prescribed by the regulations.”

Additionally, Council’s Internal Review of Council Decisions Process requires this report to Council in July each year to include an attached Statement of Resources and a
summary of how the outcomes have been used to improve Council’s customer service, policies and processes.

Introduction

One application for Internal Review under Section 270 was received between 1 July 2017 and 30 June 2018 regarding a decision of Council to revoke the community land classification on Allotments 11 and 12 Basedow Road, Tanunda.

Discussion

In summary the matter was:

1. **Internal Review – 30 April 2018**

The Applicants made a request for an Internal Review into Council’s decision of 26 April 2018 which resolved to revoke the community land classification over Allotments 11 and 12 Basedow Road Tanunda.

As the decision was made by the Elected Body, an independent external party, Ms Felice D’Agostino was appointed by Council to conduct the internal review, in accordance with Council’s *Internal Review of Council Decision Process*.

Ms D’Agostino considered whether the original decision of 26 April 2018 was legally and procedurally correct having regard to the following, that the Council:

- had the power to made the decision;
- considered all the matters which were relevant to the making of the decision at the time and did not take into account matters which were not relevant;
- did not exercise a discretion or power in bad faith, for an improper purpose or while subject to duress or the influence of another person;
- had no conflict of interest, bias or perceived bias;
- ensured that the findings of fact were based on evidence;
- considered any relevant legislation, policies or processes;

and that the decision was of reasonable based on the merit taking account of any new information.

Procedural fairness was observed throughout this review so that the applicants were given an opportunity to put forward information and materials in support of the application for review, they were informed of the proposed outcome of the review, and had the opportunity to make submissions to Ms D’Agostino on the outcome and have these submissions taken into account, and Ms D’Agostino did not have a bias or perceived bias when undertaking the review.

The work had not been completed at the end of the financial year, however the findings are presented in this Council meeting agenda at item 7.2.1.5.

The following broad conclusions of the independent review for the consideration of Council at agenda item 7.2.1.5 are:
- the consultation process undertaken by the Council was appropriate and lawful;
- the decision is a lawful decision of the Council;
- in the view of the independent reviewer taking account of all the matters outlined in the assessment (including any new materials and the nine grounds of appeal) the decision is the best and/or preferable decision.

A table detailing the Officer and external resources expended to date on this review is provided at 7.2.1.5 and presently totals $8,666. Final resources expended in the review will be dependent on the consideration of the matter by Council at agenda item 7.2.1.5 of this Council meeting.

### COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

**Corporate Plan**
How we work – Good Governance:
6.2 Ensure that Council’s policy and process frameworks are based on principles of sound governance and meet legislative requirements.

**Legislative Requirements**
Local Government Act 1999, Section 270

### FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

**Finance and Resources**
$8,666 spent to date

**Risk Management**
In reviewing these decisions, Council assesses if it is managing risk appropriately and makes policy and process improvements if needed.

### COMMUNITY CONSULTATION

Not required under Legislation and Council’s Public Consultation Policy.
7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.2 NGADJURI NATION #2 NATIVE TITLE CLAIM – CHANGE OF LEGAL REPRESENTATION AND CONTINUED FUNDING
B6755

INTRODUCTION

Attached is correspondence from Solicitor Julia Dnistrianski who, following a Council resolution on 26 May 2016 was briefed to represent Council in Federal Court proceedings in the Ngadjuri Nation #2 Native Title claim, but who has left DMAW Lawyers.

RECOMMENDATION

That Council, having considered the recommendation of Council’s current Native Title Solicitor:

(1) Appoint Mellor Olsson Lawyers, on condition all other Councils who form part of the claim also transition to the recommended solicitor to represent Council in Federal Court proceedings in the Ngadjuri Nation #2 Native Title claim; and

(2) Agree to share on a pro-rated basis with other Councils who form part of the claim area, on condition they also transition to Mellor Olsson Lawyers, costs which are not covered by the Commonwealth Attorney-General’s grant funding for this claim.

COMMENT

In May 2016 Council was advised and resolved to appoint Solicitor Ms Julia Dnistrianski from DMAW Lawyers, upon the retirement of Ms Craddock who retired at the end of the financial year 30 June 2016. Ms Julia Dnistrianski has now advised she would be leaving DMAW Lawyers and made recommendation to transition the matter to Mellow Olsson Lawyers under Mr Tim Mellor, Partner, who is a specialist in the area. Relevant correspondence and supporting documentation is attached.

Council’s respondent status in this claim has been partly funded by the Commonwealth Attorney-General’s office. Mellor Olsson is in the process of submitting applications to cover the ongoing period of this claim dependent on Council’s appointment.

In some instances where costs exceed the grant, Council will need to agree to share the costs with other Council which has been the current practice, dispersed on a pro rata basis in each individual claim.
Elected Members should note that Commonwealth Attorney-General’s grants are only made to councils (or any respondent parties) if they have a group representative - that is a common solicitor.

**Attachment:**
Correspondence and Native Title expertise information for Mellor Olsson

### LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

**Corporate Plan**

- How We Work – Good Governance

6.5 Implement compliant and contemporary risk management initiatives.

**Legislation**

- Native Title Act 1994

### FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

**Financial** – Any financial support for the 2018/19 year is budgeted based on historical activity for the Ngadjuri Nation #2 claim, the amount needed is considered minimal as the intent is to continue to share on a pro-rated basis for any excess legal fees not covered by grant funding.

**Resource** – Nil

**Risk Management** – Council minimises its risk of exposure to a claim under the Native Title Act by being represented by an expert in the field.

### COMMUNITY CONSULTATION

There is no community consultation required under the Local Government Act 1999.
Lorraine Walsh

Subject: FW: HPE CM: FW: Announcement - Native Title Matters
Attachments: Mellor Olsson Native Title expertise for LG May 2018 (2).pdf
Record Number: 2018/039860

Subject: Announcement - Native Title Matters

Good morning,

After 25 years as a corporate and commercial lawyer having worked at partner level for more than 13 years, I will be departing DMAW Lawyers Pty Ltd at the end of June 2018.

I have had preliminary discussions with Tim Mellor, Partner, Mellor Olsson Lawyers in relation to transferring Councils native title files to Mellor Olsson effective 30th June, 2018.

You will see Tim and his team are well credentialed in the area of native title and attach details of their expertise.

To provide a smooth transition, Mellor Olsson Lawyers will need Councils to appoint the firm as soon as possible so that funding arrangements can be put in place commencing 1st July, 2018.

Tim would be happy to answer any questions which Councils may have and I have copied Tim in on this email so that you may contact Tim direct.

It has been a pleasure working with you all and I have comfort knowing I am leaving you in very capable hands.

Best wishes
Julia

Julia Dinistranski | Principal

DMAW Lawyers Pty Ltd | ABN 26 169 621 194
a: Level 3, 80 King William Street, Adelaide SA 5000
t: 08 8210 2245 | m: 0401 033 501
e: jdinistranski@dmawlawyers.com.au | w: www.dmawlawyers.com.au

E-mail disclaimer

The information contained in this e-mail, and any attachments to it, is intended for the use of the addressee only. It is confidential and may be subject to legal professional privilege. If you are not the intended recipient, you must not use, disclose, read, forward, copy or retain any of the information. If you have received this e-mail in error, please delete it and notify the sender by return e-mail or telephone. DMAW Lawyers Pty Ltd does not warrant that any attachments are free from viruses or any other defects. You assume all liability for any loss, damage, or other consequences which may arise from opening or using the attachments.

Liability limited by a scheme approved under the Professional Standards Legislation.
Local Government specialist and Native Title expertise

Mellor Olsson are a South Australian owned and operated firm providing legal services throughout the state. We are one of the largest full service legal firms operating in South Australia with offices in Adelaide, Clare and Port Lincoln.

Local Government specialist

Mellor Olsson have been working with Council clients for well over 50 years. Local Government has always been a core practice area of the firm and, as such, we have accumulated a wealth of knowledge about the sector and the needs of Council clients. We make a point of ensuring we have a thorough understanding of the requirements and the issues facing each of our Council clients.

We are on the panel of legal providers for entities which represent a number of Council clients, namely Council Solutions and Procurement Australia and we currently work for a significant number of Local Government clients on a wide range of matters, including through our regional offices.

Native Title expertise

Mellor Olsson has considerable experience in Native Title law, having been involved in this area for over 25 years. We provide critical advice to parties involved, including the pastoral, fishing, and mining industries and special interest groups, including water licence holders and apiarists.

We have been involved in numerous Native Title matters and have successfully negotiated Indigenous Land Use Agreements and Consent Determinations as a means of resolving Native Title claims without the need for contested litigation. We have had extensive dealings with the Commonwealth Government in obtaining funding for the representative action of third parties in these claims.

Mellor Olsson is one of the State’s premier providers of advice and court representation in this area.

Our Native Title team

Tim Mellor, Partner

Tim Mellor is one of the most experienced lawyers in South Australia working in the area of Native Title.

Tim acts for pastoral lease holders, fishing licence holders, water licence holders and apiarists regarding the full range of Native Title rights and interests. He was involved in the state wide formulation of ILUA’s convened by the South Australian government from 1998, and in the drafting of consent determination orders.

Tim has a significant Local Government client base in the areas of planning, environment and litigation.

Adrienne Gillam, Solicitor

Adrienne has been involved with Native Title prior to and since the enactment of the Native Title Act 1993, from senior Executive roles in Federal Government agencies through to her role as a Solicitor with Mellor Olsson.

She has considerable knowledge and experience which includes acting in a wide range of issues associated with Land Tenure, Connection Materials, Compensation, Future Acts and related Commonwealth and State legislation. She regularly appears at Federal Court hearings and case management conferences in these claims.

✉️ tmellor@mellorolsson.com.au ✉️ agillard@mellorolsson.com.au

Head Office: Level 5 80 King William Street Adelaide SA 5000 Phone: (08) 8414 3400
Port Lincoln: 11 Mortlock Terrace Port Lincoln SA 5606 Phone: (08) 8682 3133
Clare: 165 Main North Road Clare SA 5453 Phone: (08) 8842 1833
Regional offices by appointment: Balaklava Bordertown Burra Cleve Kadina Keith McLaren Vale Nuriootpa Streaky Bay Wudinna Phone: 1300 414 414
7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.6
HUMAN RESOURCE AND EXPENDITURE APPROVALS FOR CHIEF EXECUTIVE OFFICER
B7510

Author: Governance Advisor

INTRODUCTION
With the transition of Councils organisational structure and Community Projects Director back the Director, Corporate and Community Services authorisations for administrative oversight of human resource and expenditure approvals for the Chief Executive Officer (CEO) also require revision.

RECOMMENDATION
That Council, as of 1 July 2018, authorise the Director, Corporate and Community Services to approve relevant human resource and expenditure requests submitted by the Chief Executive Officer and that the Delegations Register reflect that the Director, Corporate and Community Services has authority to expend budgeted funds on the Executive Services budget for these purposes.

COMMENT
Previously, the Director, Corporate and Community Services was authorised to sign and execute relevant documents such as the CEO’s leave applications (administratively noting that Council’s current policy is that the Mayor also approves the CEO’s annual leave applications up to 5 days and Council approves anything over five days) and minor expenditure reimbursement or costs associated with the CEO’s employment such as professional membership of the Australian Society of Certified Practicing Accountants. This changed when the Director was seconded to work on The Big Project. As of 1 July 2018 this structural change reverts to its original position.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

Legislation
Local Government Act 1999, S44

Community Plan - Themes
How We Work – Good Governance
FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Within existing resources and risk understanding.

COMMUNITY CONSULTATION
Not required.
7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.4 LEGATUS (FORMERLY CENTRAL LOCAL GOVERNMENT REGION) – NOTICE OF ANNUAL GENERAL MEETING AND CALL FOR OFFICE BEARERS
B7486 18/45509

PURPOSE
To inform Council of the upcoming Legatus annual general meeting and notice calling for Office Bearers.

RECOMMENDATION
That Council receive and note the report and nominate Mayor Sloane for a Deputy Chair position with Legatus.

REPORT
Council has received correspondence from the Chief Executive Officer of Legatus calling for nominations as Office bearers. Office bearers will hold their position from the annual general meeting at which they are elected until the next annual general meeting.

The positions of Chair and two Deputy Chairs are open for appointment.

The Charter allows only a member of Legatus to be nominated and the Council member is the principal member of Council, the Mayor. Mayor Sloane has indicated a desire to nominate for a Deputy Chair position and is therefore seeking the endorsement of Council.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Correspondence from Legatus

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
Corporate Plan

How We Work – Good Governance

6.17 Advocate for The Barossa Council and its community, our region or local government in South Australia through direct action, representation on or collaboration with local, regional or State bodies.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Nil

COMMUNITY CONSULTATION
No consultation is required or necessary for this matter.
To: Legatus Group Constituent Councils

RE: AGM AND CALL FOR OFFICE BEARERS

1. AGM – 17 AUGUST 2018

Please note that the Annual General Meeting (AGM) of Legatus Group will be held on **Friday 17 AUGUST 2017**, commencing 10.00am, hosted by the Northern Areas Council at the Sir Hubert Wilkins Building ODS Road Jamestown (at airstrip).

This will be followed by the Legatus Group Ordinary Meeting of the Board at the same location.

Please provided to me in writing before Thursday 9 August 2018 any other business that may require consideration at the AGM.

2. CALL FOR OFFICE BEARERS – 2017/18

The Legatus Group charter requires office bearers to be elected at the AGM by and from the Board Members appointed by the Constituent Councils. The appointees shall hold office from the AGM at which they are elected until the next AGM.

Nominations from Constituent Councils for the positions of Chair and Deputy Chairs must be in writing and must reach the Chief Executive Officer no later than one week prior to the date of the Annual General Meeting. As such in this case to be received by Thursday 9 August 2018.

Following the close of nominations, a list of nominees will be immediately provided to all Councils along with agenda papers including annual reports.

Should you have any queries regarding the forthcoming AGM please contact me by email: ceo@centralregion.sa.gov.au or phone: 0407 819 000.

Kind regards

Simon Millcock
Chief Executive Officer
COUNCIL MEETING
EXECUTIVE SERVICES
CHIEF EXECUTIVE OFFICER REPORT
17 JULY 2018

7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.5 SECTION 270 LOCAL GOVERNMENT ACT – INTERNAL REVIEW OF A COUNCIL DECISION - REVOCATION OF COMMUNITY LAND CLASSIFICATION – BASEDOW ROAD, TANUNDA

B8086

Author: Governance Advisor

PURPOSE
Council is asked to receive and consider the report and recommendation given by Ms Felice D’Agostino of Norman Waterhouse Lawyers in her external party review report entitled ‘The Barossa Council - Section 270 Review Report - Matter of Revocation of Community Land Classification’, which was received by the Chief Executive Officer on 5 July 2018 as regards Councils’ decision of 26 April 2018 to formally approve the community land classification revocation over the two allotments known as 11 and 12 Basedow Road, Tanunda.

RECOMMENDATION
Council having received and considered:

(i) the independent external party review report and attachments which were received by the Chief Executive Officer on 5 July 2018 from Ms Felice D’Agostino of Norman Waterhouse Lawyers as regards the Council decision of 26 April 2018 to formally revoke the community land classification over two allotments known as 11 and 12 Basedow Road, Tanunda;

(ii) the agenda and associated minutes relating to agenda item 7.2.1.4 of the Council meeting of 19 September 2017, being the Chief Executive Officer Report titled ‘Chateau Tanunda – Community Land Proposal’ and all attachments;

(iii) the agenda and associated minutes relating to agenda item 7.2.1.1 of the Council meeting of 19 December 2017, being the Chief Executive Officer Report titled ‘Revocation of Community Land Classification – Basedow Road, Tanunda’ and all attachments;

(iv) the agenda and associated minutes relating to agenda item 2.1.1 of the Special Council meeting of 26 April 2018, being the Chief Executive Officer Report titled ‘Approval to Proceed with Final Consideration of Revocation of Community Land Classification – Basedow Road, Tanunda’ and all attachments;

and Council having given due consideration to whether the original decision of 26 April 2018 was legally, procedurally and meritoriously correct;
that being satisfied that the decision of 26 April 2018 was legally, procedurally and meritoriously correct, Council determines that the decision was the best and/or preferable decision, and reaffirms its decision of 26 April 2018, the decision being:

(1) That pursuant to Section 194(3)(b) of the Local Government Act 1999, Council revokes the Community Land classification over Allotment 11 Basedow Road, Tanunda described in Certificate of Title Volume 5133 Folio 408, and Allotment 12 Basedow Road, Tanunda described in Certificate of Title Volume 5902 Folio 824.

(2) That the Chief Executive Officer excludes Allotments 11 and 12 Basedow Road, Tanunda from the Council’s Community Land Register.

(3) That the Chief Executive Officer advises adjacent landowners of the Council’s decision from the Special Council meeting held 26 April 2018.

(4) That the Chief Executive Officer proceeds with negotiating the commercial arrangements for the proposed land exchange in accordance with the Council resolution of 19 September 2017 (2014-18/1168).

(5) That the Chief Executive Officer facilitates the cancellation of the existing Indenture Deed with the trustees of the Elma Keil Trust, dated 28 June 1996 and replaces it with a new Indenture Deed to reflect the same restrictions with respect to the incoming land from Chateau Tanunda.

OR

that Council is not satisfied that the decision of 26 April 2018 was legally, procedurally and/or meritoriously correct and revokes its decision of 26 April 2018.

OR

That Council affirms its decision of 26 April 2018 with the following variations:

(i)

(ii)

REPORT

Background
Following Ministerial approval on 19 April 2018 to give final consideration to the proposal to revoke community land classification over 11 and 12 Basedow Road, Tanunda, in accordance with Section 194(3) of the Local Government Act 1999, Council resolved at its Special Meeting on 26 April 2018:

MOVED Cr Lange

(1) That pursuant to Section 194(3)(b) of the Local Government Act 1999, Council revokes the Community Land classification over Allotment 11 Basedow Road, Tanunda described in Certificate of Title Volume 5133 Folio 408, and Allotment 12 Basedow Road, Tanunda described in Certificate of Title Volume 5902 Folio 824.

(2) That the Chief Executive Officer excludes Allotments 11 and 12 Basedow Road, Tanunda from the Council’s Community Land Register.
(3) That the Chief Executive Officer advises adjacent landowners of the Council’s decision from the Special Council meeting held 26 April 2018.

(4) That the Chief Executive Officer proceeds with negotiating the commercial arrangements for the proposed land exchange in accordance with the Council resolution of 19 September 2017 (2014-18/1168).

(5) That the Chief Executive Officer facilitates the cancellation of the existing Indenture Deed with the trustees of the Elma Keil Trust, dated 28 June 1996 and replaces it with a new Indenture Deed to reflect the same restrictions with respect to the incoming land from Chateau Tanunda.

Seconded Cr de Vries CARRIED 2014-18/1376

On 30 April 2018, Council administration received a request from the applicants, Mr Robbert Sennef and Ms Shelley James, to conduct an internal review of this decision, exercising their right to do so under Council’s Internal Review of Council Decision Process (“the Process”).

Internal review of a Council decision enables Council to reconsider all the evidence relied on to make the original decision, and additional available evidence if relevant.

On 15 May 2018, in accordance with Council’s Process, Council appointed an independent external party, Ms Felice D’Agostino of Norman Waterhouse Lawyers to conduct the internal review of this decision.

Introduction
Ms D’Agostino has finalised her investigation, and subsequently her report and recommendations are presented here for Council’s consideration.

In accordance with Council’s Process at clause 4.6.5, an external reviewer cannot vary or revoke a decision made by or on behalf of Council. They must report their recommendation(s) from the internal review to the Elected Body for a determination as to whether the relevant decision should be affirmed, varied or revoked.

Discussion
According to clause 4.6 of Council’s Process, Ms D’Agostino has considered the merits of all the materials and information that were before the Council at the time of the decision on 26 April 2018 and any additional relevant information or material provided by the applicant or which has become available during the course of the review.

Ms D’Agostino considered whether the original decision of 26 April 2018 was legally, procedurally and meritoriously correct having regard to the following, that the Council:

- had the power to make the decision;
- considered all the matters which were relevant to the making of the decision at the time and did not take into account matters which were not relevant;
- did not exercise a discretion or power in bad faith, for an improper purpose or while subject to duress or the influence of another person;
- had no conflict of interest, bias or perceived bias;
- ensured that the findings of fact were based on evidence;
• considered any relevant legislation, policies or processes;

and that the decision was reasonable in all the circumstances.

She also considered whether a different decision based on the evidence available or new evidence provided or found provides an improved outcome.

Procedural fairness was observed throughout this review so that the applicants were given an opportunity to put forward information and materials in support of the application for review, they were informed of the proposed outcome of the review, and had the opportunity to make submissions to Ms D’Agostino on the outcome and have these submissions taken into account, and Ms D’Agostino did not have a bias or perceived bias when undertaking the review.

After carefully considering Ms D’Agostino’s report and recommendation(s), and giving due consideration to all the evidence relied on to make the original decision and any additional available evidence if relevant, the Elected Body must make a decision to affirm, vary or revoke its decision of 26 April 2018.

Following Council’s decision, further appeal rights remain available to the Ombudsman SA should the applicants wish to escalate their concerns.

Summary and Conclusion
The Council is asked to consider Ms D’Agostino’s Internal Review Report and recommendation(s) and either affirm, vary or revoke its decision of 26 April 2018.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

<table>
<thead>
<tr>
<th>Attachment</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attachment 1</td>
<td>The Barossa Council – Section 270 Review Report – Matter of Revocation of Community Land Classification – Report and Attachments - Ms Felice D’Agostino, Norman Waterhouse Lawyers, received by the Chief Executive Officer on 5 July 2018</td>
</tr>
<tr>
<td>Attachment 2a</td>
<td>Council meeting agenda item 7.2.1.4 – Chief Executive Officer Report and attachments - Chateau Tanunda – Community land Proposal – 19 September 2017</td>
</tr>
<tr>
<td>Attachment 2b</td>
<td>Extract of Minutes of the Ordinary Council Meeting - Council meeting agenda item 7.2.1.4 – Chateau Tanunda – Community land Proposal – 19 September 2017</td>
</tr>
<tr>
<td>Attachment 3a</td>
<td>Council meeting agenda item 7.2.1.1 – Chief Executive Officer Report and attachments - Revocation of Community Land Classification – Basedow Road, Tanunda – 19 December 2017</td>
</tr>
<tr>
<td>Attachment 3b</td>
<td>Extract of Minutes of the Ordinary Council Meeting - Council meeting agenda item 7.2.1.1 – Revocation of Community Land Classification – Basedow Road, Tanunda – 19 December 2017</td>
</tr>
<tr>
<td>Attachment 4a</td>
<td>Special Council meeting agenda item 2.1.1 – Chief Executive Officer Report and attachments - Approval to Proceed with Final Consideration of Revocation of Community Land Classification - Basedow Road, Tanunda – 26 April 2018</td>
</tr>
</tbody>
</table>
**Attachment 4b:** Extract of Minutes of the Ordinary Council Meeting – Special Council meeting agenda item 2.1.1 - Chief Executive Officer Report and attachments - Approval to Proceed with Final Consideration of Revocation of Community Land Classification - Basedow Road, Tanunda – 26 April 2018

**Attachment 5:** Section 270 Internal Review Assessment of Resources

---

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**

- How We Work – Good Governance
- Corporate Plan
- Community and Culture:
  - Support and promote community involvement and networks and provide opportunities for participation in local decision making.

**Legislative Requirements**

Local Government Act 1999, Sections 270, 194

---

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

Risk is mitigated by complying with the section 270 of the Local Government Act and the provisions of Council’s Internal Review of Council Decision Policy and Process.

Pursuant to Council’s decision of 15 May 2018 to engage an external reviewer to review its decision of 26 April 2018, a total cost of $8666 has accrued. A breakdown of costs is included as Attachment 5 of this report. A budget adjustment of $8666 is required to cover the total cost of the internal review.

---

**COMMUNITY CONSULTATION**

Community consultation for this entire revocation of community land process has occurred in accordance with Section 194 of the Local Government Act 1999 and Council’s Public Consultation Policy and been further validated by the KelleyJones Independent Assessment dated 13 December 2017 and approval to proceed with final consideration by Council received from the Minister’s delegate dated 19 April 2018.
THE BAROSSA COUNCIL

SECTION 270 REVIEW REPORT

MATTER OF REVOCATION OF COMMUNITY LAND CLASSIFICATION

Felice D’Agostino
Norman Waterhouse Lawyers
1. **SECTION 270 APPLICATION**

1.1 The Council has received from Mr Robbert Sennef and Ms Shelley James (the Applicants) a request pursuant to Section 270 of the *Local Government Act 1999* (the Act) for a review of the Council’s decision made at its meeting of 26 April 2018 regarding the revocation of the community land status of land located at Allotments 11 and 12 Basedow Road Tanunda (the Revocation Matter). A copy of the Applicants' request is attached at Appendix A (the Review Application).

1.2 The Council has engaged Norman Waterhouse to assist it with its consideration and determination of the Review Application.

2. **SECTION 270 LOCAL GOVERNMENT ACT 1999**

2.1 Section 270 of the Act requires the Council to, amongst other things, establish procedures for the review of decisions of the Council, employees of the Council and other persons acting on behalf of the Council.

2.2 The then Ombudsman stated in 2011:

> 'Internal review is a key accountability mechanism for local government. It enables people to test the merits of decisions that affect them.'

2.3 The current Ombudsman has confirmed that Section 270 of the Act requires councils to consider the merits of the decision under review.

2.4 A merits review requires all aspects of a decision to be reviewed and a determination to be made as to the correct and preferable decision. All the evidence is considered as well as any new evidence.

2.5 Accordingly, a review of a decision under Section 270 of the Act encompasses a review of the legality of the decision as well as whether the decision was the best or preferable decision.

---

2.6 In reviewing the merits of a decision, the Council ought to reconsider all the information that it considered in making the original decision from a fresh perspective as well as any new information to determine the best or preferable decision. This may result in the Council affirming, varying or setting aside the original decision.

3. REVIEW - PROCESS

3.1 Process of Review

3.1.1 The decision the subject of the Review Application is the following decision made by the Council at its meeting of 26 April 2018:

'(1) That pursuant to Section 194(3)(b) of the Local Government Act 1999, Council revokes the Community Land classification over Allotment 11 Basedow Road, Tanunda described in Certificate of Title Volume 5133 Folio 408, and Allotment 12 Basedow Road, Tanunda described in Certificate of Title Volume 5902 Folio 824.

(2) That the Chief Executive Officer excludes Allotments 11 and 12 Basedow Road, Tanunda from the Council’s Community Land Register.

(3) That the Chief Executive Officer advises adjacent landowners of the Council’s decision from the Special Council meeting held 26 April 2018.

(4) That the Chief Executive Officer proceeds with negotiating the commercial arrangements for the proposed land exchange in accordance with the Council resolution of 19 September 2017 (2014-18/1168).

(5) That the Chief Executive Officer facilitates the cancellation of the existing Indenture Deed with the trustees of the Elma Keil Trust, dated 28 June 1996 and replaces it with a new Indenture Deed to reflect the same restrictions with respect to the incoming land from Chateau Tanunda.’

(referred to as the Decision).
3.1.2 Council administration have confirmed that the effect of the Decision is limited to the Revocation Matter and any other matters concerning the land the subject of the Decision will be the subject of further consideration in the future\(^3\). We have proceeded on that basis.

3.1.3 The Council’s Internal Review of Council Decisions (sec 270) Process (the Review Process) provides:

> ‘An internal review of a Council decision enables the Council to reconsider all the evidence relied on to make the original decision, and additional available evidence if relevant.

... 

In carrying out an internal review, the reviewer will consider the merits of all the materials and information that were before the original decision-maker at the time of the decision and any additional information or material provided by the applicant or which has become available during the course of the review.

The reviewer will consider whether the original decision is legally and procedurally correct...[and] will also consider whether a different decision based on the evidence available or new evidence provided or found provides an improved outcome.’

3.1.4 Our engagement is limited to, in accordance with the Review Procedure, considering the legality and merits of the Decision and preparing a report to assist the Council to make a decision in relation to the Review Application.

3.1.5 The Applicants were invited to submit additional information or material to be considered as part of the Review Application and we meet with the Applicants to discuss the Review Application.

3.1.6 A draft Section 270 Review report was prepared and forwarded to the Applicants for their consideration. The Applicants submitted a response to the draft report.

\(^3\) N Westrich
FxDM0292356F05276522
3.2 Documents and information considered

3.2.1 We have considered the following documents and information:

3.2.1.1 report of the Chief Executive Officer for the Council meeting of 26 April 2018 in relation to agenda item 2.2.1 titled ‘Approval to proceed with final consideration of revocation of community land classification – Basedow Road, Tanunda’ (the April Report) and the associated minutes of that meeting;

3.2.1.2 report of the Chief Executive Officer for the Council meeting of 26 April 2018 in relation to agenda item 2.1.2 titled ‘Barossa Regional Culture Hub – Draft Master Plan’ (the Culture Hub Report) and the associated minutes of that meeting;

3.2.1.3 report of the Chief Executive Officer for the Council meeting of 19 December 2017 in relation to agenda item 7.2.1.1 titled ‘Revocation of community land classification – Basedow Road, Tanunda’ (the December Report) and the associated minutes of that meeting;

3.2.1.4 report of the Chief Executive Officer for the Council meeting of 19 September 2017 in relation to agenda item 7.2.1.4 titled ‘Chateau Tanunda – Community land Proposal’ (the September Report) and the associated minutes of that meeting;

3.2.1.5 letter to the Minister for Planning from the Council’s Governance Advisor dated 21 December 2017 and the attachments to that letter;

3.2.1.6 letter from Chief Development Officer, Department of Planning, Transport and Infrastructure (DPTI) to the Chief Executive office of the Council dated 19 April 2018’;

3.2.1.7 Review Application;

3.2.1.8 handwritten notes of the Applicants’ advocate provided to us at our meeting with the Applicants and their advocate of 24 May 2018;
3.2.1.9 information submitted by the Applicants at our meeting with the Applicants and their advocate on 24 May 2018;

3.2.1.10 bundle of documents provided to us by the Applicants’ advocate at our meeting of 24 May 2018 (attached at Appendix B);

3.2.1.11 letter from the Applicants dated 29 May 2018 and enclosures to that letter (attached at Appendix C);

3.2.1.12 Council’s Public Consultation Policy (the PCP)⁴;

3.2.1.13 Indenture between the District Council of Tanunda and Robert John Humbug and Roland Braunack dated 28 June 1996;

3.2.1.14 submissions of Applicants to draft Section 270 Review Report (attached at Appendix D) (the Additional Submissions).

4. LEGISLATIVE REQUIREMENTS

4.1 Section 194 Local Government Act 1999

4.1.1 Section 194 of the Act provides that the Council may revoke the classification of land as community land in accordance with the procedure set out in that section. In particular Section 194(2) of the Act provides that the Council must:

4.1.1.1 prepare and make publicly available a report on the proposal containing:

(a) a summary of the reasons for the proposal; and

(b) a statement of any dedication, reservation or trust to which the land is subject; and

(c) a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given

⁴ Reference 13/16094
FDIM0282356F05279522
to acquire the land and a statement of how the council proposes to use the proceeds; and

(d) an assessment of how implementation of the proposal would affect the area and the local community; and

(e) if the council is not the owner of the land - a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification; and

4.1.1.2 follow the relevant steps set out in its public consultation policy.

4.1.2 After the Council has complied with the requirements set out in Section 194(2) of the Act, the Council:

4.1.2.1 must submit the proposal with a report on all submissions made on it as part of the public consultation process to the Minister; and

4.1.2.2 if the Minister approves the proposal - may make a resolution revoking the classification of the land as community land.

5. BACKGROUND

5.1 Other Relevant Council meetings

5.1.1 At the Council meeting of 17 September 2017 the Council resolved as follows:

'That Council, being satisfied the proposal has extensive community benefit and can be managed in accordance with the Disposal of Land and Other Assets Policy:

(1) Agrees to undertake a six week community consultation process on a proposal to revoked the community land classification of Allotments 11 and 12 Basedow Road, Tanunda being Certificates of Title 5133/408 and 5902/824.
(2) Instructs the Chief Executive Officer to develop and release the consultation document outlining the proposal to transfer land on a commercial basis, subject to receiving legal advice that the proposal and process is compliant with Council's asset disposal policy and legal responsibilities.

(3) Appoints a small working group of Mayor Sloane and Cr Lange to support the Chief Executive Officer and Governance Advisor in formulating the consultation document and commercial negotiation of subsequent commercial arrangements for any approved land swap, should the revocation of community land classification be approved by the relevant Minister.

(4) Require the proprietor to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister.’

5.1.2 At the Council meeting of 19 December 2017 the Council resolved as follows:

‘(1) That the Council note and consider the feedback from community members and the KelleyJones Lawyers’ Independent Assessment of the consultation and proposed disposal process, which are attached to this report.

(2) That, further to the Independent Assessment at page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value, and the land currently has little or no market value due to the restrictions of the Dedication of the Keil Trust and the community land classification, the Council dispenses with the requirement of its Disposal of Land and Other Assets Policy at paragraph 4.4.1(i) to obtain any independent valuations in this matter.
(3) Pursuant to Section 194 of the Local Government Act 1999, that Council continue the process to revoke the Community Land classification for Allotments 11 and 12 Basedow Road, Tanunda, which are respectively contained in Certificates of Title Volume 5133 Folio 408 and Volume 5902 Folio 824.

(4) That the Chief Executive Officer prepare a report and submit it to the Minister for Planning seeking approval to revoke the Community Land classification of the said land parcels.

(5) That should the revocation be approved by the Minister for Planning, the matter be referred back to Council for final resolution in accordance with section 194(3)(b) of the Local Government Act 1999.

(6) That the Chief Executive Officer then proceed with the necessary steps to affect the proposed land exchange in accordance with the Council’s resolution of 19 September 2017.

5.2 Relevant Council Documents

5.2.1 Public Consultation Policy

5.2.1.1 Clause 4.4 of the PCP provides that the Council has the following obligations when it is required by the Act to follow its public consultation policy:

(a) Council must provide interested persons with a reasonable opportunity to make submissions regarding relevant matters;

(b) Council must publish a notice in a newspaper circulating in the area and on its website, describing the matter under consideration and invite interested persons to make submissions within a period (which must be at least 21 days) stated in the notice; and
(c) Council must consider any submissions received from the public during the prescribed consultation period.

5.2.1.2 The PCP also provides that in relation to revoking the classification of land as community land whilst the Council may undertake additional consultation, the level of consultation should be at a minimum as set out in clause 4.4 of the PCP.

5.2.1.3 Clause 4.7 of the PCP provides for other consultation and engagement methods 'at Council’s discretion, depending on the matter under consideration, the resources available to Council and the level of interest the matter is anticipated to generate'.

5.3 Process Undertaken

5.3.1 Consultation Report

5.3.1.1 A report was prepared for the purposes of Section 194(2)(a) of the Act titled Consultation Report (the Consultation Report).

5.3.1.2 The Consultation Report provides the following reasons for the Revocation Matter:

- the proprietor of Chateau Tanunda (Chateau Tanunda) has developed a concept for a five-star hotel, short term villa accommodation and a culinary institute with associated small scale student accommodation (the Proposed Chateau Development);

- to facilitate the Proposed Chateau Development, Chateau Tanunda has approached the Council to undertake a land exchange whereby land owned by Chateau Tanunda (the Chateau Land) would be transferred to the Council in exchange for the Council

---

5 See December Report for copy of Consultation Report
6 Referred to in the letter to the Minister as ‘Consultation Report pursuant to Section 194(2)(a) of the Local Government Act 1999’
transferring to Chateau Tanunda Allotments 11 and 12 Basedow Road Tanunda (the Council Land);

- the Council Land is zoned tourism accommodation land in accordance with the current Development Plan pursuant to the Development Act 1993, and therefore has already been strategically determined as an appropriate location for tourism accommodation development.

5.3.1.3 The Consultation Report discloses that the Council Land is encumbered pursuant to an Indenture Deed\(^7\) and discusses the estimated effect on the area and local community\(^8\).

5.3.2 Public Consultation\(^9\)

5.3.2.1 A public notice was placed in each of the Herald and Leader newspapers and on Council’s homepage on 1 November 2017 and letters were sent to owners of land adjacent to the Council Land and Chateau Land advising that the Consultation Report was available for download via Council’s website and in hard copy at its principal office, the Tanunda Library and Chateau Tanunda and inviting written submissions by 5pm on 12 December 2017.

5.3.2.2 The public notices also advised that the Consultation Report was available for download via the Council’s website and in hard copy at its principal office, the Tanunda Library and Chateau Tanunda.

5.3.2.3 Promotion of the consultation was undertaken via the Our Better Barossa consultation platform, weekly Facebook posts and media releases.

5.3.2.4 Respondents to the public consultation were notified of the Council meeting date and time at which the Revocation Matter would be discussed by the Council.

---

\(^7\) Clause 3
\(^8\) Clause 6
\(^9\) See December Report for details of public consultation and copies of letters and public notices
5.3.3 Application to Minister

5.3.3.1 A summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform together with copies of the consultation feedback was presented to the Council at its meeting of 19 December 2017.\(^\text{10}\)

5.3.3.2 The Revocation Matter was submitted to the Minister for the Minister’s approval.\(^\text{11}\)

5.3.4 Ministerial Approval

5.3.4.1 The Chief Development Officer of DPTI wrote to the Council granting the Council approval for the Revocation Matter.\(^\text{12}\)

5.3.5 Resolution to Revoke

5.3.5.1 The Council resolved at its meeting of 26 April 2018 to revoke the classification of the Council Land.

6. REVIEW - SUBMISSIONS

6.1 Applicants Submissions

6.1.1 The Applicants make the following submissions as part of the Review Application:

6.1.1.1 there has been no valuation of the Council Land or the Chateau Land;

6.1.1.2 there has been no assessment of potential contamination of the Chateau Land;

6.1.1.3 the Council Land should not be transferred until there has been a discussion with the whole community;

6.1.1.4 the Council is not acting in the best interests of the community;

\(^{10}\) Attached to the December Report
\(^{11}\) Letter to the Minister dated 21 December 2017 attaching various documents
\(^{12}\) Letter from Mr Andrew McKeegan dated 19 April 2018 whom we assume to be the Minister’s delegate
\(^{13}\) The Applicants’ submissions set out in this report are based on written notes provided to us at our meeting with the Applicants and our summary of the matters raised by the Applicants at that meeting
6.1.1.5 the Applicants are concerned that the proposed development may not occur;

6.1.1.6 the Chateau Land should be subject to the same encumbrance as the Council Land;

6.1.1.7 the Council Land should stay in the Council's ownership because of the circumstances in which it came into the Council's ownership;

6.1.1.8 there has been a lack of meaningful consultation with the Tanunda and Barossa Communities and a lack of public meetings;

6.1.1.9 the Council did not take up the advice in the Independent Assessment\textsuperscript{14} that '\textit{as a matter of precautionary practice and good governance, it is our advice that each step taken by the Council under the Policy}\textsuperscript{15} (in particular see paragraphs 49-51 above) be subject to the recording of its reasons for taking that step}\textsuperscript{16}. The Applicants note the resolution passed by the Council at its meeting of 19 December 2017 to dispense with the requirements of its Disposal of Land and Other Assets Policy;

6.1.1.10 the Council Land has remained undeveloped for 20 years;

6.1.1.11 community submissions about the Proposed Chateau Development were dismissed out of hand by the Council in its response to the community submissions;

6.1.1.12 the proposed 150 car spaces for the Proposed Chateau Development conflicts with the Barossa Regional Culture Hub proposed development;

6.1.1.13 it is questionable whether the Council has complied with the Local Government Act 1999 and its Disposal of Land and Other Assets Policy.

\textsuperscript{14} Independent Assessment of Proposed Land Exchange with Owner of Chateau Tanunda prepared by Keldy Jones Lawyers dated 13 December 2017 (Independent Assessment)

\textsuperscript{15} Disposal of Land and Other Assets Policy

\textsuperscript{16} Page 8 of Independent Assessment

FXDM0282356F05279522
6.1.2 For the purposes of the Review Application we consider that the Applicant's submissions can be grouped as follows:

6.1.2.1 Ground 1: The Council has not have complied with the law;

6.1.2.2 Ground 2: The consultation that has been undertaken was inadequate and the Council did not consider submissions made about the Proposed Chateau Development;

6.1.2.3 Ground 3: There ought to be an assessment of whether the Chateau Land may be contaminated;

6.1.2.4 Ground 4: There ought to be a valuation obtained in relation to the Council Land and the Chateau Land;

6.1.2.5 Ground 5: The Council is possibly not acting in the best interests of the community;

6.1.2.6 Ground 6: The Proposed Chateau Development may not occur and it conflicts with the Barossa Regional Culture Hub proposed development;

6.1.2.7 Ground 7: The Council Land has remained undeveloped for 20 years;

6.1.2.8 Ground 8: The Council did not take up the advice in the Independent Assessment and did not record reasons for dispensing from the requirements of its Disposal of Land and Other Assets Policy;

6.1.2.9 Ground 9: the Council Land should stay in the Council's ownership due to how the Council come to own the land and/or the Chateau Land should be subject to the same restrictions as the Council Land.

7. REVIEW – ANALYSIS

7.1 Process - Public Consultation

7.1.1 The September Report proposed a community consultation process which consisted of more than the minimum required by clause 4.4 of the PCP comprising a 6 week period for submissions to be made to
the Council. The Council resolved to undertake a 6 week community consultation process.

7.1.2 In our view the consultation process undertaken by the Council as summarised in this report was appropriate and lawful.

7.2 Process – Legislative Requirements

7.2.1 Based on the information available to us:

7.2.1.1 the Decision was made at a lawfully convened meeting of the Council at which a quorum of members of the Council were present;

7.2.1.2 the Council complied with the legislative requirements of Section 194 of the Act namely:

   (a) a report on the Revocation Matter was prepared and made publicly available pursuant to Section 194(2)(a) of the Act containing the prescribed information;

   (b) the Council followed the relevant steps set out in the PCP;

   (c) the Revocation Matter and a report on all submissions made on it as part of the public consultation process were submitted to the Minister;

   (d) following the Minister’s approval of the Revocation Matter the Council passed a resolution revoking the community land classification of the Council Land.

7.2.2 Accordingly in our opinion based on the information provided to us and set out in this report, the Decision is a lawful decision of the Council.

7.3 Review Application

7.3.1 Grounds 1 and 2

7.3.1.1 Council Administration have provided us with the following response to these grounds:
(a) all submissions received were submitted to the elected body of the Council for its consideration including those which raised issues of planning notwithstanding that the Decision was in relation to the Revocation Matter;

(b) the Consultation Report contains the Proposed Chateau Development concept plans which the community were able to comment on;

(c) the December Report included an attachment\(^{17}\) prepared by Council Administration comprising a summary table of submissions received from the public consultation on the Revocation Matter and a Council officer response to those submissions. Where a planning issue was raised, the Council officer response set out in the aforementioned summary table was –

‘Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.’

(d) the Chief Executive Officer advised Chateau Tanunda in writing\(^{18}\) of the planning matters that were raised as part of the public consultation on the Revocation Matter.

7.3.1.2 We note the Applicants made a presentation to the Council regarding the Revocation Matter at its meeting of 19 December 2017.

\(^{17}\) Attachment 5

\(^{18}\) Email from Chief Executive Officer dated 6 March 2018

FXD|M0292356F05279522

107
7.3.1.3 The Applicants state in the Additional Submissions that while the Council ‘can be seen to have complied with the letter of the law, we continue to believe ... the Council has not complied with the spirit of the law’. With respect, we do not agree.

7.3.1.4 In our view:

(a) the Council complied with the law in relation to the Decision and we refer to the discussion this report in relation to the legislative requirements relating to the Revocation Matter;

(b) the consultation undertaken was appropriate. It comprised more than the minimum required by the PCP both in terms of the timeframe for the making of submissions to the Council\(^{19}\) and the consultation and engagement methods employed\(^{20}\);

(c) there is no information other than the Applicants’ assertion that the Council did not take into account all submissions received on the Revocation Matter when before making the Decision. Indeed when considering the response provided by Council administration and the December Report and attachments it is our view that there is evidence that the Council did take into account all submissions. In any event the Review Application provides the Council with the opportunity to reconsider all the submissions previously received.

7.3.2 Grounds 3 and 4

7.3.2.1 Council administration\(^{21}\) have provided the following response to these grounds:

(a) there are likely to be a number of conditions precedent to the transfer of the Council Land and Chateau Land relating to:

\(^{19}\) A six week period was provided and the PCP provides for a minimum 21 day period

\(^{20}\) See clause 4.4 of the PCP for the minimum consultation and engagement methods

\(^{21}\) N Westrich and M McCarthy

FXD1M0292356F052795Z22
7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification

Basedow Road, Tanunda

- 18 -

- ‘Commercial arrangements regarding costs associated with preparation of agreement, settlement, titles, GST, stamp duty, valuations/assessment of lack of value due to the presence of no market’;
- the land division of the land owned by the Chateau part of which constitutes the Chateau Land and accordingly proposed to be transferred to the Council;

(b) ‘the proposed use of the incoming land is not for sensitive use such as residential or agricultural so the issue of potential contamination is of little concern and would be managed. In any event, as part of the commercial arrangements Council would undertake the relevant searches and consultation with the EPA and manage the outcome accordingly’.

7.3.2.2 The September Report stated:

‘There are various conditions precedent that need to occur before the parties actually have a viable proposal to execute, it is therefore considered that Council work towards a commercial agreement that sets out all foreseeable matters and once it determines to proceed with the community land consultation the commercial negotiations could run concurrently but would always as the first condition precedent be dependent on revocation of the community land classification’.

7.3.2.3 The matters raised by the Applicants are certainly matters that may be relevant in relation to decisions concerning the exchange of the Council Land for the Chateau Land. However the Decision specifically relates to the Revocation Matter and does not have the effect of transferring ownership of the Council Land to the Chateau or likewise

---

22 Email from N Westrich
23 Email from N Westrich
FXDM0292350F05279522
ownership of the Chateau Land to the Council. It is necessary for the classification of the Council Land as community land to be revoked before it can be disposed of. However, it is not necessary for the Council Land to be disposed of merely because it has had its community land classification revoked (if, for example, the reasons for the Revocation Matter do not, or are not likely to, come to fruition). Accordingly issues concerning valuation and contamination are not matters that in our view ought necessarily to impact the assessment of the appropriateness of the Decision.

7.3.3 **Ground 5**

7.3.3.1 The Applicants do not appear to be asserting the Council is not acting in the best interests of the community but rather are asking if it is.

7.3.3.2 We do not have any information to suggest that the Council is not acting in the best interests of the community and indeed there are many instances of the Council articulating the benefits of the Proposed Chateau Development to the community\(^{24}\).

7.3.4 **Ground 6**

7.3.4.1 The possibility that the Proposed Chateau Development may not occur is not in our view a reason not to proceed with the Revocation Matter. It is a consideration in relation to future processes and steps.

7.3.4.2 Council administration has advised that the Proposed Chateau Development will not conflict with the Barossa Regional Culture Hub proposed development and indeed there are potential benefits for the Barossa Regional Culture Hub\(^{25}\).

---

\(^{24}\) See September Report and Consultation Report for example

\(^{25}\) See the Culture Hub Report

FXDM0292356F05279522

110
7.3.5 **Ground 7**

7.3.5.1 The fact that the Council Land has remained undeveloped for 20 years as asserted by the Applicants is not in our view a reason for the Council not to proceed with the Revocation Matter. Indeed it could be a reason in favour of the Decision as the view could be taken that the Council Land has not been of any particular value to the community as useable open space. There is no information to suggest that there has been any need or desire expressed by the community for the Council Land to be developed.

7.3.6 **Ground 8**

7.3.6.1 The issue of disposal of the Council Land and the application of the Council’s Disposal of Land and Other Assets Policy are matters that are relevant to different steps and processes that may, or may not, occur at some point in the future. The Decision does not have the effect of the Council Land being disposed of.

7.3.7 **Ground 9**

7.3.7.1 The executors of the estate of Elma Linda Keil, parties to the Indenture Deed, have agreed to ‘cancel’ the Indenture Deed and ‘establish’ a new Indenture Deed on the same terms in relation to the Chateau Land. The Council has agreed to apply the same restrictions to the Chateau Land and the executors are satisfied that it is appropriate to release the restrictions applying to the Council Land subject to the Council applying the same restrictions to the Chateau Land.

7.4 **Merits Assessment**

7.4.1 The critical question to our mind to be addressed in reviewing the merits of the Decision is whether the Decision is the best decision and

---

26 The Indenture Deed provides that the executors may ‘modify, waive or release wholly or in part all or any of the covenants conditions and restrictions herein’

27 see September Report FDXIM0292356F05279522
not whether possible or even probable future actions or decisions are meritorious.

7.4.2 In our view in determining whether the Decision is the preferable decision it is relevant to consider the effect of the Decision.

7.4.3 As the Council Land is community land under the Act it cannot be disposed of until after the Council has revoked its classification as community land\textsuperscript{28}. The revocation of the community land classification of the Council Land is therefore a necessary precondition to the Council disposing of the Council Land.

7.4.4 However the revocation of the community land classification of the Council Land does not have the effect of the Council Land being disposed of.

7.4.5 Furthermore, the Council Land may remain in the Council's ownership notwithstanding that it will no longer be classified as community land.

7.4.6 Whilst the Decision should be reviewed in the context of the reasons articulated by the Council for the Revocation Matter ie seeking to facilitate to Proposed Chateau Development, it must be recognised that the Decision is but one step in a number of steps to bring the Proposed Chateau Development to fruition.

7.4.7 We also consider it relevant in undertaking a merits review of the Decision to consider the Council's reasons for making the Decision at the time and also whether there are other potential reasons for the Decision even if such reasons were not in the Council's mind at the time it made the Decision.

7.4.8 In our view there can be no doubt that the primary purpose of the Revocation Matter at the time the Council made the Decision was to facilitate the Proposed Chateau Development by enabling the Council to transfer the Council Land to Chateau Tanunda at a future point in time. The Decision was made to further this purpose. In this regard the Council has, in our view, been entirely transparent.

\textsuperscript{28} Section 201(2) of the Act
7.4.9 The Council has articulated on a number of occasions the benefits to the community of the Proposed Chateau Development.²⁰

7.4.10 Other benefits to the community that may materialise in the event the Chateau Land and the Council Land are exchanged relate to The Barossa Regional Culture Hub proposed development³⁰.

7.5 Other Matters

7.5.1 The Applicants state in the Additional Information that they met with a person they believed to be the Chief Executive Officer of the Council (the CEO) in November 2017 but who they later discovered was not the CEO. We have been advised that the Applicants did in fact meet with the Chief Executive Officer, Martin McCarthy in November 2017. Mr McCarthy was not present at the Council meeting of 19 December and Matt Elding was Acting CEO at that meeting. Martin McCarthy was present at the Council meeting of 26 April 2018 and spoke briefly to the Applicants.

8. CONCLUSION

8.1 In our view based on all the matters outlined in this report the Decision is the best and/or preferable decision.

9. RECOMMENDATIONS

9.1 That the Council reconsider all the information before it at the time it made the Decision, the information submitted by the Applicants and this report and determine if the Decision is the best and/or preferable decision.

---
²⁰ See in particular discussion in the September Report and the Consultation Report
³⁰ See Culture Hub Report
APPENDIX A
5 Basedow Road,
Tanunda SA 5352.

27 April 2018.

Internal Review Contact Officer,
The Barossa Council,
43 - 51 Tanunda Road,
Nuriootpa SA 5355.

To whom it may concern,

We are applying for a review of a council decision in accordance with The Barossa Council's Internal Review of Council Decision Process under Section 270 – Procedures for review of decisions and requests for services under the Local Government Act 1999.

The decision we are seeking to review is the decision taken by the Elected Body at the Special Council Meeting of the 26th of April 2018 to support the recommendation contained in the Debate Agenda – Chief Executive Officer 2.1.1 Approval to proceed with final consideration of revocation of community land classification – Basedow Road, Tanunda:

"(1) That pursuant to Section 194 (3) (b) of the Local Government Act 1999, Council revokes the Community Land classification over Allotment 11 Basedow Road, Tanunda described in Certificate of Title Volume 5133 Folio 408, and Allotment 12 Basedow Road, Tanunda described in Certificate of Title 5902 Folio 824.

(2) That the Chief Executive Officer excludes Allotments 11 and 12 Basedow Road, Tanunda from the Council’s Community Land Register.

(3) That the Chief Executive Officer advises adjacent landowners of the Council's decision from the Special Council Meeting held 26 April 2018."
(4) That the Chief Executive Officer proceeds with negotiating the commercial arrangements for the proposed land exchange in accordance with the Council resolution of 19 September 2017 (2014-18/1168).

(5) That the Chief Executive Officer facilitates the cancellation of the existing Indenture Deed with the trustees of the Elma Keil Trust, dated 28 June 1996 and replaces it with a new Indenture Deed to reflect the same restrictions with respect to the incoming land from Chateau Tanunda.”

We note the following:

(1) On the 18th of April 2018 we wrote to the SA Ombudsman regarding this matter.

(2) Late on the 19th of April 2018, we were made aware that a decision in relation to this matter had been made by Mr. Andrew McKeegan, Chief Development Officer, Department of Planning, Transport and Infrastructure as the Minister for Planning’s delegate.

(3) Late on the 24th of April 2018, we were made aware that this matter was an agenda item (2.1.1) for the Special Council Meeting at 5.30pm on Thursday the 26th of April 2018.

(4) Wednesday the 25th of April (Anzac Day) is a Public Holiday and we were unable to follow up our correspondence with the Ombudsmans Office until Thursday morning the 26th of April 2018, the date of the Special Council Meeting of The Barossa Council. We have yet to receive an acknowledgement from the Ombudsmans Office that our correspondence has been received.

(5) Despite our best endeavours we were unable to receive any clarification from the Ombudsmans Office in relation to the progress of our matter on Thursday the 26th of April 2018.

(6) Prior to the commencement of the Special Council Meeting on the 26th of April 2018, we spoke personally to Mayor Bob Sloane and requested that the Approval to proceed with final consideration of revocation of community land classification – Basedow Road, Tanunda lie on the table until the next ordinary meeting of Council scheduled for Tuesday the 15th of May 2018 as the matter was being considered by the SA Ombudsman on our behalf.

(7) We believe this to have been a reasonable request as the matter was currently before the SA Ombudsman and an outcome had not yet been determined.

(8) We stayed for the duration of the Special Council Meeting.

(9) Mayor Bob Sloane put our request to elected councillors at the Special Council Meeting. There was a short debate regarding our request. Neither our request, nor the recommendation contained in the agenda was read out to elected councillors and there was some confusion as to whether our request had been
agreed to or whether the recommendation contained in the agenda had been agreed to.

(10) At the conclusion of the Special Council Meeting 20 minutes later, we spoke with Mayor Bob Sloane to clarify the outcome. He said that the recommendation contained in the agenda had been agreed to and that our request had been denied. He apologised for the confusion regarding the outcome.

We do not believe that the decision by elected councillors to agree to the recommendation contained in the agenda is reasonable in the circumstances and request that no further action be taken to implement the recommendation at this time.

We look forward to hearing from you and can be contacted on the following mobile phone numbers listed below.

Yours sincerely,

Robbert (Bob) Sennef
0407795828

Shelley James
0403836234

Cc: Ombudsman SA.
APPENDIX B
Review of Council's decision 26 April 2018

*Statement by Council that due to economic reasons cannot be taken at face value just because it is supported by evidence.

Community Land Swap not to proceed as long as Chateau Ganunda Development Proposal does not go ahead and the Barossa Regional Cultural proposal does not go ahead. Corporation needed to identify flaws in process.

No meaningful consultation with the Ganunda community.

In its independent assessment and proposed land exchange with owner of Chateau Ganunda, Kelly's report recommended to the Barossa Council that: "as a matter of precautionary practice and good governance it is an advise that each step taken by the Council under the Policy (Disposal of Land or other assets Policy) (in particular, refer paragraphs 49-51 above) be subject to the recording of its reasons for taking that step."

This advice was not taken up at the Council meeting held on 18th of December 2017 - compare recommendation B7081 in the Council agenda, to its recommendation passed on 19 December 2017.
2 Council minutes 19/12

(2) That, prior to the independent assessment of page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value due to the restrictions of the dedication of the Keil Yacht and the Community Land Classification, the Council dispenses with the requirement of its disposal of land and asset policy at paragraph 4.4.1(i) to obtain any independent valuations in this matter.

Discuss terms of the Indenture Deed, June 1996, just prior to Council amalgamation on 1 July 1996

(1) Discuss trustees - Robert Howing & Roland Braunach
(2) Reasons for Council wanting to acquire the land
(3) Funds to be made available - $65,000.00 in 1996
(4) Conditions of Deed - Parks, Gardens, Sporting facilities within the area of the District Council of Yankaye (land to be preserved for said purposes)
(5) Discuss conditions of deed

Roly Braunach died in November 2017

Letter from Roly Braunach & Robert Howing to CEO Martin McCarthy - received 12 January 2016 indicating that discussions about the land had been ongoing since 2015

"Did the request for the Community Land Swap originate from Council Yankaye, was it an "unsolicited bid" put to the Barossa Council?"
7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification

5) Land previously designated to the Barossa Council has remained underdeveloped for over 20 years.

The Barossa Council's Community Land Register:
- Management plan 2 - Underdeveloped reserved land gardens
  (as noted with minor improvements)

Letter from Martin McCarthy
31/10/17

Letter from Martin McCarthy, CEO of Barossa Council to Bart ad Shelley - confirming the application to Council is an "unsolicited bid"

Letter from Martin McCarthy

Latest community comments about the development proposal were dismissed out of hand by Council in their response to community submissions.

"Chateau Yanmoke has taken the initiative of acquiring Lot 72 from the SA Government to enliven the development strategy. This lot includes the railway station and access road.

Attended drawing by Bart

This portion of land is not defined.
Have you say

2) "Council's community land is gazetted as tourism accommodation land under the Development Act 1993. "Identifying it as an appropriate location to further accommodate developments".

Refer to the letter from Paul Leman, Planner, the Barossa Council as to why this may have been done. This amount speaks to the development proposal which is not the subject of the community land swap which is the focus of this public consultation.

3) Note - Shelly ad Bob's letter from Martin McCarty is dated 31 October 2017 - it was received in November 2017. Public consultation started on Wednesday 1 November - concluded 12 December 2017 - note that plan - public consultation - 6 weeks - negotiations - at least 2 years.

4) "A number of important steps need to occur before the proposal can proceed, including:

5. Yarde, currently owned by Chateau Yarunda, needs to undergo a land division to access to the real of the Chateau and its oval are retained."

What has occurred?

5) "Council is confident there is significant community benefit in the proposal and as an outcome the land exchange will not result in any loss of value of appropriate open space to the community."

- In the light of the development proposal - not to subject of community consultation.

- In the light of the Barossa Regional Centre 6th proposal - community not aware of it until April 2018.
Basedow Road, Tanunda

Consultation report to the Development Proposal. The development proposal includes details of the development proposed for the site. Council is only seeking feedback from the community because it has not had the opportunity to consult with the community. Comments are due by 21 September 2023. A copy of the Development Proposal and the development plan can be viewed at the Council's online directory.
7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification
Basedow Road, Tanunda

1) "The land is currently not used for community purpose."
   - An indication that the land has not been used for 20 years.
   - Disputes by residents at the line adjacent to the land.

2) "Land available to Council that better integrates with existing Council areas and integration with the main street precinct for open space and recreational purposes."
   - No detail.
   - Why is it more advantageous than A and B?

   - Barossa Regional Council - to consult.
   - Until April-May 2018.

3) "At this time, Council is satisfied that a land exchange proposal is sound, however, this analysis will be further independently reviewed as part of the "Community Consultation Process". (Keddy Jones)"
   - (Refers to Council's analysis against its disposal of land and other acreage policy)

4) Site analysis envisages the community land transferred to the Barossa Council being landscaped, cycle tracks, BBQ/picnic/arrival for events/market and market be held on Chadbury Oval.
   - Date approved 10/9/14

5) Attachment 3 - Assessment Against Disposal of Land and Other Acres Policy
   - Independent assessment by Keddy Jones says that Council has complied with the regulations of the Local Government Act and its disposal of land (all) acres and acres policy.
   - It is questionable whether this is actual, to date.
(continued)

2. A benefit and risk analysis of the proposed disposal:
The risk matters in brief have been outlined in the Council report 7.2.1.2 of 18 August 2017. The inability to diversify the outcomes could put the commercial viability of a project at risk as result in sub-optimal outcomes to the development of tourism accommodation on land to the west of the railway corridor adjacent to residential land.

- Looks ahead to the development proposal.

- Disposal of land or other assets policy says that
  1. "Any decision to dispose of land or other assets will be made after considering...

- No evidence that Council has considered these issues.

C. Community

2. The content of any land management plan was in conflict with tourism accommodation. The tourism accommodation designation should never have occurred at the time it was decided because of the existence of community land.

2. Disposal Principles

Same comments apply to 4.2 as apply to 4.1.
b) Independent assessment by Kennedy Jones Lawyers

- Dated 12 December 2017, the day after community consultation closed at 5pm on Thursday to 12th of December 2017.
- Council attempted to appoint Kennedy Jones Lawyers as the external reviewer, specifically (Chris Money). On page 8 of the independent assessment, it is stated:

"If you have any questions, please contact me (Michael Kelly) or my colleague, Chris Money.

Executive Summary

Says:

The council's public consultation process for the revocation of the community land classification accorded with its requirements under the Local Government Act 1999 and its Public Consultation Policy.

Purpose

The purpose of this policy is to ensure that the Barossa Council ("Council") meets its legislative obligations in regard to public consultation by:

- Using appropriate and cost-effective methods which are relevant to the specific circumstances of each consultation topic
- Inparing and involving the local community, key stakeholders and interested parties
- Using feedback to enhance decision making"

There is little evidence of this.
18. The independent assessment process was completed before the consultative process was completed and before the "public proposed uses" demonstrated "compliance with principles of policy, accountability, transparency and respect in disposal of the land."

9. "Given the proposed disposal method, the Council will need to resolve to either not regret independent valuations, or to grant a waiver to the proposed disposal method for the land and to record its reasons for this proposed methodology."

- Not completed with any point

- Point 11

- The land being offered to the Council is land adjacent to the carpark at the Tanunda old fire memorial hall. "This land" is owned by the Council and is more accessible to the main street. 

- Confusing and delectable

- The community consultative process was not considered by Council prior to making its decision.

- Point 38

- Point 40. "We have reviewed the assessment and evidence that, generally, the principles have been adequately addressed."

- Point 41.

- Community consultative was not extensive.
4) Point 42: "The land exchange is required to provide significant value to the community through economic growth."

- Community land was granted for parks and gardens and sporting facilities
- Development proposal may need revised

5) Point 42: "The land exchange will not result in a reduction in Council land acres, with land of the same or similar value and size being exchanged."

- Not listed
- Not assessed by the EPA
- Not measured
- Not valued independently

6) Points 43 ad 44: "These statements are contestable. We could be considered to be independent third parties and we do not believe that high levels of public accountability, transparency and reporting have been demonstrated."

7) Point 50: "And the land currently has little or no value."

- How can this be when $65,000.00 was made available to purchase the land in 1996.

8) Documents the current use of Council's community land.

9) Council has not maintained the community land to exceed blackbuck expectations since Shelley and Bob have been living next door.
10.  Shelley e Robert's Submission

Once land is vacated it will not be available for future community groups. The ideas of gatherings for the Valley Fat Ladies, the Barossa Vintage Festival, the Tanunda Band Festival, the Barossa Gourmet Weekend, and the Tanunda Christmas Parade are preserved.

The land swap is agreed to.

1. "We also believe that there will be less public green space in the Tanunda Town Centre. However, before it the land swap is agreed to.

2. The acquisition of the train station and rail corridor by the Council may preclude the return of passenger train services between Yankalilla and Tanunda. However, the Council expects the return of the train services.

- Need to establish whether the Council has indeed planned the train station and rail corridor.
- Council has not considered the implications of the return of rail services to Tanunda.

3. Generally, a deficiency of office response to the feedback received from the community — only 20 responses.
- Fee submissions addressed issues relating to the development proposal — Council dismissed them.
- Even though the development proposal featured prominently in the consultation report.

4. Office response to Ron Bailey (Submission 1):

"Transparent and inclusive consultation process has occurred to obtain as much community feedback as possible."
- This simply will not be the case as only 20 submissions were received.
7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification

Basedow Road, Tanunda

5) Office response to Joanna Mark (Submission 4)

"Doesn't matter what people's feedback is, council will do what they want anyway."

Office response: "Transparent and wide consultation process has occurred to obtain as much community feedback as possible in accordance with Public Consultation Policy and Local Government Act protocols."

See previous comment - this simply isn't true - "protocols" is the wrong word to use in relation to the Local Government Act 1999 - it is legislation and it is the law.

Wayne ad Marilyn Trenchard (Submission 11)

Officers clarified that proposed extended car park is off Basedow Road, not Busman Street, and that further, Busman Street would not be extended.

Have you any documents clearly indicate that Chateau Yarndi wishes to extend Busman Street to enable access to the development.

David ad Judith Stenverscheder (Submission 12)

Similar issues to above.

Again, have you any documents clearly indicate that Chateau Yarndi wishes to extend Gill Street to enable access to the development.

8) Emily Faulkner (Submission 15)

Her issue was: "Concern that Lovely Land that is used by locals, to be swapped for land that is of inferior quality."
Response

"Land that is proposed to be transferred to Council better integrates with existing Council areas and integrates with the main street precinct for open space and recreational purposes for more people to use."

- Subjective opinion, not backed up with evidence
- Banana Regional Centre Stella - not yet out for public consultation.

9. Shelley Jones/Ad Hoc Council (Submission 16)

CEO and Governance Advisor have met with Ms Jones and Ms Senef to discuss their general concerns about the proposed land exchange.

- This is not accurate. Shelley related she had met with CEO Martin McCarthy to discuss her concerns but discovered subsequently that she had met with someone else, who wasn't CEO Martin McCarthy.

Reis issue who:
Seek the independent valuations of the relevant land parcels.

Response

'Refers to the independent assessment dated the day after submissions closed.

Further, upon Council approval to proceed with the land exchange, comprehensive and current valuations will be obtained in due course. The Chateau Yarunde

Parcel for transfer can only be valued after it has on appropriately sub-divided in accordance with the final proposal to exchange."

- Has the subdivision of the land occurred yet?
- Wouldn't it make more sense to value the existing parcels of community land in the first instance? They have been referred to the above as having no value at all.
Basedow Road, Tanunda

132
3) 4.4 "Council has the following obligations when it is required by its act to
publish its Public Consultation Policy:

- Council must provide interested persons with a reasonable
  opportunity to make submissions regarding relevant matters;
- Council must publish a notice in a newspaper
  circulating in the area and on its website, describing
  the matter under considerate, and invite interested
  persons to make submissions within a period (which
  must be at least 21 days) stated in the notice; and
- Council must consider any submission received
  from the public during the prescribed consultation
  period."

- Did interested persons have a reasonable opportunity to make
  submissions?

- Does Shell's depot, address an additional concern
  presented at the Council meeting on 19 December count
  as per this position is calculated?

4) Check particular types and levels of minimum consultate:

- Section 193 (excluding land from classified as
  community land)
- Section 194 (revoking the classification as community land)
- Section 197 (adapting, amending or revoking a
  management plan for community land)
- Section 198 (amending or revoking a management plan
  for community land)
5) 4.7 "At Council's discretion, 
... other consultative and engagement methods may include
- community focus and stakeholder meetings"
- This opportunity should have been taken in relation to this issue.

Where a consultative method(s) is/are selected, Council is committed to ensure that all possible stakeholders responded no opportunity to engage in consultation
- needs to provide commit to Council on matter by considered"

I did not happen in this case
- independent assessment was conducted before consultative had effectively concluded

D) 1. Purpose
This policy provides a framework to:
1) demonstrate accountability responsibility & Council
2) be fair and equitable to all parties involved
3) ensure all decision making are monitored & recorded &
4) ensure that the best possible outcome is achieved
- in the Council.
- in the event a land swap is permissible under the policy it is questionable whether (a) - (e) of the purpose of the policy has been achieved.

7) 4.1 Disposal of Land or Other Assets - Independent Assessment - The officer's response to assessment of these criteria did not change much

8) 4.2 Disposal Principles: Council must have regard to the following principles in its disposal of land or other assets:
Attachment 1

7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification
Basedow Road, Tanunda

1) Encouragement of open and effective competition;

2) Obtaining value for money (this is not restricted to price alone);

- Questionable whether Council did this in relation to the Community Land Swap.

- Disposal of Land
  - Independent Assessor

1. Disposal Methods

2) The Council will, where appropriate, dispose of Land through one of the following methods:

v. Direct Negotiation - with owner of Land

- The Council or others with a pre-existing interest in the Land, or where the Land is to be used by a purchaser with a purpose for the Land is consistent with the Council’s strategic objectives for the Land.

- What happens in the scenario where the Chateau

- Tanunda development proposal is not proceeded with.

- Disposal of Land

- Independent Assessor

4) Selection of a suitable disposal method will include consideration, in accordance with the principles of Clause 4.2 - if (where appropriate)

- Again, what happens in the situation where the development proposal does not proceed?

4) Disposal Methods

The Council will seek to dispose of Land at or above current market valuation by whichever method is likely to provide the Council with the maximum return, unless there are reasons for the Council to accept a lesser return which
4.4.3 Waiver of disposal method

a) "Council may grant a waiver to a disposal method prescribed in this policy on condition that the circumstances do not support an alternative and appropriate methodology.

b) What happens if the circumstances no longer exist?

c) "Any grant of waiver must be documented in the Council's records. Disposal method waived must be approved prior to commencement of any disposal process."

- Check that no form has been completed TBC FOR 4752
- Check that the waiver has been approved.

4) Shellepy's delegation address was listened to by elected members and staff. Re: land use comments: in relation to it as questions asked.

- Has Council considered Shellepy's address?
- Discussed current usage of community land which is at odds with the officer's assessment
- Land use affected by trees, water
- Other points made by Shellepy
- Independent assessment was completed before Shellepy's delegation address
65 provided to elected members and staff at the 19 December Council meeting
- no questions or comments from elected members
- could not be said to have been ‘considered’ by the Council
- independent assessment was completed before elected members and staff received the additional comments.

66 opportunity to meet with him to discuss continuing concerns - letter dated 26 January 2018

7) ongoing lack of consultation with Johns Evelyn Development proposal; future of railway; meeting with CEO Martin McCarty.

8) the meeting on the 14th of November timed out to be met with CEO Martin McCarty.

9) only 20 submissions received - minimum consultation required by Local Government Act 1999 for the Local Government Act 1999 Validation.
- meeting with Mark Paine MLC at 21/1.
- to consultate on community land map - consultaion on development proposal.
1) Discussion with relevant parcels of community land declared by the District Council of Tanunda, 1996 for $65,000.00.
2) Remains as underdeveloped parcel of land 2018.
3) Land classed as being of no further uses after 1997.
4) District Council of Tanunda was renamed by the Barossa Council on 1 July 1996.
5) Peter Stanley was elected a trustee and later mayor of the District Council of Tanunda.
6) Local council passed a way in November 2017.
7) Belief that appeal response to additional submission.
8) Additional submission.
9) Additional submission.
10) Additional submission.
11) Independent assessment provided.
12) Independent assessment provided.
13) Additional submission.
14) Additional submission.
15) Additional submission.
16) Additional submission.
17) Additional submission.
18) Additional submission.
19) Additional submission.
20) Additional submission.
21) Additional submission.
Basedow Road, Tanunda

1) Ensuring that land is zoned as “tourist accommodation” — 28 August 1997 — just over 12 months after an analyst report by Council District Council of Barossa, which concluded that the land was unsuitable for tourist accommodation. The term “tourist accommodation” includes the parcels of community land A A and C and shelly A and B.

2) Possible contamination of land to be acquired by Council — no EPA assessment.

3) We have considered Policy all Council records regarding requests made by BNA K to access to funds have been spent for people of Barossa. We advised that the process would be very expensive.

4) Inspected the proposed site to the hotel development — proposed to the Council site in Roud that.

5) Considerate of the reopening of the railway line in future — post submitted to the Lamont Council.

6) Propose sale of the land at the Weston Railway Station by John Gregor/Clara Weston, yet to be registered with Land Title Office.

Date and January 2018.
IN THE SUPREME COURT
Testamentary Cause Jurisdiction

Be it known that on the Sixth day of July
1987 the last Will and Testament and codicil ------(a copy whereof is hereunto annexed) of ELMA LINDA KEIL late of 14 Elizabeth Street
Tanunda in the State of South Australia Widow -----------------

deceased who died at Tanunda aforesaid ----------------------------

on the fourth day of May 1987
proved and registered in the Supreme Court of South Australia and
that administration of the estate of the said deceased was granted
by the aforesaid Court to ROBERT JOHN HOMBURG of 7 Park Street
Tanunda aforesaid Accountant and ROLAND BRAUNACK of Langmeil Road
Tanunda aforesaid Shop Proprietor (formerly Gardener) the executors
therein named.

GIVEN at Adelaide under the seal of the Supreme Court
of South Australia.

(L.S.) A. FAUNCE-JE LAIRK
Registrar of Probates

Form 1
THIS IS THE LAST WILL of me ELMA LINDA KELL of 14 Elizabeth Street Tanunda in the State of South Australia 5352 Widow.

1. I revoke all former Wills made by me.

2. I appoint ROBERT JOHN HOMBURG of 7 Park Street Tanunda 5352 Accountant and ROLAND BRAUNACK of Langmeil Road Tanunda 5352 Gardener Trustees and Executors of this my Will.

3. My Trustees shall reserve sufficient money for the inscription on the tombstone over my grave.

4. My Trustees shall offer my residence at 14 Elizabeth Street Tanunda for sale by Public Auction or Private Contract and the nett proceeds derived from such sale shall form portion of my estate.

5. I give my pedestal and urn to my friend JACQUELINE MARY SCHMID of 9 Stach Street Nuriootpa 5355.

6. I give my leather swivel chair to my friend CLARENCE CONRAD SCHMID of 9 Stach Street Nuriootpa 5355.

7. I give my four coffee cups saucers and plates ("Paragon Athena") to my friend BETTY LORRAINE BRAUNACK of Langmeil Road Tanunda 5352.

8. I give my two coffee cups two tea cups and matching saucers and plates ("Paragon Athena") to my friend RITA IRENE KALLESKE.

9. I give my cane fern stand to the said ROLAND BRAUNACK.

10. I give my lounge suite nest of tables large red vase white garden setting comprising table and chairs and copper wall plaque to my sister-in-law EDNA BOTH.

11. I give my dinner set (brown edged) and my "Grovenor Christine" cutlery set and my round dining room table six chairs and sideboard to my brother ERIC ERNST BOTH and my sister-in-law JOYCE BOTH jointly.

12. I give my large red jug tall black vase and small red jug to my said friend RITA IRENE KALLESKE.

13. I give my portable television set and stand and red cedar garden setting to my nephew LYALL BOTH.

14. I give my radiogram and cabinet and grand-father clock to my nephew ROGER BOTH.
15. I give my salad bowl servers and plate ( "Noritake" ) to my friend COLLEEN FAY NEPPNER daughter of HENRY EUGNE NEPPNER of Theodor Street Tanunda 5352.

16. I give my cane chair and footrest four "Doulton" cups and saucers oblong glass bowl silver stand and liqueur set with red trim decanter and six glasses to my friend DOOREN ALM of Brinkworth 5464.

17. I give my silver wrist watch to my said sister-in-law JOYCE BOTH.

18. I give my small gold wrist watch to my said sister-in-law EDNA BOTH.

19. I give my leather lounge chair and matching footrest to my neighbour ROBERT SCHUYLER.

20. I direct that the balance of my household furniture and effects be sold and the nett proceeds from such sale I give to my said brother ERIC ERNST BOTH my said sister-in-law JOYCE BOTH and the FAITH LUTHERAN SECONDARY SCHOOL, INCORPORATED of Magnolia Street Tanunda 5352 in equal shares.

21. The TANUNDA FOOTBALL CLUB, INCORPORATED owe to me on an interest-free loan the sum of FOUR THOUSAND DOLLARS. Should this loan be outstanding at the date of my death I forgive the said TANUNDA FOOTBALL CLUB, INCORPORATED the sum of ONE THOUSAND DOLLARS owing to me on this debt.

22. After payment of all my just debts funeral and testamentary expenses the residue of my estate shall be divided as follows:

(a) I give the LANGNEIL LUTHERAN CHURCH OF TANUNDA, INCORPORATED the sum of THIRTY FIVE THOUSAND DOLLARS.

(b) I give the TANUNDA LUTHERAN HOME, INCORPORATED of Bridge Street Tanunda 5352 the sum of TWENTY THOUSAND DOLLARS.

(c) I give my said brother ERIC ERNST BOTH the sum of TWO THOUSAND FIVE HUNDRED DOLLARS provided he shall survive me.

(d) I give my said sister-in-law JOYCE BOTH the sum of TWO THOUSAND FIVE HUNDRED DOLLARS provided she shall survive me.

(e) I give my said sister-in-law EDNA BOTH the sum of FIVE THOUSAND DOLLARS provided she shall survive me.

(f) I give my said nephew ROGER BOTH the sum of TWO THOUSAND DOLLARS provided he shall survive me.

(g) I give my said nephew LYALL BOTH the sum of TWO THOUSAND DOLLARS provided he shall survive me.

(h) I give my said friend ROLAND BRAUNACK the sum of ONE THOUSAND DOLLARS provided he shall survive me.

[Signature]

[Signature]
(i) I give my said friend BETTY LORRAINE BRAUNACK the sum of ONE THOUSAND DOLLARS provided she shall survive me.

(j) I give my said friend RITA IRENE KALLESKE the sum of FIVE THOUSAND DOLLARS provided she shall survive me.

(k) I give my sister-in-law AGNES LOUISE KEIL the sum of THREE THOUSAND DOLLARS provided she shall survive me.

(l) I give my said friend JACQUELYN MARY SCHWARZ the sum of ONE THOUSAND DOLLARS provided she shall survive me.

(m) I give my said friend CLARENCE CONRAD SCHWARZ the sum of ONE THOUSAND DOLLARS provided he shall survive me.

(n) I give my friend DAVID BRAUNACK of Langmeil Road Tanunda 5352 the sum of TWO THOUSAND DOLLARS provided he shall survive me.

(o) I give my godchild RUTH HUTCHINSON the sum of TWO THOUSAND DOLLARS provided she shall survive me.

(p) I give my godchild ANTHONY MOLKENBIEN the sum of TWO THOUSAND DOLLARS provided he shall survive me.

(q) I give my godchild CHRISTINE PAXTON the sum of TWO THOUSAND DOLLARS provided she shall survive me.

(r) I give BARBARA GALLON of Bridge Street Tanunda 5352 the sum of FIVE HUNDRED DOLLARS provided she shall survive me.

(s) I give DORA GARRETT of John Street Tanunda 5352 the sum of FIVE HUNDRED DOLLARS provided she shall survive me.

(t) I give Reverend LEONARD GERSCHWITZ of Tanunda 5352 the sum of ONE THOUSAND DOLLARS provided he shall survive me.

(u) I give BAROSSA ENTERPRISES INCORPORATED of Basedow Road Tanunda 5352 the sum of FIVE THOUSAND DOLLARS.

The residue of my estate shall be held in trust by my Trustees for the benefit of the town of Tanunda the capital and or income to be used at the absolute discretion of my Trustees for the benefit of any sporting bodies in the town and district of Tanunda and or any parks and gardens in the town and district of Tanunda and I empower my Trustees to invest such capital in any trustee investment that they think fit PROVIDED ALWAYS that such trust shall continue for a period of not more than twenty-one years after the date of my death and in the event of my Trustees holding

Signed

[Signature]

[Signature]

[Signature]
any capital or income at the end of the said twenty-one years then such money shall be paid to the DISTRICT COUNCIL OF TANUNDA.

DATED this______ day of______ 1986.

[C. H. Keil]

SIGNED by the Testatrix ELMA LINDA KEIL in the presence of us both present at the same time and by us in her and each others presence.

[Signature]

[Signature]
THIS IS THE FIRST CODICIL to the last Will dated the 31st day of July 1986 of me ELMA LINDA KEIL of 14 Elizabeth Street Tanunda in the State of South Australia 5352 Widow WHEREAS by my last Will I have made various pecuniary legacies and I wish to make a further pecuniary legacy as follows:-

"22(v)" - I give EILEEN MULLINS of Campbelltown 5074 the sum of FIVE HUNDRED DOLLARS.

In all other respects I confirm my said last Will.

DATED this 28th day of April 1987.

[Signature]

SIGNED by the Testatrix ELMA LINDA KEIL as and for a Codicil of her last Will bearing the date of the 31st day of July 1986 in the presence of us both present at the same time and by us in her and each others presence.

[Signature]

[Signature]
DATED 195

BETWEEN:

THE DISTRICT COUNCIL OF TANUNDA
Of the First Part

- AND -

ROBERT JOHN HOMBURG
and
ROLAND BRAUNACK
Of the Second Part

INDENTURE

HEUZENROEDER & HEUZENROEDER
Barristers and Solicitors,
49 Murray Street,
TANUNDA, S.A. 5352

Tel: (085) 63 2011
THIS INDENTURE is made the 29th day of June 1996

BETWEEN:

THE DISTRICT COUNCIL OF TANUNDA of 83 Murray Street Tanunda 5352 in the State of South Australia who together with its successors and assigns is hereby referred to as "the Council"), of the first part;

AND:

ROBERT JOHN HOMBURG of 7 Park Street Tanunda 5352 in the said State Accountant and ROLAND BRAUNACK of 42A Maria Street Tanunda 5352 aforesaid Businessman as the Executors of the Estate of ELMA LINDA KEIL deceased vide Probate dated the 6th day of July 1987 (hereinafter with their successors and assigns referred to as "the Executors") of the second part;

WHEREAS the Council was desirous of purchasing the land at present contained in Certificates of Title Register Book Volume 5133 Folios 408, 409 and 410 adjacent to the Tanunda Railway Station from the Australian National Railways Commission for public park land purposes (hereinafter referred to as "the said land");

AND WHEREAS the Executors were in a position to make funds available by way of a public benefaction under the terms of the Will of the late ELMA LINDA KEIL deceased in the sum of SIXTY FIVE THOUSAND DOLLARS ($65,000.00);

AND WHEREAS the said funds together with others provided by the Council enabled the said purchase to take place;

AND WHEREAS the funds provided by the said ELMA LINDA KEIL deceased were specifically provided on the condition contained in her Will that the said land was to be purchased for purposes of parks gardens or sporting facilities within the area of the District Council of Tanunda and that the Council give an undertaking that the said land would be used in perpetuity for that purpose and not sold at any time in the future thus preserving the said land for such purposes;

AND WHEREAS the Council agreed to accept the benefit and to purchase the said land under those conditions.
NOW THIS DEED WITNESSETH as follows:—

1. THAT the parties hereto acknowledge the accuracy of the preamble to this Deed.

2. THAT in consideration of the benefit given to the Council by the said estate the Council hereby covenants and agrees and undertakes on behalf of itself and its successors and assigns in perpetuity:—

   (1) THAT the Council shall in perpetuity ensure that the said land remains as dedicated park lands and a recreation area for the benefit of the public as though the said land had been dedicated in perpetuity under the Public Parks Act 1943 as amended or any future legislation in substitution therefor.

   (2) THAT the Council shall within a reasonable time either restore to sound and useful condition or demolish all decrepit and unsightly structures on the said land and shall restore the said land to a neat clean and tidy appearance and shall exercise all due care and diligence in the ongoing maintenance preservation and improvement of the said land for the purposes of its use as public park lands and a recreation area.

   (3) THAT the Council shall not erect any notices buildings or structures on the said land which are not aesthetically in sympathy and in keeping with the overall concept of a park land garden or recreation area.

   (4) SAVE and it is agreed between the parties hereto that the Council may however develop the said land or part thereof to enhance its future use in conjunction and in sympathy with the railway station facilities and complex adjoining the said land should such facilities be themselves properly restored and once again become a railway passenger station whether on a regular commercial basis or for tourist purposes or is used for some other commercial or public
purpose provided that it retains its primary character as park lands and a recreation area for the public.

(5) THAT the Executors and their successors and assigns and anyone lawfully claiming through or under the Executors if a breach of the undertakings herein given be proved shall be entitled to an order restraining the Council from any breach of this agreement or to remedy such breach within a reasonable time and to damages to be paid to the Executors as the Trustees of the Estate of ELMA LINDA KEIL deceased of a sum equivalent to SIXTY FIVE THOUSAND DOLLARS ($65,000.00) with interest thereon at the rate of TEN PERCENTUM (10%) per annum calculated from the date of the said breach or such other amount as a Court of competent jurisdiction shall determine if such breach be not remedied within a reasonable time to the satisfaction of the Executors.

(6) THAT the Council shall nevertheless have all the powers in respect of park lands under its care and control as are contained in the Local Government Act 1934 as amended from time to time.

(7) THAT it is agreed between the parties hereto that any breach or suspected breach of any of the covenants herein contained shall be capable of giving rise to a Caveat being lodged on all or any of the titles to the said land and the Council hereby pledges the said land as security to the Executors for such purpose.

(8) IN ADDITION to any other mode by which the Executors may be entitled to give notice or make any demand hereunder such notice or demand may be in writing executed by the Executors or by the Solicitors for the Executors and may be either served upon the Council personally or left for the Council on the said land or affixed to some part or parts thereof or sent by prepaid post under cover addressed to the Council at the last known place of business.
or abode in South Australia of the Council and every such notice or demand shall take effect and be in force from the day next after the day upon which the same shall have been served left or posted as aforesaid whether such notice or demand shall come to the hands or knowledge of the Executors or not AND it shall not be necessary in any such demand or notice to specify any amount but such demand shall be sufficient if the same shall require payment of the moneys hereby secured without specifying the amount and any notice as to default may be a general notice that default has been made without specifying the nature of the default.

(9) PROVIDED ALWAYS and it is hereby expressly covenanted and agreed and declared by and between the Executors and the Council THAT the Executors reserve the right to modify waive or release wholly or in part all or any of the covenants conditions and restrictions herein relating to the said land and the performance thereof by the Council.

AS WITNESS the seal and hands of the parties hereto the day and year firstly before written.

THE COMMON SEAL of the

DISTRICT COUNCIL OF TANUNDA

was hereunto affixed the 28th day of JUNE, 1996 in the presence of:

Mayor

Chief Executive Officer
SIGNED SEALED AND DELIVERED
by the said ROBERT JOHN
HOMBURG in the presence of:

[Signature]

SIGNED SEALED AND DELIVERED
by the said ROLAND BRAUNACK
in the presence of:

[Signature]
Mr Martin McCarthy  
Chief Executive Officer  
The Barossa Council  
PO Box 867  
NURIOOTPA SA 5355

Dear Martin,

Thank you for your letter of 23 December 2015.

We the undersigned agree in-principle so that parties may continue negotiations that:

1. As executors of the Deed we conditionally agree to cancel the Deed which is currently over land parcels Allotment 11, 12 and 13 contained in certificate of titles 5133/408, 5902/824 (was previously 5133/409) and 5133/410.
2. The conditions are, but not limited to;
   a. That we as executors shall not bear any costs for cancelling and re-establishing a new Deed;
   b. That no cancellation or re-establishment will occur until Mr Geber and Council achieve an agreed position;
   c. That Council undertakes all the necessary actions to satisfy the requirements of the Local Government Act;
   d. That the Minister for Local Government, should the project proceed to this advanced state, approves the release of the land from Community Land status; and
   e. We reserve the right to discuss any other matter that is reasonably required by all parties.

As stakeholders in this project we ask that you keep us apprised of progress as matters of significance come to hand.

Yours sincerely,

[Signatures]

Mr Roland Braunack  
Mr Robert Homburg

As joint Executors of the Estate of Elma Linda Keil and the Indenture dated 28 June 1996
Have your say
PROPOSED LAND EXCHANGE WITH CHATEAU TANUNDA

What do I need to know about the land in question?

The vacant parcels of land were donated to Council, for the purpose of open space and recreation, through the Keil Estate. Chateau Tanunda sits adjacent to the community land.

If the land exchange is approved by Council, the trustees of the Keil Estate have agreed that the open space and recreation conditions on the land can be transferred to the exchanged land.

Council’s community land is zoned as tourism accommodation land under the Development Act 1993, identifying it as an appropriate location for tourism accommodation development.

If the land exchange goes ahead, what could it mean for the community?

It has been estimated that the entire proposal (subject to relevant approvals) could generate benefits for the region and local community, including:

- A $40 million tourist destination development with plans for a high class five star hotel development in the centre of the Barossa
- An avenue to establish a culinary institute
- Increased tourism and economic development opportunities for the region
- Employment opportunities through significant construction jobs (estimated at 150 full time employees) and ongoing job creation (estimated at 97 full time employees)
- Council will own land that fits in better with existing Council assets, is closer to the main street precinct and can be used for open space and recreational purposes.

Where can I find out more information?

More information including extensive visual displays with maps and concept plans can be viewed at the Nuriootpa Office (43-51 Tanunda Road, Nuriootpa), the Tanunda Library or Chateau Tanunda.

Detailed information including Council’s Consultation report is also available in hard copy at the above locations or online via www.ourbetterbarossa.com.au or www.barossa.sa.gov.au.

Consultation commences Wednesday 1 November 2017 and concludes 5pm Tuesday 12 December

How do I submit my feedback?

Online - visit ourbetterbarossa.com.au and click on the link for COMMUNITY LAND EXCHANGE

In person - written submissions should be addressed to the Chief Executive Officer, The Barossa Council, PO Box 867, Nuriootpa SA 5355

Email - submissions can be emailed to barossa@barossa.sa.gov.au

43-51 Tanunda Road (PO Box 867)
Nuriootpa SA 5355
Phone (08) 8563 8444
Email barossa@barossa.sa.gov.au
ABN: 47 749 871 215

www.barossa.sa.gov.au

153
This is your chance to get involved and be an active participant in Council's decision making process.

We are seeking your feedback on Council's proposal to exchange community land in Tanunda, with Chateau Tanunda.

The proposal seeks to swap Council-owned community land with land currently owned by Chateau Tanunda.

The location of the proposed land, offered to Council by Chateau Tanunda in exchange for community land, is adjacent to the car park at the Tanunda Soldiers' Memorial Hall. This land expands in a southerly direction behind a residential development and ends near the Tanunda Hospital.

Council has been approached by the proprietor of Chateau Tanunda to undertake a land exchange, to facilitate future tourism accommodation development.

A number of important steps need to occur before the proposal can proceed, including:

1. The land, currently owned by Chateau Tanunda, needs to undergo a land division so access to the rear of the Chateau and its oval are retained
2. The remainder of the proposed land will be made available for the land exchange
3. The proposed land would be transferred by Chateau Tanunda to Council
4. The land would be rededicated for community land purpose (consistent with the terms of the Keil Estate donation) retaining it as open space for the benefit of the community

Council is confident there is significant community benefit in the proposal and as an outcome the land exchange will not result in any loss of value of appropriate open space to the community.

Why is Council seeking feedback from the Community?

Before the community land can be 'dealt' with in the proposed way, the formal classification as 'Community Land' under the Local Government Act must be considered, and if supported by Council, withdrawn.

Council is required to consult with its community over any proposal to revoke land from the Community land classification framework. However, Council is committed to protecting the interests of the whole community regarding the land, for future generations, and has viewed this as a significant opportunity for the community to be part of discussions which could potentially benefit the region in the long term.
7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification

Basedow Road, Tanunda

A land exchange between The Barossa Council and Château Tanunda has been proposed to facilitate the development of an international hotel together with education and Culinary Institute facilities that will create a new major tourism destination in Tanunda with long-term economic and employment opportunities.

Château Tanunda own the majority of lots zoned for Tourist Accommodation, with the exception of the reserve owned by The Barossa Council including the old railway station with access from Basiedow Road.

The current land holdings are outlined below by lot (plan/parcel number) and current ownership and highlighted on the plan:

- A Lot 11 CT 5933/408 D33882 The Barossa Council
- B Lot 12 CT 5902/834 D33882 The Barossa Council
- C Lot 72 CT 5902/821 D358229 Château Tanunda
- D Lot 73 CT 5902/822 D8829 SA Government Rail reserve easement
- E Lot 74 CT 5963/846 D8829 Château Tanunda

Château Tanunda has taken the initiative of acquiring C (Lot 73) from the SA Government to enable the development strategy. This lot includes the railway station and the access road.

**PROPOSED LAND EXCHANGE**

The next step is to effect a land exchange between The Barossa Council and Château Tanunda:

Lots to be transferred to Council:
- E (Lot 74 CT 5902/846 D8829) excluding a portion to the south to be retained by Château Tanunda.

Lots to be transferred to Château Tanunda:
- A Lot 11 CT 5933/408 D33882
- B Lot 12 CT 5902/834 D33882
PROPOSED USE

CHATEAU TANUNDA BAROSSA VALLEY

- Geometry of hotel complements that of the existing historic buildings and vineyards. "Completes the square" on the western edge of the vines
- Main entry to central public area from town and Basedow Rd, combined with old station
- Central public area closely connected to hotel wings for ease of access & servicing central lounge / bar has views over vineyards
- 50% of hotel rooms have views over vineyards, other 50% look to landscaped courtyards & pool
- VIP Hotel Suites in house N. of Basedow Road
- Villas close to central reception; some with views of vines, some looking towards oval
- Pool in hotel courtyard, accessible from central public area, screened from road by planting
- Culinary institute and function centre top level of Chateau Tanunda with wine tasting on level below
- Student housing within restored Bond Store with internalised courtyard
- Parking located close to Basedow Road for ease of access
- Screened parking to existing storage area
- Oval used for recreation, events, markets, sport, connection to town via Mill Street
- Connections from Bushman & Mill Streets upgraded
31 October 2017

R L J Sennef and Shelley Peri James
PO Box 256
LYNDOCH SA 5351

Public Consultation: Proposed Community Land Exchange with Chateau Tanunda
and the Revocation of Community Land Classification under Section 194(2) of the
Local Government Act 1999

The Barossa Council is consulting its community about the potential removal of the
"Community Land" classification over two of its vacant community land parcels near the
Tanunda Train Station.

This public consultation was triggered as a result of an application to Council by the
proprietor of Chateau Tanunda who seeks to exchange an adjacent parcel of land for
these two community land parcels, on a commercial basis, in order to facilitate the
development of an international hotel together with a culinary institute, subject to the
relevant development approvals.

While we have provided a summary map on the next page which shows the location of
the relevant land parcels, we encourage you to refer to the entire Consultation Report
which outlines the particulars of the proposed land exchange and the vision for the new
development. The Report can be found at our public consultation site at

If you prefer to view the concept and maps or read a hard copy, you can attend during
business hours at our Principal Office at 43-51 Tanunda Road, Nuriootpa; or the Tanunda
Library at 66 Murray Street, Tanunda or at Chateau Tanunda at 9 Basedow Road,
Tanunda.

Should you wish to respond to any aspect of the Consultation Report, please do so in
writing by 5pm, Tuesday, 12 December 2017 to the Chief Executive Officer via the Our
Better Barossa site, or at barossa@barossa.sa.gov.au or c/o The Barossa Council, PO Box
867 Nuriootpa SA 5355.

All submissions will be compiled into a report and placed on the public agenda at the
next available Council meeting, where Elected Members will consider the merits of
revoking the Community Land classification and if they agree to do so, they will
recommend to do so to the Minister of Planning, who has oversight in these cases.

Yours sincerely,

Martin McCarthy
Chief Executive Officer
An extract from page 32 of the Consultation Report, map courtesy of Allen Jack and Cottier Architects P/L.
5 Basedow Road,  
Tanunda SA 5352.

11 December 2017.

Mr. Martin McCarthy,  
Chief Executive Officer,  
The Barossa Council,  
PO Box 867,  
Nuriootpa SA 5355.

Dear Mr. McCarthy,

We welcome the opportunity to respond to the Consultation Report regarding the Proposed Community Land Swap with Chateau Tanunda and the Revocation of Community Land Classification under Section 194 (2) of the Local Government Act 1999.

We understand that all submissions received by Council will be compiled into a report and placed on the Public Agenda at the next available Council Meeting, which we believe will be on Tuesday the 19th of December 2017, where elected members will consider the merits of revoking the Community Land Classification and if they agree to do so, they will recommend to do so to the Minister of Planning who has oversight in these cases. (We believe the relevant Minister is the Minister for Local Government, Geoff Brock.)

We note that Section 194 (2) states: “Before a council revokes the classification of land as community land – (b) the council must follow the relevant steps set out in its public consultation policy.”

The Barossa Council’s Public Consultation Policy at 4.2 states: “In carrying out its consultation processes, Council applies the following principles:

- Council decision making will be informed, transparent and accountable.
- Members of the community have a right to be informed about issues affecting their area and their lives and to influence Council’s decisions about these issues.”

We bought our heritage listed property at 5 Basedow Road Tanunda in February 2007 and moved in two years later following refurbishment. We love our home, the surrounds and the Tanunda community we have moved into. We enjoy sitting out the front at our home enjoying the ambience, the peace and quiet, the birds including the parrots and the rabbits and we hope to be able to continue to do so for the next ten years or more. We are aware that people walk their dogs, tourists park their Winnebagos and adults and children ride their bikes over the Community Land which
is adjacent to us and love to explore what they call “The Magic Forest.” Local community markets are held here on a regular basis and there was one held on Saturday the 9th of December with many people in attendance.

We note that Lot 106777 12 Basedow Road Tanunda, CT 5902/824D33882, and Lot 106775 11 Basedow Road Tanunda, CT 5133/408D33882, have Community Land Management Plans applying to them which would need to be revoked if the proposed land swap with Chateau Tanunda proceeds. These Lots are currently listed in The Barossa Council’s Community Land Register under Management Plan 2 Undeveloped Reserves and Gardens (or those with minor improvements.) We further acknowledge that these Lots are currently subject to the terms and conditions of the Keil Estate Indenture Deed.

We note that the terms of the Keil Estate Indenture Deed state that the funds provided ($65,000.00) by the said Elma Linda Keil deceased were specifically provided on the condition contained in her will that the said land was to be purchased for purposes of park gardens or sporting facilities within the area of the District Council of Tanunda and that the Council give an undertaking that the said land would be used in perpetuity for that purpose and not sold at any time in the future thus preserving the said land for such purposes; and whereas the Council agreed to accept the benefit and to purchase the said land under those conditions.

Clause 2 in the Keil Estate Indenture Deed states that the Council... shall restore the said land to a neat, clean and tidy appearance and shall exercise all due care and diligence in the ongoing maintenance, preservation and improvement of the said land for the purposes of its use as public park lands and a recreation area.

As neighbours to this Community Land currently owned by the Barossa Council we are disappointed that more attention has not been paid to this land over the years (we have been living next door for the previous 10 years) to enhance their amenity while retaining their use as open space and recreation.

We would also like to refer to 4.4.3 Waiver for Disposal Methods – Conditions for Waiver for Disposal Methods (Attachment 3 to the Consultation Report.) “No waiver is being sought as direct negotiation is an acceptable disposal methodology and there is only one adjacent land owner who can meet the conditions for the release of the Keil Estate trust.”

We are the adjacent landowners referred to in Attachment 3. To date, we have not been directly consulted about meeting the conditions for the release of the Keil Estate trust.

We are also aware that should this land be swapped with Chateau Tanunda as is proposed, then, it will no longer be available for community groups for example, during the The Tour Down Under, The Valley Hot Rodders, the Barossa Vintage Festival, the Tanunda Band Festival, the Barossa Gourmet Weekend and the Tanunda Christmas Parade. We also believe that there will be less public green space in the Tanunda Town Centre than ever before if the land swap is agreed to. We believe that the public green space which currently exists at The Hub is in no way comparable to
the green spaces currently available in the town centres of Lyndoch, Nuriootpa and Angaston.

We are also aware that the proposed land swap is informed by The Barossa Council’s Disposal of Land or Other Assets Policy. We note at 1. Purpose 1.1 “This Policy provides a framework to:

a) define the methods by which Land and Other Assets are disposed of;
b) demonstrate accountability and responsibility of Council;
c) be fair and equitable to all parties involved;
d) enable all processes to be monitored and recorded; and
e) ensure that the best possible outcome is achieved for the Council.

1.2 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

a) obtaining value in the expenditure of public money; and
b) providing for ethical and fair treatment of participants; and
c) ensuring probity, accountability and transparency in all disposal processes.”

4.1 Disposal of Land or Other Assets states:

“Any decision to dispose of Land or Other Assets will be made after considering (where applicable):

a) the usefulness of the Land or Other Asset;
b) the current market value of the Land or Other Asset;
c) the annual cost of maintenance;
d) any alternative future use of the Land or Other Asset;
e) any duplication of the Land or Other Asset;
f) any impact the disposal of the Land or Other Asset may have on the community;
g) any cultural or historical significance of the Land or Other Asset;
h) the positive and negative impacts the disposal of the Land or Other Asset may have on the operations of the Council;
i) the long term plans and strategic direction of the Council;
j) the remaining useful life, particularly of an Asset;
k) a benefit and risk analysis of the proposed disposal;
l) the results of any community consultation process;
m) any restrictions on the proposed disposal;
n) the content of any community land management plan; and
o) any other relevant policies of the Council, including:
• Prudential Management Policy
• Asset Accounting Policy”.

Evidence suggests that these issues have not been considered in full in Attachment 3 of the Consultation Report.
In fact, it is stated that “An assessment of the proposal against the principles of the relevant policy have been undertaken at officer level and provided at Attachment 6. (Attachment 3 in the Consultation Report). These have not been independently reviewed due to the timeframes involved and so it is suggested this be done during the Community Land Consultation Process to ensure they are well tested and agreed independently.” (The Barossa Council, CEO Report 19 September 2017, page 313.)

We believe that this must be done to ensure the community receives value for money for the Community Land proposed to be swapped with Chateau Tanunda.

Further 4.4.1 (j) states that “if Land is to disposed of through a … Direct Negotiation, then (unless the Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 6 months prior to the proposed disposal.”

We do not believe that to date two independent valuations have been obtained with regard to the existing value of the Community Land proposed to be swapped. We also note that the Lot to be transferred from Chateau Tanunda, Lot 74 CT 5962/946D58229, “excludes a portion to the south to be retained by Chateau Tanunda.” This portion of land has not been defined and its value is not known.

We note further at Attachment 3 of the Consultation Report 4.2 Disposal Principles – Probit, accountability, transparency and reporting –

“It has also been recommended that Council have an independent probity adviser review this assessment and the process at the conclusion to ensure probity is maintained.”

We strongly recommend to Council that this step be taken in the interests of probity, accountability and transparency.

We note that Chateau Tanunda has taken the initiative of acquiring C Lot 72 from the SA Government to enable the development strategy. This Lot includes the railway station and access road.

We also note that Clause 4 of the Keil Estate Indenture Deed states that the Council may however develop the said land or part thereof to enhance its future use in conjunction and in sympathy with the railway station facilities and complex adjoining the said land should such facilities be themselves properly restored and once again become a railway passenger station whether on a regular commercial basis or for tourist purposes or is used for some other commercial or public purpose provided that it retains its primary character as park lands and a recreation area for the public.

We are fearful that the proposed community land swap and future Chateau Tanunda development would sound the death knell for future train services between Gawler and the Barossa.
In summary, we recommend that the following steps be completed by The Barossa Council prior to a decision being made on the merits of the Proposed Community Land Swap:

1. As adjoining land owners we ask to be consulted about meeting the conditions for the release of the Keil Estate Indenture Deed as discussed in the Consultation Report.

2. An independent review be undertaken of the assessment of the proposal against the principles outlined in The Barossa Council's Disposal of Land or Other Assets Policy.

3. Two independent valuations be obtained with regard to the existing value of the Community Land proposed to be swapped and the existing value of the Chateau Tanunda land proposed to be swapped.

4. Council appoint an independent probity advisor to review this assessment and the process at the conclusion to ensure probity is maintained.

5. After due consideration, if and when the Proposed Community Land Swap is agreed to, Council guarantees that the land received from Chateau Tanunda is maintained as per the terms and conditions of the Keil Estate Indenture Deed. We understand that this has also been agreed to by the current trustees of the Keil Estate Indenture Deed.

6. A revised Community Land Management Plan is developed as soon as possible for the newly acquired land from Chateau Tanunda.

Yours faithfully,

Robbert (Bob) Sennef

Shelley James
Mr Mayor, Counselors .... Thank you for the opportunity to speak with you today. My partner Bob and I remain opposed to the Proposed Community Land Swap.

Ten years ago we bought the Wallant House which is 5 Basedow Road - we immediately fell in love with the heritage building, it's garden and especially it's location in the township of Tanunda. It seemed the ideal spot to reside in for our retirement not only for its closeness to all the township facilities but especially for the park land on our western boundary. This area provides quietness, peacefulness with birds caroling and also rabbits hopping about. Many people use the land to walk their dogs, children riding bikes and often tourists resting and picnicking – finding that this area is suitable for parking their caravans, Winnebago – as its close to the centre of the township – its almost like countryside living. Occasionally tourist buses park in this area whilst their passengers peruse the main street activities.

After walking and studying the land swap proposed area we are greatly concerned that part of these grounds were used for goods trains and shunting – therefore the land may be “contaminated” with toxins. The ground is undulating and in our opinion the whole area is not easily accessible for the people of the community. We are also concerned that this area seems to be of less area than the present community land.

We also fear that the land swap area will be “land locked” by Chateau Tanunda - the southern area being retained and the northern area a proposed 150 car park for Chateau Tanunda’s proposed private development. Therefore when community events such as vintage festival floats, tour down under, hotrod cars street show, Christmas street parade, fairs and concerts at the hall – where will the many hundreds of vehicles park as this area will then be “private” land. Basedow Road access to the public is very easily accessible and “open” for all to use.

Most importantly we have our Heritage Railway Station building situated on the now Community land and we believe that this building should be available at all times to the public and not on private property.
Property 5A - [section 57] was originally owned by Mr Greiger – approx 10 years ago - who was refused by council to build units on his property due to the fact that people getting off the train would be unable to view the vineyards and the heritage Chateau Tanunda. It was with great dismay that we learnt that our shared access road belongs to Chateau Tanunda – making us feel totally and overwhelmingly engulfed by Chateau Tanunda as number 7 is also owned my Chateau Tanunda.

We were also refused by Council to build a 4 bay garage due to the fact that it had to be a heritage designed shed so that people from the train could view the heritage dwellings. We accepted a 3 bay heritage shed.

Which brings us to the fact that in 1996 Tanunda Council specifically requested the purchase of said community land and railway station to enhance the township of Tanunda as a parkland, garden and recreational area for the community. The Keil Estate Indenture Deed also said the land would be used in perpetuity for that purpose and not sold at anytime in the future thus preserving the said land. Therefore I believe that this present day Council will break contract and has been negligent in not developing the area as requested by the Keil Estate Deed.

As we believe that the Barossa is the 4th fastest growing area in Australia more public transport will be required. It was noted that recent 2017 Your Say SA Sunday Mail 10th Dec reported “among the most ambitious of the 25 ideas proposed in the report was creating an extensive tram network and investing more rail potentially linking the wine regions of the Barossa Valley and McLaren Vale to the city. Therefore we should aware of future state transport development and not privatize the railway corridor though the heart of Tanunda.

Therefore Council in our opinion has been short sighted and too eager for the proposed land swap and development by Chateau Tanunda – forgetting their duty to the Tanunda Community as well as the whole Barossa Community - taking into consideration the future growth and developments of Concordia, Rosedale, and outer Barossa areas needing easier public transport [eg train services].
Its not for ourselves, nor our children, but for our grand children, their children’s children, and remembering that only a short 22 years ago Mrs Elma Keil had the vision and compassion to her community to leave a legacy in an ideal position of land and railway station for all to use and enjoy.

Finally we believe that the lack of CONSULTATION by council with the community by not having a public meeting regarding the land swap and the publicity of the proposed Chateau Tanunda development has overshadowed this whole matter. Only 20 submissions out of how many Tanunda residents is and indication to Council at the lack of consultation with its people.

And to Chateau Tanunda proprietor [Mr Geber]—we believe you own enough lands with Chateau Tanunda to develop without requesting the community land swap. Maybe you could give council your “western sections” of land as Mrs Elma Keil did so that the community could have a green corridor of parkland gardens and retaining the heritage railway station and track? – to be enjoyed by all future generations.
ADDITIONAL INFORMATION FOR THE CONSIDERATION OF
THE BAROSSA COUNCIL

Thank you for the opportunity to speak with you today. My partner Bob and I remain opposed to the Proposed Community Land Swap.

In our written submission we made the following key 4 points in summary and we wish to address each one in turn in the light of the Officer’s Response to our submission and the independent assessment provided to Council by Kelleyd Jones Lawyers.

1. “As adjoining land owners we ask to be consulted about meeting the conditions for the release of the Keil Estate Indenture Deed as discussed in the Consultation Report.”

(Written Submission Page 5, dated 11 December 2017.)

The Comment/Assessment to Attachment 3 – “Assessment Against Disposal of Land and Other Assets Policy” to the Consultation Report with reference to Policy Direction 4.4.3 Waiver for Disposal Methods states the following:

“No waiver is being sought as direct negotiation is an acceptable disposal methodology, and there is only one adjacent land owner who can meet the conditions for the release of the Keil Estate trust.”

It was difficult to understand what this meant as at the time we prepared the submission we did not have reference to the Keil Estate Indenture Deed. We have subsequently learned that Elma Linda Keil enabled the purchase of the land with $63,000.00 “specifically provided on the condition that the said land was to be purchased for purposes of parks gardens or sporting facilities within the area of the District Council of Tanunda and that the Council give an undertaking that the said land would be used in perpetuity for that purpose and not sold at any time in the future thus preserving the said land for such purposes;”

Given that the now Community Land could not be sold, it is obvious that The Barossa Council have undertaken negotiations with Chateau Tanunda to enable a land swap to occur and we have realised that the mention of adjacent landowners in the Officer’s Response do not relate to us in this instance.

The Officer’s Response to our written submission, Attachment 5 Summary table of responses from the community via postal service, email and Our Better Barossa consultation platform, states that the “CEO and Governance Advisor have met with Ms James and Mr Sennef to discuss their general concerns about the proposed land exchange. Response to these specific concerns as follows: (Additional Comments or
Concerns) Refers to the Consultation Report at Attachment 1 - 4.4.3 Waiver for Disposal Methods – where CEO asserts that “no waiver is being sought as direct negotiation is an acceptable disposable methodology, and there is only one adjacent land owner who can meet the conditions for the release of the Keil Estate Trust.” The only adjacent landowner who can meet the conditions for the release of the Keil Estate Trust is the Chateau Tanunda proprietor who is offering similar sized and quality land in exchange of two parcels of community land. The Keil Estate Trust does not require any consultation with adjacent landowners prior to releasing land under its trust structure. The executors of the Trust Estate have indicated their support for the proposal on various conditions including that the exchange land be rededicated to the community.”

The executors of the Trust Estate have indicated the following in a letter to Council in response to a letter from the CEO Mr Martin McCarthy dated 23 December 2015:

“We the undersigned agree in principle so that parties may continue negotiations that:

1. As executors of the Deed we conditionally agree to cancel the Deed which is currently over land parcels Allotment 11, 12 and 13 contained in certificate of titles 5133/408, 5902/824 (was previously 5133/409) and 5133/410.

2. The conditions are, but not limited to:
   a. That we as executors shall not bear any costs for cancelling and re-establishing a new Deed;
   b. That no cancellation or re-establishment will occur until Mr Geber and Council achieve an agreed position;
   c. That Council undertakes all the necessary actions to satisfy the requirements of the Local Government Act;
   d. That the Minister for Local Government, should the project proceed to this advanced state, approve the release of the land from Community Land status; and
   e. We reserve the right to discuss any other matter that is reasonably required by all parties.

As stakeholders in this project we ask that you keep us apprised of progress as matters of significance come to hand.

Yours sincerely

Mr Roland Braunack  Mr Robert Homburg

As joint Executors of the Estate of Elma Linda Keil and the Indenture dated 28 June 1996.”

We do not believe the statement that the land in question is of similar size and quality. We do not know the size of the Chateau Tanunda land proposed to be swapped as according to the Have Your Say document Lots to be transferred to Council are described as “E (Lot 74 CT S962/946D58229) excluding a portion to the south to be retained by Chateau Tanunda.”
We also do not know the quality of the Chateau Tanunda land proposed to be swapped as it has not been assessed. Local knowledge suggests that this land could be contaminated due to its proximity to the adjacent rail reserve easement.

Condition c of the Indenture Deed states “that Council undertakes all the necessary actions to satisfy the requirements of the Local Government Act.”

2. “An independent review be undertaken of the assessment of the proposal against the principles outlined in The Barossa Council’s Disposal of Land or Other Assets Policy.”

(Written submission, Page 5.)

The Officer’s Response to our written submission, Attachment 5 Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform Additional Comments or Concerns states: “Officers have provided this independent review by Kelley Jones Lawyers at Attachment 8 to this Council report.”

Kelley Jones Lawyers state at 38:

“We have reviewed the assessment and consider that each of the considerations has been adequately taken into account by the Council, save for the outcome of the community consultation process currently underway, which will be considered by the Council prior to making its decision.”

We disagree with this statement. We believe that:

a) the usefulness of the Land or Other Asset;
b) the current market value of the Land or Other Asset;
c) the annual cost of maintenance;
d) any alternative future use of the Land or Other Asset;
e) any duplication of the Land or Other Asset;
f) any impact the disposal of the Land or Other Asset may have on the community;
g) any cultural or historical significance of the Land or Other Asset;
h) the positive and negative impacts the disposal of the Land or Other Asset may have on the operations of the Council;
i) the long term plans and strategic direction of the Council;
j) the remaining useful life, particularly of an Asset;
k) a benefit and risk analysis of the proposed disposal;
l) the results of any community consultation process;
m) any restrictions on the proposed disposal;
n) the content of any community land management plan; and
o) any other relevant policies of the Council, including:
   • Prudential Management Policy
   • Asset Accounting Policy - have not been adequately addressed as
required. As we stated in our written submission: "We believe that this must be done to ensure the community receives value for money for the Community Land proposed to be swapped with Chateau Tanunda." At this time we do not believe that all the necessary actions to satisfy the requirements of the Local Government Act 1999 have taken place.

Further, Kelley Jones Lawyers state at 39 and 40, "Paragraph 4.2 sets out the principles to which the Council must have regard in its disposal of land or other assets. Again, the Council has assessed and considered these principles in Attachment 3 to its Report. We have reviewed the assessment and consider that, generally, the principles have been adequately addressed."

We do not believe that this is good enough.

3. "Two independent valuations be obtained with regard to the existing value of the Community Land proposed to be swapped and the existing value of the Chateau Tanunda land proposed to be swapped."

(Written submission, Page 5.)

The Officer's Response to our written submission Attachment 5 Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform states:

"Refer to above. (Officers have provided this independent review by Kelley Jones Lawyers at Attachment 8 to the Council report.) Further, upon Council approval to proceed with the land exchange, comprehensive and current valuations will be obtained in due course. The Chateau Tanunda land parcel for transfer can only be valued after it has been appropriately sub-divided in accordance with the original proposal to exchange."

We do not agree with the Officer Response. We believe that it is in the community interest for all these parcels of land to be independently valued. We do not know the details of the original proposal to exchange and we do not know why the Chateau Tanunda land parcel for transfer needs to be appropriately subdivided.

The independent assessment provided by Kelley Jones Lawyers states that:

"Given the proposed disposal method, the Council will need to resolve to either not require independent valuations, or to grant a waiver to the proposed disposal method for the land and to record its reasons for this proposed methodology." Page 181.

Further at 49, it is stated: "We understand the Council has not obtained such valuations and does not intend to do so."

Further at 13, it is stated: "We note that the proposal is also subject to a land division of the parcels of land which include the Exchanged Land, in order to create the lots to form the Exchanged Land and a small parcel to be retained to allow access to Chateau
Tanunda land. This division will be subject to usual development approval considerations and processes, which are not part of this assessment.”

We believe that an alternative outcome to this process would allow for the valuation of the Exchanged Land in its entirety. Once Council has ownership of this land an agreement could be reached whereby Chateau Tanunda has access to this land without having ownership of it. Our own personal circumstances are relevant here. In purchasing our heritage listed home at 5 Basedow Road Tanunda, we believed we had also purchased the unsealed road adjacent to the northern side of our boundary, only to discover recently that we do not own this roadway, Chateau Tanunda does. We are allowed to have access to the roadway by Chateau Tanunda.

4. “Council appoint an independent probity advisor to review this assessment and the process at the conclusion to ensure probity is maintained.”

(Written submission, Page 5.)

The Officer’s Response to our written submission Attachment 5 Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform states:

“Officers have provided this as part of the independent review by Kelley Jones Lawyers at Attachment 8 to this Council Report.”

We do not agree with the Officer’s Response because the assessment and process has not yet concluded.

CONCLUSION AND RECOMMENDATIONS

We believe that the Proposed Community Land Swap between Chateau Tanunda and The Barossa Council puts the cart before the horse and is fundamentally not in the best interests of the community.

The Consultation Process, while meeting the requirements of the Local Government Act 1999, has resulted in the receipt of 20 submissions many of which addressed aspects of the future Development Assessment Process and not the Proposed Community Land Swap. It is noted that 5 submissions did not specify whether they supported or opposed the proposal, 5 submissions supported the proposal, 1 submission was not against the proposal, 1 submission had no objection to the proposal and 8 submissions were against the proposal. The consultation process occurred at the end of the calendar year when many people are distracted by end of year school activities and preparations for Christmas. Many people we spoke to about the proposal had no awareness of the Community Consultation process and were unaware of its implications. At the very least, we believe, a formal Public Meeting should have been held to canvas community opinion.
"Consultation" is not defined in the Local Government Act 1999. The dictionary definition states “consultation” is the act of consulting; deliberation; conference. The dictionary definition of “consult” is: “have deliberations with”; “seek information or advice from”; and/or “take into consideration feelings, interests.”

We do not believe that the Community Consultation conducted has provided The Barossa Council with an effective consultation with its community.

We are concerned that since the 28th of June 1996 when the Indenture Deed was signed, the District Council of Tanunda and The Barossa Council have done little to enhance the amenity of the Community Land for the purposes of parks gardens and sporting facilities as envisaged by Elma Linda Keil. She also envisaged that the land could be used in conjunction and in sympathy with the railway facilities and complex adjoining the said land should such facilities be themselves properly restored and once again become a railway passenger station whether on a regular commercial basis or for tourist purposes or is used for some other commercial or public purpose provided that it retains its primary character as parklands and a recreation area for the public.

We believe that Chateau Tanunda has the opportunity to progress its development proposal in other ways which do not impact to the same extent on the amenity of local residents or involve a Community Land Swap with The Barossa Council thus preserving Council’s gifted Community Land for parks, gardens and sporting facilities and keeping open the possibility of the railway being reopened for the benefit of the local community and future generations. We note that in the recent 2017 Your Say SA Sunday Mail Insight Special published on Sunday the 10th of December 2017 it was reported on Page 6: “Among the most ambitious of the 25 ideas proposed in the Report was creating “an extensive tram network” and investing more in rail, potentially linking the wine regions of the Barossa Valley and McLaren Vale to the city.” We also note that large scale future residential development is scheduled to be constructed in the nearby localities of Concordia and Rosedale.

We believe that the Proposed Community Land Swap with Chateau Tanunda was meant to enable the proposed private development for tourist accommodation on a larger site defined in The Barossa Council’s Development Plan as all land marked as Chateau Tanunda Land and including Local Reserves. Interestingly, on the current development plan, Lot E currently owned by Chateau Tanunda is considered to be a Local Reserve while Lots A and B currently owned by The Barossa Council are not.

As it stands we believe the proposed private development would not meet The Barossa Council’s Objectives as outlined in the Development Plan at Tourist Accommodation and in its current form would be likely to be rejected. Objective 2 states: “Development that contributes to the desired character of the zone.” Page 214, The Barossa Council Development Plan.

Therefore we believe that nothing will be gained for the benefit of the Tanunda and Barossa community and much will be lost in the Proposed Community Land Swap. It would be more advantageous for the SA Government Rail Reserve Easement to be retained for future public use and for the existing Community Land to become parks and gardens as envisaged by Elma Linda Keil.
Council could then consider the purchase of Lots C and E following independent assessment for the long term benefit of Tanunda and Barossa residents and visitors.

Robbert Sennef                                Shelley James
ADDITIONAL SUBMISSION RE: PROPOSED COMMUNITY LAND SWAP

We first became aware of the Proposed Community Land Swap with Chateau Tanunda when we received the letter from The Barossa Council dated the 31st of October 2017 (Attachment 4). It was at that time that we became aware that we are the adjacent landowners most affected by the Proposal. To this day we have had no discussions with Mr John Geber, the proprietor of Chateau Tanunda, about any of these plans or proposals.

As part of the Consultation Process on the Proposed Community Land Swap, The Barossa Council said that documents were available to read on Council’s website. When we viewed the website, we discovered that the documents could not be read because they were not aligned properly. This was pointed out to The Barossa Council employee at the front desk of The Barossa Council Office who acknowledged that this was a problem. We believe that this problem contravenes the provisions of the Local Government Act 1999 in relation to public access to documents. The documents we requested copies of were provided to us by The Barossa Council.

We sought a meeting with the Chief Executive Officer of The Barossa Council, Mr Martin McCarthy and met with him on Tuesday the 14th of November 2017 and asked him how we could participate in the process. He advised us to write a letter and submit it. It was at that time that we found out the details about the proposed development by Chateau Tanunda.

No public meetings were held by The Barossa Council to inform the community about the Proposed Community Land Swap and the development proposal by Chateau Tanunda leading to only 20 submissions being received by Council in relation to it. We will return to this matter again later in this submission.

We then arranged a meeting with Greens MLC Mark Parnell at Parliament House to help us understand the planning process to enable us to respond appropriately during the consultation period. Mark informed us that the consultation process was about the Proposed Community Land Swap, not the development proposal. We thought this would be very difficult for locals to understand, which proved to be the case as many of the submissions addressed the development proposal and not the Proposed Community Land Swap. However, we believe that the development proposal ‘informs’ the Proposed Community Land Swap and needs to be seen in that context as a precursor to consideration of the development proposal.

We then sought additional information from The Barossa Council to assist us in preparing our response – the existing Community Land Management Plan in relation to the Community Land in question (Attachment 3) and a copy of the Keil Estate Indenture Deed between the District Council of Tanunda and the trustees of the Indenture Deed, Robert John Homburg and Roland Braunack (Attachment 1).

The parcels of Community Land purchased by the then District Council of Tanunda with $65,000.00 from the Estate of Elma Keil is regarded as: Management Plan 2 Undeveloped Reserves and Gardens (or those with minor improvements) (Attachment
3). We are extremely disappointed that the District Council of Tanunda and subsequently The Barossa Council have done nothing with the gifted land for over 30 years. The Indenture Deed is specific about what is to be done with the land:

"and whereas the funds provided by the said Elma Linda Keil deceased were specifically provided on the condition contained in her will that the said land was to be purchased for the purposes of park gardens or sporting facilities within the area of the District Council of Tanunda and that the Council give an undertaking that the said land would be used in perpetuity for that purpose and not sold at any time in the future thus preserving the said land for such purposes."

Clause 4 states the following:

"save and it is agreed between the parties hereto that the Council may however develop the said land or part thereof to enhance its future use in conjunction and in sympathy with the railway station facilities and complex adjoining the said land should such facilities be themselves properly restored and once again become a railway passenger station whether on a regular commercial basis or for tourist purposes or is used for some other commercial or public purpose provided that it retains its primary character as park lands and a recreation area for the public" (Attachment 1).

We note that the Indenture Deed was signed by Robert Homburg and Roland Braunack as trustees on Friday the 28th of June 1996. At the time, Robert Homburg was also the Mayor of the District Council of Tanunda. The Barossa Council came into being on Monday the 1st of July 1996. Roland Braunack sadly passed away in November 2017.

We have read copies of The Barossa Council’s Public Consultation Policy (Attachment 11) and Disposal of Land or Other Assets Policy (Attachment 12) which inform the consultation process and note that the consultation process adopted by The Barossa Council in this instance is the minimum required by the Local Government Act 1999. We believe and have concluded that the Officer’s Response to the assessment of the Proposed Community Land Swap against the principles of The Barossa Council’s Disposal of Land or Other Assets Policy was and is deficient (Attachment 6).

Heuzenroeder & Heuzenroeder, barristers and solicitors, were approached in order to provide advice about the Indenture Deed as it was drawn up by them in 1996. Kirsti Harms was spoken to and said that she was the wife of Elected Councillor Christopher Harms of The Barossa Council, they didn’t discuss Council matters and there would be no conflict of interest in her providing advice about the provisions of the Indenture Deed.

We discovered through further researching the issue of the Proposed Community Land Swap that discussions between The Barossa Council and Roland Braunack and Robert Homburg, as joint executors of the estate of Elma Linda Keil and the Indenture Deed dated the 28th of June 1996 had been ongoing since at least 2015 (Attachment 2).
The local community became aware of the Proposed Community Land Swap and development proposal in September 2017 when some details were published in ‘The Leader’ newspaper. Positive comments about the proposal at the time were made by Mayor Bob Sloane. We completed our submission as part of the consultation process and lodged it by hand to Council on Monday the 11th of December 2017, the day before submissions closed (Attachment 7). We note that lodging the submission by hand was not an option offered in the letter addressed to us, dated 31 October 2017 (Attachment 4). We don’t have a computer and the mail service would have been too slow for our submission to have arrived on time.

Shelley asked to appear at the next Council Meeting scheduled for Tuesday the 19th of December 2017. This deputation was agreed to by Mayor Bob Sloane. As part of the consultation process, it had already been agreed that all submissions received would be compiled into a report and placed on the Agenda for the Council Meeting. They were and the report was available on the website as planned but couldn’t be read on a computer screen because of the problems described earlier in this submission. Copies of relevant pages from the 444 page Agenda had to be requested and organised at The Barossa Council Office.

The Barossa Council Agenda for the Council Meeting of Tuesday the 19th of December 2017 was made available online several days prior as required by the Local Government Act 1999. The Council Agenda also included an item from The Barossa Council CEO Mr. Martin McCarthy recommending that Council continue the process to revoke the Community Land classification. We are concerned that this recommendation was made prior to Shelley’s deputation to the Council Meeting scheduled for Tuesday the 19th of December. As mentioned earlier in this submission we considered the Officer’s response to the assessment of the Proposed Community Land Swap Proposal against the principles of The Barossa Council’s Disposal of Land or Other Assets Policy to be deficient (Attachment 6). We noted that only 20 submissions had been received and many of the submissions addressed the development proposal and not the Proposed Community Land Swap (Attachment 6).

We were astonished to see that an Independent Assessment of the Proposed Land Exchange with the Owner of Chateau Tanunda (Attachment 9) was provided by Kelley Jones Lawyers at the time The Barossa Council Agenda was published for the 19 December 2017 Council Meeting, dated the 13th of December 2017 – the day after written submissions closed and before the consultation process had effectively concluded.

We reviewed the Independent Assessment and raised issues in relation to it in the 7 pages of Additional Information, 16 requested copies of which were provided to Elected Councillors and Barossa Council staff at the time of Shelley’s address to Council, Tuesday the 19th of December 2017 (Attachment 14).

We spoke with Michelle O’Rielly, senior journalist, with the Barossa & Light Herald and Emma Clark, journalist, with The Leader on Friday the 15th of December 2017. Both newspapers published stories on the Proposed Community Land Swap on Wednesday the 20th of December 2017 – these were the last publications for the year 2017.
It has also come to our attention that Elma Keil had made a bequest for tree planting at the Tanunda Oval to the Tanunda Parks and Recreation Committee/Tanunda Show and the Tanunda Rotunda and Gardens in Murray Street Tanunda.

Shelley spoke to the Elected Councillors, Barossa Council staff and public gallery at The Barossa Council Meeting on Tuesday the 19th of December 2017 (Attachment 13). Additional Information was also provided as mentioned previously (Attachment 14). At the conclusion of Shelley’s address, no questions were asked and no comments were made by Elected Councillors in relation to her address or in relation to the additional information provided, apart from a thank you by the Mayor for her attendance. We were shocked and surprised by this.

7.2.1.1 Revocation of Community Land Classification – Basedow Road Tanunda B7081 was moved by Councillor Bim Lange and seconded by Councillor David de Vries who stated that he considered 20 submissions received in relation to the Proposed Community Land Swap to be a good response from the community (Attachment 8). The motion was put after Councillors Lange and de Vries had spoken in favour, there were no other speakers and the motion was carried unanimously with the addition of a new Clause 2:

“That, further to the Independent Assessment at Page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value, and the land currently has little or no market value due to the restrictions of the Dedication of the Keil Trust and the community land classification, the Council dispenses with the requirement of its Disposal of Land and Other Assets Policy at Paragraph 4.4.1 (i) to obtain any independent valuations in this matter.”


We contest this and refer to the Additional Information for the consideration of The Barossa Council (Attachment 14). We do not believe that due diligence has been done in relation to this matter and the issues raised in our submission (Attachment 7), Shelley’s address to The Barossa Council (Attachment 13) and the Additional Information (Attachment 14) remain unaddressed.

Since we last wrote to you on the 20th of December 2017 we have viewed The Barossa Council’s Development Plan to discover that the entire parcel of land including Chateau Tanunda, the Tanunda Railway Station, the existing parcels of Community Land and our own home is zoned Tourist Accommodation. We bought our home at 5 Basedow Road Tanunda in 2007 and do not recall our block ever being zoned as Tourist Accommodation either at or since that time. We have contacted The Barossa Council’s Principal Planner who informed us that the land has been zoned Tourist Accommodation for a very long time but hasn’t been able to provide documentation to that effect. We have also requested The Barossa Council to provide us with copies of relevant correspondence regarding the zoning of the land, excluding rates notices, to us since 2007 (New Attachment 16).

Since we last wrote to you on the 20th of December 2017 we have also received comment from local residents concerned that the Chateau Tanunda land proposed to be swapped with the existing Community Land may be contaminated due to its
proximity to the railway line and the Tanunda Railway Station. Enquiries to the Environment Protection Authority inform us that a visit to inspect the site will cost us $300.00.

Shelley has applied to the Supreme Court of South Australia and received a copy of the last will and testament and codicil of Elma Linda Keil who died on the 4th of May 1987 (New Attachment 17). Robert Homburg and Roland Braunack were named as executors. Elma left much money and personal effects to relatives, friends and community organisations she was connected to. She further stated that:

“The residue of my estate shall be held in trust by my trustees for the benefit of the town of Tanunda the capital and or income to be used at the absolute discretion of my trustees for the benefit of any sporting bodies in the town and district of Tanunda and or any parks and gardens in the town and district of Tanunda and I empower my trustees to invest such capital in any trustee investment that they think fit PROVIDED ALWAYS that such trust shall continue for a period of not more than twenty-one years after the date of my death and in the event of my Trustees holding any capital or income at the end of the said twenty-one years then such money shall be paid to the District Council of Tanunda.”

(New Attachment 17).

Twenty-one years since the death of Elma Keil is 2008. We don’t know if any records exist of the amounts of money the District Council of Tanunda or The Barossa Council have received from the Estate of Elma Keil or what they have been used for. We are currently considering making an application under the Freedom of Information Act to find this information.

We have closely examined the development proposal by Chateau Tanunda, especially the site proposed for the 100 – 120 room, five star hotel. Shelley has visited the nearby two storey 3 – 4 star Novotel Barossa Valley Resort at Rowland Flat which comprises 140 rooms and occupies a much larger footprint than what is proposed by Chateau Tanunda. It is difficult to see how the current development proposal could be supported given that it would completely dominate the area in which it would be located and there would be only a limited amount of open space around it (Attachment 6).

We also note at the most recent meeting of The Barossa Council on the 23rd of January 2018, a final report on the proposed 2030 Regional Transport Plan was presented which stated the following:

“Rail
• Encourage the shift to rail transport for passenger and freight movements where justified by environmental, economic or social imperatives

Central Local Government Region

The SIPSA Regional Overview pages 14 to 25 and 38 to 59 provide specific information about infrastructure plans for the Region. The following project information is provided under the headings of “Transport” and “Land”.
Rail connectivity to the Barossa/Mid North

* Support the development of an intermodal hub at Angaston as part of a state-wide intermodal strategy.*

(Page 45 Legatus Group, HDS Australia Pty Ltd, New Attachment 18).

Rail Transport Infrastructure is discussed at 8.2 in the Report: 8.2.1 refers to the Current Transport Policy of the Australian Government; 8.2.2 discusses Rail Freight Considerations; 8.2.3 discusses Rail Tourism Considerations and 8.2.4 discusses Commuter Considerations.

(Pages 75 – 76 Legatus Group, HDS Australia Pty Ltd, New Attachment 18).

As Shelley said in her address to The Barossa Council on the 19th of December 2017, it will make much more sense to retain the Tanunda Railway Station and adjacent railway line for future generations including the existing Community Land owned by The Barossa Council (Attachment 13).

We have also recently discovered that the supposed purchase of the Tanunda Railway Station by Mr. Geber has yet to be registered with the Land Titles Office and we have provided a copy of the existing Certificate of Title for your information (New Attachment 19).

In conclusion, we reiterate that we are opposed to the Proposed Community Land Swap with Chateau Tanunda. We believe that the concept of 5 star tourist accommodation and a statewide culinary institute for education and cultural and culinary tourism has merit and could be accommodated by Mr Geber on his other existing land holdings without the need for the Proposed Community Land Swap to proceed. We support the retention of the Tanunda Railway Station and the existing parcels of Community Land for posterity to be enjoyed by future generations as envisaged by Elma Keil and the District Council of Tanunda.
Certificate of Title - Volume 5962 Folio 946

Parent Title(s)  CT 5902/823
Creating Dealing(s)  T 10391027

Title Issued  01/05/2006  Edition 1  Edition Issued  01/05/2006

Estate Type  FEE SIMPLE

Registered Proprietor

"VI PTY. LTD. (ACN: 066 956 198)
OF LEVEL 20 NATIONAL MUTUAL BUILDING 44 MARKET ST SYDNEY NSW 2000"

Description of Land

ALLOTMENT 74 DEPOSITED PLAN 58229
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Easements

SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED B AND D

SUBJECT TO SERVICE EASEMENT(S) OVER THE LAND MARKED H FOR WATER SUPPLY PURPOSES TO SOUTH AUSTRALIAN WATER CORPORATION (223LG RPA)

TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A APPURTENANT ONLY TO THE LAND MARKED X

Schedule of Dealings

• Notations

Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General's Notes  NIL
Administrative Interests  NIL
Certificate of Title

Title Reference  CT 5962/946
Status  CURRENT
Easement  YES
Owner Number  70513733
Address for Notices  CARE ESV ACCOUNTING AND BUSINESS ADVISORS 'CITY CENTRE' LEVEL 18, 55 MARKET STREET SYDNEY NSW 2000
Area  1.440HA (CALCULATED)

Estate Type  Fee Simple

Registered Proprietor  VIVI PTY. LTD. (ACN: 068 956 198) OF LEVEL 20 NATIONAL MUTUAL BUILDING 44 MARKET ST SYDNEY NSW 2000

Description of Land  ALLOTMENT 74 DEPOSITED PLAN 58229 IN THE AREA NAMED TANUNDA HUNDRED OF MOOROOROO

Last Sale Details  There are no sales details recorded for this property

Constraints  Encumbrances  NIL
  Stoppers  NIL

Valuation Numbers

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Status</th>
<th>Property Location Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>9671350053</td>
<td>CURRENT</td>
<td>Unit 1-3, 9 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
</tbody>
</table>

Lorations

Sailings Affecting Title  NIL

Lorations on Plan  NIL

Registrar-General's Notes
## Administrative Interests

NIL
5 Basedow Road,  
Tanunda SA 5352.

29 May 2018.

Ms Felice D’Agostino,  
Principal,  
Norman Waterhouse Lawyers,  
Level 15, 45 Pirie Street,  
Adelaide SA 5000.

Dear Felice,

We are writing to you to provide you with additional information which we believe to be important in your Section 270 Internal Review of a Council Decision.

Shelley has sourced all the title and valuation documents from the Land Titles Office with reference to all the parcels of land, A, B, C, D and E concerned with the Proposed Community Land Swap between The Barossa Council and Chateau Tanunda. Copies of these have been enclosed for your information and reference.

The Community Land currently owned by The Barossa Council, Parcels A and B, were each valued at $195,000.00 on the 1st of January 2017. Parcel C, identified as land belonging to Chateau Tanunda in the Consultation document was purchased by Chateau Tanunda on the 1st of February 2018 for $187,000.00, including the former Tanunda Railway Station currently occupied by Radio Station bbbfm. Parcel D, the railway corridor, is still owned by the Minister for Transport and Infrastructure, valued on the 1st of January 2017 at $18,500.00. Parcel E, the land currently on offer from Chateau Tanunda, obviously includes much more land than is indicated in the Consultation document and has yet to be formally divided.
We mentioned during our interview with you on Thursday the 24th of May 2018 that a number of people recently spoken to believe that Chateau Tanunda’s Development Proposal will not go ahead.

The first conversation took place in early March 2018 with the landscaper of Chateau Tanunda who lived as a tenant at 5A Basedow Road (Chateau Tanunda property) until recently and who has been a long time friend of Mr John Geber (proprieto of Chateau Tanunda) for over 20 years. Apparently John stated that a $2.6 million grant application was unsuccessful and he and his accountant decided not to go ahead with the development. The landscaper was asked: “what should I do with all this land?” A suggestion was made to make the former Tanunda Railway Station into a B & B, as well as the disused railway shed. (The disused railway shed is situated on Parcel E which Chateau Tanunda proposes to swap with The Barossa Council).

The second conversation took place in mid April 2018 with winemakers (one of whom is a former winemaker with Chateau Tanunda) at ‘Artisans’ in Tanunda. Apparently it was stated that the Chateau Tanunda Development Proposal had been stopped due to a lack of funding.

The third conversation took place approximately two weeks ago with John Geber’s son, who has moved in to 5A Basedow Road, formerly occupied by the landscaper. He said that “there’s no way Dad will develop this hotel...not for at least 40 years if ever.”

The fourth conversation took place early last week with a former councillor of The Barossa Council. He said that he believed that the proposed development by Chateau Tanunda would not eventuate. He also said that it was difficult at times to have quality debates with some councillors on The Barossa Council and that “Mr John Geber is a ruthless businessman only looking out for his interests and not the community.”

Thank you for the opportunity of providing you with additional information which we believe to be important in your Section 270 Internal Review of a Council Decision. Thank you for giving us your time to date and we look forward to hearing from you.

Yours sincerely,

[Signature]
Robbert (Bob) Sennef
0407795828

[Signature]
Shelley James
0403836234
5 Basedow Road,
Tanunda SA 5352.

29 May 2018.

Ms Felice D'Agostino,
Principal,
Norman Waterhouse Lawyers,
Level 15, 45 Pirie Street,
Adelaide SA 5000.

Dear Felice,

We are writing to you to provide you with additional information which we believe to be important in your Section 270 Internal Review of a Council Decision.

Shelley has sourced all the title and valuation documents from the Land Titles Office with reference to all the parcels of land, A, B, C, D and E concerned with the Proposed Community Land Swap between The Barossa Council and Chateau Tanunda. Copies of these have been enclosed for your information and reference.

The Community Land currently owned by The Barossa Council, Parcels A and B, were each valued at $195,000.00 on the 1st of January 2017. Parcel C, identified as land belonging to Chateau Tanunda in the Consultation document was purchased by Chateau Tanunda on the 1st of February 2018 for $187,000.00, including the former Tanunda Railway Station currently occupied by Radio Station bbbfm. Parcel D, the railway corridor, is still owned by the Minister for Transport and Infrastructure, valued on the 1st of January 2017 at $18,500.00. Parcel E, the land currently on offer from Chateau Tanunda, obviously includes much more land than is indicated in the Consultation document and has yet to be formally divided.
We mentioned during our interview with you on Thursday the 24th of May 2018 that a number of people recently spoken to believe that Chateau Tanunda's Development Proposal will not go ahead.

The first conversation took place in early March 2018 with the landscaper of Chateau Tanunda who lived as a tenant at 5A Basedow Road (Chateau Tanunda property) until recently and who has been a long time friend of Mr John Geber (proprietor of Chateau Tanunda) for over 20 years. Apparently John stated that a $2.6 million grant application was unsuccessful and he and his accountant decided not to go ahead with the development. The landscaper was asked: "what should I do with all this land?" A suggestion was made to make the former Tanunda Railway Station into a B & B, as well as the disused railway shed. (The disused railway shed is situated on Parcel E which Chateau Tanunda proposes to swap with The Barossa Council).

The second conversation took place in mid April 2018 with winemakers (one of whom is a former winemaker with Chateau Tanunda) at 'Artisans' in Tanunda. Apparently it was stated that the Chateau Tanunda Development Proposal had been stopped due to a lack of funding.

The third conversation took place approximately two weeks ago with John Geber's son, who has moved into 5A Basedow Road, formerly occupied by the landscaper. He said that "there's no way Dad will develop this hotel...not for at least 40 years if ever."

The fourth conversation took place early last week with a former councillor of The Barossa Council. He said that he believed that the proposed development by Chateau Tanunda would not eventuate. He also said that it was difficult at times to have quality debates with some councillors on The Barossa Council and that "Mr John Geber is a ruthless businessman only looking out for his interests and not the community."

Thank you for the opportunity of providing you with additional information which we believe to be important in your Section 270 Internal Review of a Council Decision. Thank you for giving us your time to date and we look forward to hearing from you.

Yours sincerely,

Robbert (Bob) Sennef
0407795828

Shelley James
0403836234
Certificate of Title - Volume 5133 Folio 408

Parent Title(s)  CT 1065/20, CT 4085/156

Creating Dealing(s)  RTD 7251297, RE 7505372, RE 7505372A

Title Issued  21/07/1993  Edition 3  Edition Issued  06/04/1995

Estate Type  FEE SIMPLE

Registered Proprietor  THE BAROSSA COUNCIL
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land

ALLOTMENT 11 DEPOSITED PLAN 33882
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOOROO

Easements

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED D TO AUSTRALIAN NATIONAL RAILWAYS COMMISSION
(RE 7505372A)

TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED C

Schedule of Dealings

NIL

Notations

Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General’s Notes  NIL
Administrative Interests  NIL
Certificate of Title
Title Reference CT 5133/408
Status CURRENT
Easement YES
Owner Number 90005082
Address for Notices PO BOX 867 NURIOOTPA SA 5355
Area 6240sq (APPROXIMATE)

Estate Type
Fee Simple

Registered Proprietor
THE BAROSSA COUNCIL
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land
ALLOTMENT 11 DEPOSITED PLAN 33882
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOKOO

Last Sale Details
Dealing Reference TRANSFER (T) 7882454
Dealing Date 28/02/1995
Sale Price $73,000
Sale Type TRANSFER OF A PARTIAL INTEREST OR AN INTEREST IN MULTIPLE TITLES

Constraints
Encumbrances NIL
Stoppers NIL

Valuation Numbers
<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Status</th>
<th>Property Location Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>9671353203</td>
<td>CURRENT</td>
<td>Lot 11 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
</tbody>
</table>

Notations
Dealings Affecting Title NIL
### Notations on Plan
NIL

### Registrar-General's Notes
NIL

### Administrative Interests
NIL

### Valuation Record

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valuation Number</td>
<td>9671353203</td>
</tr>
<tr>
<td>Type</td>
<td>Site &amp; Capital Value</td>
</tr>
<tr>
<td>Date of Valuation</td>
<td>01/01/2017</td>
</tr>
<tr>
<td>Status</td>
<td>CURRENT</td>
</tr>
<tr>
<td>Operative From</td>
<td>01/07/1994</td>
</tr>
<tr>
<td>Property Location</td>
<td>Lot 11 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
<tr>
<td>Local Government</td>
<td>BAROSSA</td>
</tr>
<tr>
<td>Owner Names</td>
<td>THE BAROSSA COUNCIL</td>
</tr>
<tr>
<td>Owner Number</td>
<td>90005082</td>
</tr>
<tr>
<td>Address for Notices</td>
<td>PO BOX 867 NURIOOTPA SA 5355</td>
</tr>
<tr>
<td>Zone / Policy / Precinct</td>
<td>TA - Tourist Accommodation\</td>
</tr>
<tr>
<td>Water Available</td>
<td>Yes</td>
</tr>
<tr>
<td>Sewer Available</td>
<td>No</td>
</tr>
<tr>
<td>Land Use</td>
<td>4100 - Vacant Land-Urban</td>
</tr>
<tr>
<td>Description</td>
<td>L</td>
</tr>
<tr>
<td>Local Government Description</td>
<td>Vacant Land</td>
</tr>
</tbody>
</table>

### Parcels

<table>
<thead>
<tr>
<th>Plan Parcel</th>
<th>Title Reference(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>D33882 ALLOTMENT 11</td>
<td>CT 5133/408, CT 5713/409</td>
</tr>
</tbody>
</table>

### Values

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Site Value</th>
<th>Capital Value</th>
<th>Notional Site Value</th>
<th>Notional Capital Value</th>
<th>Notional Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>$195,000</td>
<td>$195,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous</td>
<td>$195,000</td>
<td>$195,000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Building Details
<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>9671353203</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Style</td>
<td>Not available</td>
</tr>
<tr>
<td>Year Built</td>
<td>Not available</td>
</tr>
<tr>
<td>Building Condition</td>
<td>Not available</td>
</tr>
<tr>
<td>Wall Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Roof Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Equivalent Main Area</td>
<td>Not available</td>
</tr>
<tr>
<td>Number of Main Rooms</td>
<td>Not available</td>
</tr>
</tbody>
</table>
Certificate of Title - Volume 6203 Folio 319

Parent Title(s) CT 5902/821
Creating Dealing(s) T:N 12860077
Title Issued 01/02/2018 Edition 1 Edition Issued 01/02/2018

Estate Type FEE SIMPLE

Registered Proprietor LIONIZE GROUP PTY. LTD. (ACN: 058 541 810)
OF 9 BASEDOW ROAD TANUNDA SA 5352

Description of Land
ALLOTMENT 72 DEPOSITED PLAN 58229
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Easements
SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED G
TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A APPURTEAN
ONLY TO THE LAND MARKED X
TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED C

Schedule of Dealings
NIL

Notations
Dealings Affecting Title NIL
Priority Notices NIL
Notations on Plan NIL
Registrar-General's Notes NIL
Administrative Interests NIL

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.
Certificate of Title

Title Reference: CT 6203/319
Status: CURRENT
Easement: YES
Owner Number: 70669914
Address for Notices: 9 BASEDOW RD TANUNDA, SA 5352
Area: 3936M² (CALCULATED)

Estate Type
Fee Simple

Registered Proprietor
LIONIZE GROUP PTY. LTD. (ACN: 058 541 610)
OF 9 BASEDOW ROAD TANUNDA SA 5352

Description of Land
ALLOTMENT 72 DEPOSITED PLAN 58229
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Last Sale Details
There are no sales details recorded for this property

Constraints
Encumbrances
NIL
Stoppers
NIL

Valuation Numbers

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Status</th>
<th>Property Location Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>9671354505</td>
<td>CURRENT</td>
<td>Lot 72 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
</tbody>
</table>

Notations

Dealings Affecting Title
NIL
Notations on Plan
NIL

Registrar-General's Notes
**NIL**

**Administrative Interests**

**NIL**

**Valuation Record**

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Type</th>
<th>Date of Valuation</th>
<th>Status</th>
<th>Operative From</th>
<th>Property Location</th>
<th>Local Government</th>
<th>Owner Names</th>
<th>Owner Number</th>
<th>Address for Notices</th>
<th>Zone / Policy / Precinct</th>
<th>Water Available</th>
<th>Sewer Available</th>
<th>Land Use</th>
<th>Description</th>
<th>Local Government Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9671354505</td>
<td>Site &amp; Capital Value</td>
<td>01/01/2017</td>
<td>CURRENT</td>
<td>01/07/2004</td>
<td>Lot 72 BASEDOW ROAD, TANUNDA, SA 5352</td>
<td>BAROSSA</td>
<td>LIONIZE GROUP PTY. LTD.</td>
<td>70669914</td>
<td>9 BASEDOW RD TANUNDA, SA 5352</td>
<td>TA - Tourist Accommodation\</td>
<td>Yes</td>
<td>No</td>
<td>6730 - Radio Broadcasting</td>
<td>RADIO STATION</td>
<td>Commercial - Other</td>
</tr>
</tbody>
</table>

**Parcels**

<table>
<thead>
<tr>
<th>Plan/Parcel</th>
<th>Title Reference(s)</th>
<th>D58229 ALLOTMENT 72</th>
<th>CT 6203/319</th>
</tr>
</thead>
</table>

**Values**

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Site Value</th>
<th>Capital Value</th>
<th>Notional Site Value</th>
<th>Notional Capital Value</th>
<th>Notional Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>$170,000</td>
<td>$187,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous</td>
<td>$170,000</td>
<td>$187,000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Building Details**

**Valuation Number**

9671354505

**Building Style**

Not available

**Year Built**

Not available
<table>
<thead>
<tr>
<th>Building Condition</th>
<th>Not available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wall Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Roof Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Equivalent Main Area</td>
<td>Not available</td>
</tr>
<tr>
<td>Number of Main Rooms</td>
<td>Not available</td>
</tr>
</tbody>
</table>
Certificate of Title - Volume 5902 Folio 822

Parent Title(s)  CT 5713/408
Creating Dealing(s)  RTC 9281303
Title Issued  24/09/2003  Edition 3  Edition Issued  01/06/2012

Estate Type
FEE SIMPLE

Registered Proprietor
MINISTER FOR TRANSPORT AND INFRASTRUCTURE OF ADELAIDE SA 5000

Description of Land
ALLOTMENT 73 DEPOSITED PLAN 58229 IN THE AREA NAMED TANUNDA HUNDRED OF MOOROOROO

Conditions
THIS CERTIFICATE OF TITLE IS ISSUED PURSUANT TO SECTION 6 OF THE NON-METROPOLITAN RAILWAYS (TRANSFER) ACT 1997 AND DOES NOT EXTINQUISH THE INTERESTS (IF ANY) WHICH A THIRD PARTY MAY HAVE IN THE WITHIN LAND

Easements
TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A APPURTENANT ONLY TO THE LAND MARKED X

TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED C.D AND G

Schedule of Dealings
NIL

Notations
Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General's Notes  NIL
Administrative Interests  NIL
Basedow Road, Tanunda
Certificate of Title

Title Reference  CT 5902/822
Status  CURRENT
Easement  YES
Owner Number  90012354
Address for Notices  L 12, ROMA MITCHELL HOUSE, 136 NORTH TCE ADELAIDE, SA 5000
Area  1.154HA (CALCULATED)

Estate Type
Fee Simple

Registered Proprietor
MINISTER FOR TRANSPORT AND INFRASTRUCTURE
OF ADELAIDE SA 5000

Description of Land

ALLOTMENT 73 DEPOSITED PLAN 58229
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Last Sale Details
There are no sales details recorded for this property

Constraints
Encumbrances
NIL

Stoppers
NIL

Conditions
THIS CERTIFICATE OF TITLE IS ISSUED PURSUANT TO SECTION 6 OF THE NON-METROPOLITAN RAILWAYS (TRANSFER) ACT 1997 AND DOES NOT EXTINGUISH THE INTERESTS (IF ANY) WHICH A THIRD PARTY MAY HAVE IN THE WITHIN LAND

Valuation Numbers

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Status</th>
<th>Property Location Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>967123970*</td>
<td>CURRENT</td>
<td>Lot 626 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
</tbody>
</table>

Notations
Dealings Affecting Title
NIL
### Valuation Record

- **Valuation Number**: 967123970*
- **Type**: Site & Capital Value
- **Date of Valuation**: 01/01/2017
- **Status**: CURRENT
- **Operative From**: 01/07/2001
- **Property Location**: Lot 626 BASEDOW ROAD, TANUNDA, SA 5352
- **Local Government**: BAROSSA
- **Owner Names**: MINISTER FOR TRANSPORT AND INFRASTRUCTURE
- **Owner Number**: 90012354
- **Address for Notices**: L 12, ROMA MITCHELL HOUSE, 138 NORTH TCE ADELAIDE, SA 5000
- **Zone / Policy / Precinct**: TA - Tourist Accommodation\[
- **Water Available**: Yes
- **Sewer Available**: No
- **Land Use**: 6400 - Railways (Incl. Rapid Rail Transit And Street Car Transport)
- **Description**: L

### Parcels

<table>
<thead>
<tr>
<th>Plan/Parcel</th>
<th>Title Reference(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>F172199 ALLOTMENT 748</td>
<td>CT 5713/398</td>
</tr>
<tr>
<td>D58229 ALLOTMENT 73</td>
<td>CT 5902/822</td>
</tr>
<tr>
<td>R1067 CLOSED ROAD MARKED E</td>
<td>CT 5713/398</td>
</tr>
<tr>
<td>F172077 ALLOTMENT 626</td>
<td>CT 5713/398</td>
</tr>
<tr>
<td>F172197 ALLOTMENT 746</td>
<td>CT 5713/398</td>
</tr>
<tr>
<td>F172195 ALLOTMENT 744</td>
<td>CT 5713/398</td>
</tr>
<tr>
<td>F172078 ALLOTMENT 627</td>
<td>CT 5713/398</td>
</tr>
<tr>
<td>F172196 ALLOTMENT 745</td>
<td>CT 5713/398</td>
</tr>
</tbody>
</table>
### Values

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Site Value</th>
<th>Capital Value</th>
<th>Notional Site Value</th>
<th>Notional Capital Value</th>
<th>Notional Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>$18,500</td>
<td>$18,500</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous</td>
<td>$18,500</td>
<td>$18,500</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Building Details

- **Valuation Number**: 987123970*
- **Building Style**: Not available
- **Year Built**: Not available
- **Building Condition**: Not available
- **Wall Construction**: Not available
- **Roof Construction**: Not available
- **Equivalent Main Area**: Not available
- **Number of Main Rooms**: Not available
Certificate of Title - Volume 5962 Folio 946

Parent Title(s)  CT 5902/823
Creating Dealing(s)  T 10391027
Title Issued  01/05/2006  Edition 1  Edition Issued  01/05/2006

Estate Type
FEE SIMPLE

Registered Proprietor
IVIVI PTY. LTD. (ACN: 066 956 198)
OF LEVEL 20 NATIONAL MUTUAL BUILDING 44 MARKET ST SYDNEY NSW 2000

Description of Land
ALLOTMENT 74 DEPOSITED PLAN 58229
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROROO

Easements
SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED B AND D

SUBJECT TO SERVICE EASEMENT(S) OVER THE LAND MARKED H FOR WATER SUPPLY PURPOSES TO SOUTH AUSTRALIAN WATER CORPORATION (223LG RPA)

TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED A APPURtenANT ONLY TO THE LAND MARKED X

Schedule of Dealings
NIL

Notations
Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General's Notes  NIL
Administrative Interests  NIL
7.2.1.5 Section 270 Local Government Act - Internal Review of a Council Decision - Revocation of Community Land Classification
Basedow Road, Tanunda

Product: Register Search (CT 5982/845)
Date/Time: 25/05/2018 04:27PM
Customer Reference: 20180522009405
Order ID: 20180522009405
Cost: $42.75

ENLARGEMENT E3
(NOT TO SCALE)

ENLARGEMENT E2
(NOT TO SCALE)

ENLARGEMENT E4
(NOT TO SCALE)

ENLARGEMENT E1
(NOT TO SCALE)
Certificate of Title

Title Reference: CT 5962/946
Status: CURRENT
Easement: YES
Owner Number: 70513733
Address for Notices: CARE ESV ACCOUNTING AND BUSINESS ADVISORS 'CITY CENTRE' LEVEL 18, 55 MARKET STREET SYDNEY NSW 2000
Area: 1.440HA (CALCULATED)

Estate Type
Fee Simple

Registered Proprietor
IVIVI PTY. LTD. (ACN: 066 956 198)
OF LEVEL 20 NATIONAL MUTUAL BUILDING 44 MARKET ST SYDNEY NSW 2000

Description of Land
ALLOCMENT 74 DEPOSITED PLAN 58229
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Last Sale Details
There are no sales details recorded for this property

Constraints
Encumbrances
NIL
Stoppers
NIL

Valuation Numbers

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Status</th>
<th>Property Location Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>9671350053</td>
<td>CURRENT</td>
<td>Unit 1-3, 9 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
</tbody>
</table>

Notations
Dealings Affecting Title
NIL

Notations on Plan
NIL

Registrar-General's Notes
NIL

Administrative Interests

NIL

Valuation Record

Valuation Number 9671350053
Type Site & Capital Value
Date of Valuation 01/01/2017
Status CURRENT
Operative From 01/07/2011
Property Location Unit 1-3, 9 BASEDOW ROAD, TANUNDA, SA 5352
Local Government BAROSSA
Owner Names IVIVI PTY. LTD.
Owner Number 70513733
Address for Notices CARE ESV ACCOUNTING AND BUSINESS ADVISORS 'CITY CENTRE' LEVEL 18, 55 MARKET STREET SYDNEY NSW 2000
Zone / Policy / Precinct TA - Tourist Accommodation
Water Available Yes
Sewer Available No
Land Use 2640 - Refrigerated Storage / Bond Storage And Warehousing
Description STORAGE WINERY
Local Government Description Commercial - Other

Parcels

<table>
<thead>
<tr>
<th>Plan/Parcel</th>
<th>Title Reference(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>D58229 ALLOTMENT 74</td>
<td>CT 5962/446</td>
</tr>
<tr>
<td>F203905 PIECE 91</td>
<td>CT 5905/3, CT 5905/4</td>
</tr>
<tr>
<td>F203905 PIECE 92</td>
<td>CT 5905/4</td>
</tr>
</tbody>
</table>

Values

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Site Value</th>
<th>Capital Value</th>
<th>Notional Site Value</th>
<th>Notional Capital Value</th>
<th>Notional Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>$1,350,000</td>
<td>$2,800,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous</td>
<td>$1,350,000</td>
<td>$2,800,000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Occupants
### Building Details

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>9671350053</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Style</td>
<td>Not available</td>
</tr>
<tr>
<td>Year Built</td>
<td>Not available</td>
</tr>
<tr>
<td>Building Condition</td>
<td>Not available</td>
</tr>
<tr>
<td>Wall Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Roof Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Equivalent Main Area</td>
<td>Not available</td>
</tr>
<tr>
<td>Number of Main Rooms</td>
<td>Not available</td>
</tr>
</tbody>
</table>
Certificate of Title - Volume 5902 Folio 824

Parent Title(s)  CT 5133/409, CT 5713/408
Creating Dealing(s)  RTC 9261303

Estate Type  FEE SIMPLE

Registered Proprietor
THE BAROSSA COUNCIL
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land
ALLOTMENT 12 DEPOSITED PLAN 33882
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Easements
SUBJECT TO EASEMENT(S) OVER THE LAND MARKED E TO AUSTRALIAN NATIONAL RAILWAYS COMMISSION (RE 7505372A)
SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED C

Schedule of Dealings
NIL

Notations
Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General's Notes  NIL
Administrative Interests  NIL
Certificate of Title

Title Reference  CT 5902/824
Status  CURRENT
Easement  YES
Owner Number  90005082
Address for Notices  PO BOX 867 NURIOOTPA SA 5355
Area  7470M² (APPROXIMATE)

Estate Type
Fee Simple

Registered Proprietor
THE BAROSSA COUNCIL
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land
ALLOTMENT 12 DEPOSITED PLAN 33882
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Last Sale Details
There are no sales details recorded for this property

Constraints
Encumbrances
NIL
Stoppers
NIL

Valuation Numbers

<table>
<thead>
<tr>
<th>Valuation Number</th>
<th>Status</th>
<th>Property Location Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>9671353406</td>
<td>CURRENT</td>
<td>Lot 12 BASEDOW ROAD, TANUNDA, SA 5352</td>
</tr>
</tbody>
</table>

Notations
Dealings Affecting Title
NIL

Notations on Plan
NIL

Registrar-General's Notes
NIL

Administrative Interests

NIL

Valuation Record

Valuation Number  9671353406
Type  Site & Capital Value
Date of Valuation  01/01/2017
Status  CURRENT
Operative From  01/07/1994
Property Location  Lot 12 BASEDOW ROAD, TANUNDA, SA 5352
Local Government  BAROSSA
Owner Names  THE BAROSSA COUNCIL
Owner Number  90005082
Address for Notices  PO BOX 887 NURIOOTPA SA 5355
Zone / Policy / Precinct  TA - Tourist Accommodation
Water Available  Yes
Sewer Available  No
Land Use  4100 - Vacant Land-Urban
Description  L
Local Government Description  Vacant Land

Parcels

<table>
<thead>
<tr>
<th>Plan/Parcel</th>
<th>Title Reference(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>D33882 ALLOTMENT 12</td>
<td>CT 5713/409, CT 5902/824</td>
</tr>
</tbody>
</table>

Values

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Site Value</th>
<th>Capital Value</th>
<th>Notional Site Value</th>
<th>Notional Capital Value</th>
<th>Notional Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>$195,000</td>
<td>$195,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous</td>
<td>$195,000</td>
<td>$195,000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Building Details

Valuation Number  9671353406
Building Style  Not available
Year Built  Not available
<table>
<thead>
<tr>
<th>Building Condition</th>
<th>Not available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wall Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Roof Construction</td>
<td>Not available</td>
</tr>
<tr>
<td>Equivalent Main Area</td>
<td>Not available</td>
</tr>
<tr>
<td>Number of Main Rooms</td>
<td>Not available</td>
</tr>
</tbody>
</table>
5 Basedow Road,
Tanunda SA 5352.

21 June 2018.

Ms Felice D’Agostino,
Principal,
Norman Waterhouse Lawyers,
Level 15, 45 Pirie Street,
Adelaide SA 5000.

Dear Felice,


Please find enclosed our response.

Yours sincerely,

Robbert (Bob) Sennef
0407795828

Shelley James
0403836234
Introduction

"Internal review is a key accountability mechanism for local government. It enables people to test the merits of decisions that affect them."

(Valuing complaints: An audit of Complaint Handling in South Australian Councils, November 2011, page 61.)

We welcome the opportunity to respond to the Draft Report: The Barossa Council Section 270 Review Report – Matter of Revocation of Community Land Classification.

We note the conclusion in the Draft Report:

"8.1 "In our view based on all the matters outlined in this report the Decision is the best and/or preferable decision."

We disagree with the conclusion and will argue in our response to the Draft Report why we do not consider that the Decision is the best and/or preferable decision. We will conclude our argument by saying that there is simply no need to proceed with the Revocation of Classification of Land as Community Land if the Proposed Chateau Tanunda Development and the Proposed Barossa Regional Culture Hub Development do not proceed.

We have provided reliable evidence to the Reviewer which indicates that the Proposed Chateau Tanunda Development is unlikely to proceed. Indeed it is stated in Director David Berry’s Letter to Council dated the 28th of July 2017: “The implementation of this land swap proposal and to facilitate a long-term vision for Tanunda we would like to advance the exchange in a timely manner now that the old railway transaction has been agreed with the SA Government. Plans consistent with the massing study are underway with an experienced design team for planning consent. The lodging of these plans will be contingent on the advancement of the proposed land exchange and we would like to advise that the design team’s target date to complete concept plans is the end of September 2017."

However, we agree with the Recommendation in the Draft Report:

“9.1 That the Council reconsider all the information before it at the time it made the Decision, the information submitted by the Applicants and this report and determine if the Decision is the best and/or preferable decision.”
2.6 of the Draft Report states:

"In reviewing the merits of a decision, the Council ought to reconsider all the information that it considered in making the original decision from a fresh perspective as well as any new information to determine the best or preferable decision. This may result in the Council affirming, varying or setting aside the original decision."

**We further recommend to The Barossa Council that it set aside the original decision and not proceed with the Revocation of Classification of Land as Community Land.**

The Draft Report has grouped our submissions and further grouped responses to our submissions and we will respond according to this framework.

**“6.1.2.1 Ground 1: The Council has not complied with the law; and**

**6.1.2.2 Ground 2: The consultation that has been undertaken was inadequate and the Council did not consider submissions made about the Proposed Chateau Development;”**

We believe that while The Barossa Council can be seen to have complied with the letter of the law, we continue to believe that The Barossa Council has not complied with the spirit of the law.

Object (b) of the Local Government Act 1999 is “to encourage the participation of local communities in the affairs of local government”...

We believe that The Barossa Council has failed to achieve this object as a result of its consultation process, even though it satisfied the minimum requirements of the Local Government Act 1999 and it’s Public Consultation Policy.

The issues of the Revocation of Classification of Land as Community Land and the Proposed Chateau Tanunda Development need to be considered as separate issues. The Consultation Report addresses both proposals simultaneously and ‘muddied the waters’ for community discussion. The Consultation Report presents the rationale for the Revocation of Classification of Land as Community Land as facilitating the Proposed Chateau Tanunda Development. No attention was given by The Barossa
Council as to the merits of the Revocation of Classification of Land as Community Land should the Proposed Chateau Tanunda Development not proceed.

At the time of the release of the Consultation Report, The Barossa Council stated at 7: Other Key Legislative Considerations:

"At this time Council is satisfied that a land exchange proposal is sound, however this analysis will be further independently assessed as part of the community consultation process."

We continue to believe that the independent assessment process was inadequate and that Council did not fully consider the outcome of its community consultation process at the time the Decision was made. Council now has the opportunity to reconsider its Decision in the light of recent developments.

Council further states in its Consultation Report:

"Whilst this report addresses the requirements under Section 194 of the Local Government Act, the disposal of any unencumbered land through land exchange has been additionally addressed against the principles of Council’s Disposal of Land and Other Assets Policy, should approval for the revocation of the community land classification be obtained."

The assessment against The Barossa Council’s Disposal of Land or Other Assets Policy was completed before the Community Consultation Process even began and we believe remains inadequate in its assessment.

We believe that the effect of the consultation process decided upon was to limit genuine community consultation about what seemed to the broader community to be a fait accompli. The Barossa Council seemed to have already decided that it would support the Proposed Chateau Tanunda Development and that the necessary process of Revocation of Classification of Land as Community Land was viewed as just an additional hurdle to be overcome in order to facilitate the proposed development.

In her submission to The Barossa Council, Joanne Nash said:

"Think it doesn’t matter what people’s feedback is, council will do what they want anyway..."

The Barossa Council Staff and the Barossa Council Elected Members have had months, even years, to consider and discuss the Proposed Chateau Tanunda Development and the Revocation of Classification of Land as Community Land. The broader community had six weeks to respond to complex issues of significant concern and interest to them.
While complying with the minimum requirements of public consultation according to the Local Government Act 1999 and The Barossa Council’s Public Consultation Policy, only 20 submissions were received from a local population of thousands of people. Information briefings and public meetings would have encouraged more locals to have genuine and meaningful input into the consultation process. Many community members do not have access to the internet and do not read the local papers. It is also our belief that the Revocation of Classification of Land as Community Land is a significant and serious issue requiring the proper attention of and scrutiny by the broader community.

The Independent Assessment by Kelley Jones Lawyers dated 13 December 2017 says:

"Council’s public consultation process for the revocation of the community land classification accords with its requirements under the Local Government Act 1999 and its Public Consultation Policy."

The Barossa Council’s Public Consultation Policy states as its purpose:

“The purpose of this Policy is to ensure that The Barossa Council (“Council”) meets its legislative obligations in regard to public consultation by:

- Using appropriate and cost effective methods which are relevant to the specific circumstances of each consultation topic
- Informing and involving the local community, key stakeholders and interested parties
- Using feedback to enhance decision making.

Further, The Barossa Council’s Public Consultation Policy says:

“…4.7 whichever consultation method (s) is/are selected, Council is committed to ensure that all possible stakeholders are provided the opportunity to engage in consultation processes to provide comment to Council on matters being considered.”

As stated previously, while the consultation process may conform to the minimum requirements of the Local Government Act 1999 and The Barossa Council’s Public Consultation Policy, we do not believe that it conforms with either the spirit of the Local Government Act 1999 or The Barossa Council’s Public Consultation Policy.

We believe that the public consultation process was a means to an end to be concluded to facilitate the Proposed Chateau Tanunda Development. The date of the Independent Assessment is significant here, it is dated the day after submissions closed. It took no account of Shelley’s deputation address on the 19th of December 2017 and no account of the Additional Information, provided to Elected Members at the Council Meeting of
the 19th of December 2017, copies of which were provided to Elected Members as requested by Council Staff.

In Shelley’s Deputation Address to Elected Members she made a number of important points.

The Officer Assessment against The Barossa Council’s Disposal of Land or Other Assets Policy stated at “a) the usefulness of the Land or Other Asset – The current land is not significantly developed or utilised, is removed from adjacent Council land and offers little in broader community benefit, of course there are adjacent landowners and users who possibly derive benefit in terms of visual amenity and recreation....”

Shelley, as an adjacent landowner, provided evidence to Elected Members as follows:

“This area provides quietness, peacefulness with birds carolling and also rabbits hopping about. Many people use the land to walk their dogs, children riding bikes, and often tourists resting and picnicking – finding that this area is suitable for parking their caravans, Winnebagos – as it’s close to the centre of the township – it’s almost like countryside living. Occassionally tourist buses park in this area whilst their passengers peruse the main street activities.”

This statement is confirmed by Peter and Angela Heuzenroeder of Tanunda in their submission to The Barossa Council:

“Over more than a generation the land directly opposite 17 Mill Street has been used by children as a bicycle track where they have made jumps and circuits and generally enjoyed themselves. It would be a great pity to see this harmless activity in a quiet corner of the town destroyed.”

In her submission to The Barossa Council, Elva Hueppauff said:

“I do not approve of Mr. Gieber from Chateau Tanunda using a land exchange deal with The Barossa Council. The piece of land was given to Tanunda Council now Barossa Council by Mr. B Kells Estate and should not be transferred. They have plenty land they can use. The piece of land they want to exchange is tucked away behind the homes and does not have easy access. The exchange land is used by caravan & mobile homes for parking. We do not have enough parking for cars now. If they use the land there will be less parking. How long will it be before he buys the rest of land for his own use?”

Further, Shelley said:

“We also fear that the land swap area will be “land locked” by Chateau Tanunda – the southern area being retained and the northern area a proposed 150 car park for
Chateau Tanunda’s proposed private development. Therefore when community events such as vintage festival floats, tour down under, hotrod cars street show, Christmas street parade, fairs and concerts at the hall – where will the many hundreds of vehicles park as this area will then be ‘private’ land. Basedow Road access to the public is very easily accessible and open for all to use.”

The dictionary definition of “consider” is to “contemplate mentally”, “weigh merits of”, “reflect”, “reckon with”, “make allowance for”, “be of opinion (that)”, “regard as”, “made after careful thought”.

As we were present at The Barossa Council Meeting of the 19th of December 2017, it was certainly not the case that Council had properly considered the additional information before them, before the Decision was taken to revoke the classification of land as community land.

Barossa Council Officers provided responses to the 20 community members who responded to the letter they received from the Chief Executive Officer, Mr Martin McCarthy, the Have Your Say document, the Consultation Report or a combination of these. These documents discussed the Proposed Chateau Tanunda Development to a greater or lesser degree and understandably respondents felt that they could legitimately comment on aspects of the proposed development because these were discussed in the documents in addition to the revocation of classification of land as community land issue.

The map of the land parcels prepared by A J + C used in the public consultation process is also misleading to some extent. Evidence provided through copies of the Certificates of Title, dated the 25th of May 2018 indicates that Parcel E comprises at least the land marked E and the large parcel of land headed Chateau Tanunda along Basedow Road which has yet to be formally divided.

“6.1.2.3 Ground 3: There ought to be an assessment of whether the Chateau Land may be contaminated;

6.1.2.4 Ground 4: There ought to be a valuation obtained in relation to the Council Land and the Chateau Land;”

The Barossa Council’s Community Land has been described by Barossa Council Staff in its assessment against its Disposal of Land or Other Assets Policy at 4.1 as follows:
“Any decision to dispose of Land or Other Assets will be made after considering (where applicable):

b) the current market value of the Land or Other Asset: Whilst there is a perceived market value it is not derivable at present as it is encumbered and not saleable. It is considered that the land swap will be of equal market value, as any new parcel of land will be rededicated to the community and provide the same service level.”

It is noted that the Revocation of Classification of Land as Community Land is one process and the Disposal of Land is another process as is described at 7.3.2.3 of the Draft Report:

“7.3.2.3 The matters raised by the Applicants are certainly matters that may be relevant in relation to decisions concerning the exchange of the Council Land for the Chateau Land. However the Decision specifically relates to the Revocation Matter and does not have the effect of transferring ownership of the Council Land to the Chateau or likewise ownership of the Chateau Land to the Council. It is necessary for the classification of the Council land as community land to be revoked before it can be disposed of. However, it is not necessary for the Council Land to be disposed of merely because it has had its community land classification revoked (if, for example, the reasons for the Revocation Matter do not, or are not likely to, come to fruition.) Accordingly, issues concerning valuation and contamination are not matters that in our view ought necessarily to impact the assessment of the appropriateness of the Decision.”

Nevertheless, The Barossa Council included its assessment against its Disposal of Land and Other Assets Policy in the Consultation Report which formed part of the Public Consultation Process. It should therefore have been foreseeable that community responses would include responses to the described issues of the value and usefulness of the land in question.

Due diligence on behalf of The Barossa Council would have at least strengthened their negotiating position on behalf of the community in their negotiations with Chateau Tanunda. Barossa Council Officers would have been aware that the Elma Keil Estate donated $65,000.00 to the then District Council of Tanunda for the purchase of the Community Land in 1996. After further enquiry, Barossa Council Officers would also have been aware that valuations dated the 1st of January 2017 valued the Community Land at $390,000.00.

We have already demonstrated the current usefulness of The Barossa Council’s Community Land in this Response. The land is obviously of value and we believe that it would be prudent to have a current independent valuation of the land and a current independent valuation of the Chateau land proposed to be swapped and an
assessment by the Environment Protection Authority as to the potential contamination of all parcels of land which are the subject of negotiations.

In its Independent Assessment, Kelley Jones Lawyers stated at 42:

"...The land exchange will not result in a reduction in Council land assets, with land of the same or similar value and size being exchanged..."

Kelley Jones Lawyers have accepted at face value what Barossa Council Officers have concluded without the provision of any evidence to support their position. The land parcels have not been tested for potential contamination by the Environment Protection Authority and there is reasonable evidence to suggest that part of land parcel E has been contaminated due to its proximity to the rail corridor; the parcels of land in question have not been measured and the parcels of land have not been independently valued.

In her submission to The Barossa Council, Emily Faulkner of Tanunda said:

"I am writing to express my concern about the proposed swap between Chateau Tanunda and the Council. My family and I regularly access the current Council land and were not happy to hear it could be swapped for development by the Chateau. It is a lovely piece of land with big gum trees and a great open space. It would be a shame for it to be lost to the community, we have always felt so lucky to be able to access such a space so close to our home. The land being offered in return is of a lesser quality and would actually be less useful to our community. I am sure that I am not the only person who feels this way, hopefully the Council will take in to account the opinions of the people who live in this area and will lose a great space before making this decision."

The Barossa Council states in its Officer Response to Emily Faulkner of Tanunda:

"Land that is proposed to be transferred to Council better integrates with existing Council assets and integrates with the main street precinct for open space and recreational purposes for more people to use."

We believe that this view is an opinion only. More substantive evidence needed to be gathered by The Barossa Council in the first instance to assess the useability and value of all the parcels of land under discussion. Barossa Council Officers may also have had the Barossa Regional Culture Hub Proposal in mind when this view was expressed. The Barossa Regional Culture Hub Proposal was released for Public Consultation in January 2018, one month after the Public Consultation Process for the Revocation of Classification of Land as Community Land had concluded and before a decision on the Revocation Matter had been determined by the Minister for Planning, Stephan Knoll’s Delegate, Mr Andrew McKeegan on the 19th of April 2018.
In its response to our submission, The Barossa Council Officer’s response was:

“CEO and Governance Advisor have met with Ms James and Mr Sennef to discuss their general concerns about the land exchange.”

This is not an accurate statement. Shelley believed that the ‘CEO’ she had the meeting with was The Barossa Council Chief Executive Officer, Mr Martin McCarth. This was not the case and when she saw Mr McCarthy at the 19th of December 2017 Council Meeting, it was only then that she realised that the ‘CEO’ she had met with in November 2017 was not Martin McCarthy but somebody else. She does not know to this day who the ‘CEO’ was that she met with.

We have already commented on the fact that an assessment was undertaken by Barossa Council Officers against its Disposal of Land or Other Assets Policy which was released as part of the Consultation Report, implying an expectation of community feedback on the matter even though it was outside the parameters for consideration of the Revocation of Classification of Land as Community Land matter.

The Barossa Council’s Disposal of Land Or Other Assets Policy states:

“1. Purpose

1.1 This Policy provides a framework to:…

b) demonstrate accountability and responsibility of Council;

c) be fair and equitable to all parties involved;

d) enable all processes to be monitored and recorded

e) ensure that the best possible outcome is achieved for the Council.”

Even though a land swap is permissible under the Policy it is questionable b – e of the purpose of the Policy has been achieved.

We continue to believe that the Barossa Council’s Policy Statement assessment according to 4.1 of its Disposal of Land or Other Assets Policy was not adequate. These matters were raised in our 11 December 2017 submission to The Barossa Council and we continue to believe that they have not been appropriately addressed.

The Barossa Council’s Disposal of Land or Other Assets Policy states:

“4.1 Disposal of Land or Other Assets

Any decision to dispose of Land or Other Assets will be made after considering (where applicable):

a) The usefulness of the Land or Other Asset;
b) The current market value of the Land or Other Asset;
c) The annual cost of maintenance;
d) Any alternative future use of the Land or Other Asset;
e) Any duplication of the Land or Other Asset or the service provided by the Land or Other Asset;
f) Any impact the disposal of the Land or Other Asset may have on the community;
g) Any cultural or historical significance of the Land or Other Asset;
h) The positive and negative impacts the disposal of the Land or Other Assets may have on the operations of the Council;
i) The long term plans and strategic direction of the Council;
j) The remaining useful life, particularly of an Asset;
k) A benefit and risk analysis of the proposed disposal;
l) The results of any community consultation process;
m) Any restrictions on the proposed disposal;
n) The content of any community land management plan;
o) Any other relevant policies of the Council, including:
   - Prudential Management Policy
   - Asset Accounting Policy"

The Barossa Council Officers’ Assessment which formed part of the Consultation Report and therefore the community consultation process in no way adequately addressed these issues notwithstanding the fact that the assessment was not required at this stage of the community consultation process.

We will comment further on (d), (f), (i) and (k).

d) any alternative future use of the Land or Other Asset:

The only alternative use contemplated in The Barossa Council’s Officers’ assessment is:

“The alternative use of the existing Council land under the swap would support a significant economic development in support of tourism and education. An investment of over $30M creating in the order of 150FTE construction jobs and 97 FTE ongoing positions. Further the reutilisation of heritage and cultural assets at the Chateau as an integrated tourism, culinary and education development.”

Any other alternative use should have included Elma Keil’s vision for the land that she paid for:

“the purposes of parks gardens or sporting facilities within the area of the District Council of Tanunda” or
to enhance its future use in conjunction and in sympathy with the railway station facilities and complex adjoining the said land should such facilities be themselves properly restored and once again become a railway passenger station whether on a regular commercial basis or for tourist purposes or is used for some other commercial or public purpose provided that it retains its primary character as park lands and a recreation area for the public."

In their submission to The Barossa Council, Kerin and Julie Ramsey said:

"Council cannot swap community land that has been gifted to the council to benefit a privately owned business. The land must stay in council ownership. Support Triple B radio station and improve the old railway station for all to enjoy."

In his submission to The Barossa Council, Jeff Meek said:

"I strongly oppose the land swap for the following reason. To give away our land and train station to private investment so he can use our assets for his personal gain is not a reason. The future use of our asset (train station & line) to bring tourists & the use for all locals to enjoy is too great. Considering our nearest working train line is in Gawler. Once it’s gone it’s gone forever & we have no say over it & DO NOT DO THIS. IT’S FOR ALL BAROSSA NOT JUST A FEW."

f) any impact the disposal of the Land or Other Asset may have on the community:

The Barossa Council’s Officers’ assessment could not even say how the community land was currently being used at the time of the community consultation. A number of the 20 submissions received, Submissions 6, 10, 13, 14, 15, 16 and 17, provided information about how the community land was currently being used. This community feedback made no impact on The Barossa Council’s decision to proceed with the Revocation of Classification of Land as Community Land.

i) The long term plans and strategic direction of the Council:

In addition to the Proposed Chateau Tanunda Development, the long term restoration of a passenger train link between Adelaide, Gawler, Lyndoch, Tanunda, Nuriootpa and beyond should have come into The Barossa Council’s thinking. Evidence was provided to the Reviewer that The Barossa Council, as a member of the Legatus Group (formerly the Central Local Government Region), considered the issue of future regional transport infrastructure at its January 2018 Council Meeting.

Recent feedback received from the Barossa Visitor Centre in Tanunda indicates that not a day goes by without a visitor raising the desirability of travelling by train from Adelaide to the Barossa. We believe that the future restoration of train services would have a significant economic impact on the Barossa.
k) a benefit and risk analysis of the proposed disposal:

This has only been assessed by Barossa Council Officers from the perspective of the Proposed Chateau Tanunda Development proceeding.

"The inability to deliver the outcome could put the commercial viability of the project at risk..."

It is obvious that despite having had a desire to initially purchase the land, having received sufficient funds from a member of the Tanunda community to purchase the land and not having done anything substantial with a view to realising Elma Keil’s vision for the land in over 20 years, The Barossa Council does not view the Community Land bequested as being important and of value to the community. Notwithstanding the agreement of the executors of the Indenture Deed to remove the existing requirements over the Community Land, it should not be surprising that Barossa Council ratepayers value and appreciate the land. We believe it should be regarded by The Barossa Council as much more than an opportunity to swap the land with Chateau Tanunda.

6.1.2.5 Ground 5: The Council is possibly not acting in the best interests of the community:

We wish to refer to a letter to us from Mr Paul Mckan, Principal Planner for The Barossa Council, dated 7 February 2017 (should be 2018.)

It states:

"I refer to your request for correspondence relating to your property. Please be advised that there has been no rezoning of the Chateau Tanunda land nor of 5 Basedow Road in recent years. The last rezoning was via the Tanunda Township Plan Amendment Report (PAR) which was gazetted on 28 August 1997. That PAR changed the zoning designation of land in the area, including the above sites, from “Tanunda Town – Area 9” to “Tourist Accommodation (Chateau Tanunda) Zone.” The name of the zone was changed to “Tourist Accommodation Zone” on 30 May 2002.

We issued a certificate to Teusner & Co on 5 June 2006 indicating the zoning as “Tourist Accommodation”.

We note that the Indenture Deed between the District Council of Tanunda and the Joint Executors of the Estate of Elma Linda Keil was signed on the 28th of June 1996. We further note that the District Council of Tanunda was amalgamated into The Barossa Council on the 1st of July 1996. The parcels of community land purchased at the
express wish of the then District Council of Tanunda were just more than 12 months later located completely within the “Tourist Accommodation (Chateau Tanunda) Zone”.

Having discovered more about the legacy of Elma Keil in recent times as a result of the emergence of the Proposed Community Land Swap, we remain astounded that this community land has remained as “Undeveloped Reserves and Gardens (or those with minor improvements)” for so long.

In the Have Your Say Proposed Land Exchange document it states:

“Council is confident there is significant community benefit in the proposal and as an outcome the land exchange will not result in any loss of value of appropriate open space to the community.”

The proposal Council is referring to here is the Proposed Chateau Tanunda Development.

We believe that it is remarkable that land desired by the then District Council of Tanunda more than 20 years ago and purchased with funds from a former Tanunda resident Elma Keil as ‘Community Land’ for parks gardens and sporting facilities is in 2018 being proposed to be swapped with Chateau Tanunda as “undeveloped reserves and gardens (or those with minor improvements.)”

We do not believe that the broader community interest in the existing community land has been taken into sufficient account by The Barossa Council in seeking the Revocation of Classification of Land as Community Land. This can be seen in the haste by which The Barossa Council has proceeded in its quest to meet the agenda of Chateau Tanunda with regard to its proposed development.

We do not believe that the Public Consultation process adopted by The Barossa Council was appropriate in the circumstances. Not enough attention was paid and consideration given to informing and engaging the Barossa community in the public consultation process and not enough consideration was given to the content of the submissions which were received from the community. The Independent Assessment provided by Kelley Jones Lawyers was completed at face value predominantly relying on the advice of Barossa Council Officers, without examination of the detail and completed and submitted to The Barossa Council within an improbable timeframe.

At point 43 of its Independent Assessment it is stated by Kelley Jones Lawyers:

“In assessing probity, accountability, transparency and reporting as set out in paragraph 4.2 (d) (Disposal of Land or Other Assets Policy), the Council is required to demonstrate accountability by ensuring that decisions are appropriately documented and evidence
provided to ensure that an independent third party can identify that the principles in paragraph 4.2 have been followed."

*4.2 Disposal Principles

Council must have regard to the following principles in its disposal of Land or Other Assets:

a) Encouragement of open and effective competition;

b) Obtaining Value for Money (this is not restricted to price alone)

An assessment of value for money must include consideration of (where applicable):

i. The contribution to Council’s long term financial plan and strategic management plans;

ii. Any relevant direct and indirect benefits to Council, both tangible and intangible;

iii. Efficiency and effectiveness;

iv. The costs of various disposal methods;

v. Internal administration costs;

vi. Risk exposure; and

vii. The value of any associated environmental benefits.

c) Ethical Behaviour and Fair Dealing

i. Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

d) Probity, Accountability, Transparency and Reporting

i. Council will demonstrate accountability in the sale of Land or Other Assets by ensuring that decisions are appropriately documented taking account of the considerations of the Clause and evidence provided to ensure that an independent third party can clearly see that the principles of this Clause have been followed or an appropriate waiver authorised...

e) Ensuring compliance with all relevant legislation (see Section 7 of this Policy)."

We believe that it is not clear that probity, accountability and transparency have been demonstrated by The Barossa Council with regard to this matter and we could be seen as an independent third party. It is difficult to see whether sufficient evidence has been presented which would enable Kelley Jones Lawyers to provide their independent assessment. Just because Barossa Council Officers say that they have demonstrated
probity, accountability and transparency, it does not mean necessarily that that is the case.

At point 44 of its Independent Assessment Kelley Jones Lawyers state:

"44. The preparation of the detailed Consultation Report, as well as the assessment included at Attachment 3 and other documents attached and the extensive public consultation, with the report, documents, summaries and visual displays being made available, is demonstrable of high levels of probity, accountability, transparency and reporting. The reasoning for all decisions is clearly documented and evidenced and compliant with the principles in paragraph 4.2 and is evident and easily identifiable."

These statements are contestable as we have already demonstrated in responding to Grounds 1, 2, 3, 4 and 5.

At point 50 of its Independent Assessment Kelley Jones Lawyers state:

"50. Therefore the Council will need to resolve to dispense with this requirement (independent valuations of the land). In circumstances where the disposal is via a land exchange of land of the same or similar size and value and the land currently has little or no value due to the restrictions of the Dedication, this is, in our opinion, a reasonable and valid step for the Council."

We have demonstrated that this was not a reasonable and valid step for the Council to take. The land was originally purchased in 1996 for $65,000.00 with proceeds of the Keil Estate and the land was valued on the 1st of January 2017 at $390,000.00. It simply cannot be said that the land is of little or no value. This information would have been available to Kelley Jones Lawyers at the time they completed their Independent Assessment.

6.2.1.6 Ground 6: The Proposed Chateau Development may not occur and it conflicts with the Barossa Regional Culture Hub proposed development:

Submissions to The Barossa Council received from Pauline Hakala, Cathy Arnst and Garry Wharton all expressed concerns about Radio Station bbbfm’s future as it is currently accommodated in the former Tanunda Railway Station building.

In its response to Community Submissions in Attachment 5 Barossa Council Officers stated:

"Council has been working with Triple B FM to help address its future."
We have discovered subsequently in January 2018 that bbbfm is expected to be accommodated in the proposed Barossa Regional Culture Hub development. This proposal was released for public consultation in January 2018 after the public consultation process for the Revocation of Classification of Land as Community Land and the Proposed Chateau Tanunda Development had closed.

We note that Barossa Councillor David de Vries is both an Elected Member of The Barossa Council and a Board Member of Triple B FM. We presume that he was more than likely aware that approval of the Revocation of Classification of Land as Community Land could lead to alternative accommodation for Triple B FM as a component of the Barossa Regional Culture Hub. This contradicts the assertion given by Barossa Council Officers that the Proposed Chateau Development will not conflict with the Barossa Regional Culture Hub proposed development.

We also became aware when the plans for the Barossa Regional Culture Hub were released for public consultation in January 2018 that a proposed car park was earmarked to be positioned in the parcel of land marked E proposed to be received from Chateau Tanunda by The Barossa Council in exchange for Community Land, Parcels A and B.

During the public consultation process on the Revocation of Classification of Land as Community Land we were constantly reassured that part Parcel E would be subject to a similar Indenture Deed as currently exists over Parcels A and B. This was a requirement by the executors of the Indenture Deed in relation to the Elma Keil Trust. The received land, Parcel E, is supposed to be reserved for parks, gardens and sporting facilities as Parcels A and B are currently meant to be.

It simply beggars belief that Studio S 2 Architects were unaware of The Barossa Council’s plans with respect to the Revocation of Classification of Land as Community Land Matter with respect to the Proposed Barossa Regional Culture Hub.

We believe that the question needs to be asked of The Barossa Council: Is The Barossa Council currently aware that the Proposed Chateau Tanunda Development, the rationale and the impetus behind the Proposed Land Exchange, will not proceed? If the answer is yes, when was The Barossa Council made aware that the Proposed Chateau Tanunda Development will not proceed?

We have provided evidence to the Reviewer, in a letter dated 29 May 2018, from a number of different reliable sources which suggests that the Proposed Chateau Tanunda Development will not proceed. In the interests of probity, accountability and transparency it is essential that the community be made aware of the current status of the Proposed Chateau Tanunda Development. Decisions are still yet to be made about the Proposed Barossa Regional Culture Hub. Additional grant funding is also going to
be needed to fund this proposal if it is to go ahead. There is no certainty that the grant funding applied for, for the Barossa Regional Culture Hub, will be received by The Barossa Council.

It simply makes no sense for the Revocation of Classification of Land as Community Land to proceed, given the current status of both of these Proposed Developments – the Proposed Chateau Tanunda Development and the Proposed Barossa Regional Culture Hub.

As part of Shelley’s consideration of the Proposed Chateau Tanunda Development, she spent some time at the two storey 140 room Barossa Novotel in Rowland Flat, looking at the footprint of the site to ascertain its impact on its surrounding environment.

Shelley concluded that it would be extremely unlikely that the proposed two storey 150 room hotel development could be appropriately and sensitively accommodated on Parcels of Land A and B by Chateau Tanunda. There is simply not enough space available. Further, it is extremely unlikely that the Proposed Chateau Tanunda Development would complement the existing heritage character of the Tanunda Town Centre. Shelley also noted that current occupancy rates at the Barossa Novotel are extremely low and substantial discounts on the cost of accommodation are regularly offered. A number of rooms have been sold by the Barossa Novotel to private owners over the years, seemingly to generate revenue.

Shelley’s view is confirmed by Sonya Day in her submission to The Barossa Council:

..."The Proposal puts a hotel behind a hotel basically. It seems cramped and the views that guests would have is one block of vineyard fronting Basedow Road. One of the good...no great things about the Barossa is space and even though I know the architects would be sympathetic of putting new buildings next to the iconic Chateau, I just don’t think it will work. Its one of the things that makes the Chateau grand, is the space around it. Put a Hotel there (even 5 star) and you will take that grandeur away and that's not what the Barossa is about."

In her submission to The Barossa Council Ngaire Ingham of Tanunda said:

..."I write with regard to the land swap proposed with Chateau Tanunda to which I strongly disagree. I am concerned with what will happen to the lovely little heritage town of Tanunda as private development attempts to change the town to benefit itself.

I understand that the subject land was actually gifted to the Barossa Council by a deceased Estate together with a large sum of money for its up-keep. I regularly enjoy walking my dogs in this area with friends and family and hope to be able to continue to do so.
There is no other open space area equal to this Reserve and I feel it should be kept as it is for the Community’s enjoyment, the reason for which it was bequeathed. I feel that it is disrespectful to the deceased person, to now trade off this gift so that it can be turned into a Carpark, Hotel and swimming pool for private commercial development.

I also live on Basedow Road and am concerned with the potential change in the aesthetics of the area. There are many private family homes with retirees living in the immediate locality who benefit from the open space provided by the land Reserve.

The increase in vehicle traffic, noise from building works and extra foot traffic late at night which comes with an International Hotel, will severely impact my own property and quiet lifestyle.

Therefore, I believe that Chateau Tanunda should utilise their own land better and develop their Hotel within their existing boundaries."

Shelley concluded after her visit to Rowland Flat that even if successful with the Revocation of Classification of Land as Community Land, Chateau Tanunda’s Proposed Development would be unlikely to secure development approval in its current form.

6.1.2.7 Ground 7: The Council Land has remained undeveloped for 20 years;

We have been astonished by Barossa Council Officers’ response to this issue as described in the Draft Report.

The broader Barossa community would have had no idea or little recollection of the Elma Keil bequest which was dedicated through the Indenture Deed over 20 years ago. The Indenture Deed was not included in the Consultation Report documents, although it was referred to, primarily as an encumbrance and a limitation on the land’s future use and/or sale.

The community would not have been aware of the terms and conditions of the Indenture Deed unless they requested a copy of it as we did. They would not have been aware that the then District Council of Tanunda was given the funds through the Elma Keil Estate to purchase Parcels A and B at the Council’s request. $65,000.00 was made available for the purchase. Evidence has been provided to the Reviewer which states that as of the 1st of January 2017, the land was assessed to be worth $390,000.00. This is not a small amount of money and community expectations would dictate that The Barossa Council take great care in its consideration of this matter in the interests of the community.
We also remain astonished that the land has not been developed in the manner that Elma Keil envisaged, already described in this response, for over 20 years. We have noted in our submission and deputation address that Tanunda lacks green space in comparison with neighbouring townships Lyndoch, Nuriootpa and Angaston to name just three. Currently Tanunda’s green space consists of a small grassed area in Murray Street adjacent to the Barossa Visitor Centre. This, at a time, when a considerable amount of Community Land already existed, close to Tanunda Town Centre, dedicated for this specific purpose. It is hard to believe that Tanunda Ward Elected Councillors have not lobbied or been successful in securing a decision by The Barossa Council to develop this land as parks gardens or sporting facilities in over 20 years.

We note from our own observation as adjacent landowners that the Community Land is currently not maintained according to its current status as Undeveloped Reserves and Gardens (or those with minor improvements) according to the expectations of Elma Keil. We also note that land currently owned by Chateau Tanunda is regularly maintained by Barossa Council employees or contractors.

We have already commented on the community submissions which have identified the current usage of the Community Land and to what extent it has been valued. Judging by Barossa Council Officers’ response to this issue, it would still seem that they have taken no account of the community feedback they have already received.

We wish to make one further point in relation to this particular issue. If members of the Barossa community cannot trust The Barossa Council to abide by the terms and conditions of bequests which are left to them for the benefit of their community, then, they are not going to make bequests to Council.

Shelley has also discovered through her own research that Elma Keil was a very generous benefactor to the District Council of Tanunda and left numerous bequests. She is considering follow up requests to The Barossa Council to identify the exact nature of those bequests over the years and to seek information on how and what these funds have been used for. She has also been surprised and disappointed that Elma Keil is not recognised as she should be for the substantial contributions she has made to the purchase of the Community Land, the Tanunda Recreation Park and the Tanunda Rotunda in particular.

6.1.2.8 Ground 8: The Council did not take up the advice in the Independent Assessment and did not record reasons for dispensing from the requirements of its Disposal of Land (And) Other Assets Policy:

239
In its Independent Assessment, Kelley Jones Lawyers recommended to The Barossa Council that:

“52...However, as a matter of precautionary practice and good governance, it is our advice that each step taken by the Council under the Policy (Disposal of Land or Other Assets Policy) (in particular, see paragraphs 49 – 51 above) be subject to the recording of its reasons for taking that step.”

“49. We understand the Council has not obtained such valuations (independent valuations) and does not intend to do so. Further, in order to assess the land exchange on this basis, valuations of the Exchanged Land would also be necessary.

50. Therefore the Council will need to resolve to dispense with this requirement. In circumstances where the disposal is via a land exchange of land of the same or similar size and value and the land has little or no value due to the restrictions of the Dedication, this is, in our opinion, a reasonable and valid step for the Council.

51. Alternatively, the Council may grant a waiver under paragraph 4.4.3 (a) to allow an alternative disposal method, allowing for the direct negotiation with the owner of Chateau Tanunda without the need to obtain valuations or similar.”

“4.4.3 Waiver for Disposal Method

a) Council may grant a waiver to a disposal method for Land disposal contained within this Policy on condition there are extenuating circumstances that support an alternative disposal methodology but a waiver cannot be provided if it results in allowing Personnel to purchase Land contrary to the intent of Clauses 4.4.1 (g).”

The Recommendation published in The Barossa Council Agenda for the Council Meeting of the 19th of December 2017 did not contain this provision recommended by the Independent Assessment by Kelley Jones Lawyers dated the 13th of December 2017. It was, however, subsequently included in the Recommendation that Elected Members voted on, on the 19th of December 2017, at Clause 2 of the Recommendation:

“(2) That, further to the Independent Assessment at page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value, and the land currently has little or no market value due to the restrictions of the Dedication of the Keil Trust and the community land classification, the Council dispenses with the requirement of its Disposal of Land (and) Other Assets Policy at paragraph 4.4.1 (i) to obtain any independent valuations in this matter.”

The Minutes of the Council Meeting of the 19th of December 2017 confirm that Clause (2) was included in the Recommendation voted on by Elected Members, although it was
not obvious to independent observers who were present at the Council Meeting at the time that it was going to be included until the time that the Recommendation was voted on.

We continue to assert that the parcels of community land proposed to be exchanged with Chateau Tanunda are not the same or similar in size and value. It should also be now apparent to an independent observer that should the Proposed Chateau Tanunda Development now not proceed, then, the extenuating circumstances in relation to the proposed land swap now no longer exist.

6.1.2.9 Ground 9: The Council Land should stay in the Council’s ownership due to how the Council came to own the land and/or the Chateau Land should be subject to the same restrictions as the Council Land.

The Indenture Deed was signed between the District Council of Tanunda (Of the First Part) and Robert John Homburg and Roland Braunack (Of the Second Part) on Friday the 28\textsuperscript{th} of June 1996, just prior to the amalgamation of the District Council of Tanunda with The Barossa Council on Monday the 1\textsuperscript{st} of July 1996. Robert Homburg was both one of the Joint Executors of the Estate of Elma Linda Keil and the Mayor of the District Council of Tanunda at the time. Robert Homburg was thus in the best position to understand both the needs of the community of Tanunda and the wishes of Elma Keil in terms of her bequest to the community.

Unfortunately Roland (Roly) Braunack passed away in November 2017 in the middle of the public consultation process regarding the proposed community land swap.

We are aware that the Indenture Deed states the following:

"...the Council was desirous of purchasing the land at present contained in Certificate of Title Register Book Volume 5133 Folios 408, 409 and 410 adjacent to the Tanunda Railway Station from the Australian National Railway Commission for public land purposes (hereinafter referred to as "the said land").

It states further:

"...the Executors were in a position to make funds available by way of a public benefaction under the terms of the Will of the late ELMA LINDA KEIL deceased in the sum of SIXTY FIVE THOUSAND DOLLARS ($65,000.00)...

It states further:
..."the funds provided by the said ELMA LINDA KEIL deceased were specifically provided on the condition contained in her Will that the said land was to be purchased for purposes of parks gardens or sporting facilities within the area of the District Council of Tanunda and that the Council give an undertaking that the said land would be used in perpetuity for that purpose and not sold at any time in the future thus preserving the said land for such purposes;"

It states further:

..."the Council agreed to accept the benefit and to purchase the said land under those conditions."

We believe that the terms and conditions of the Indenture Deed were detailed, specific and well thought through. That is why it is surprising to us that the community land at present remains "undeveloped reserves and gardens (or those with minor improvements)" after the then District Council of Tanunda was desirous of acquiring the land for public purposes. We believe further that it is an indictment on The Barossa Council that nothing has been done for so long for the public benefit of Tanunda residents.

The then District Council of Tanunda did not believe that the said land was not useful or of little value and neither did former Tanunda resident Elma Keil.

Notwithstanding the actions of the current executors of the Estate of Elma Linda Keil in releasing the Indenture Deed over the Community Land, who we understand were involved in discussions with The Barossa Council about the release of the Indenture Deed for some months, we believe that the Tanunda and broader Barossa community wishes to see the current Barossa Council acting demonstrably in its interests and in being seen to do so.

**Conclusion**

We note the conclusion in the Draft Report:

"8.1 "In our view based on all the matters outlined in this report the Decision is the best and/or preferable decision."

We disagree with the conclusion and have argued in our response to the Draft Report why we do not consider that the Decision is the best and/or preferable decision. We have concluded our argument by saying that there is simply no need to proceed with the Revocation of Classification of Land as Community Land if the Proposed Chateau
Tanunda Development and the Proposed Barossa Regional Culture Hub Development do not proceed.

We have provided reliable evidence to the Reviewer which indicates that the Proposed Chateau Tanunda Development is unlikely to proceed. Indeed it is stated in Director David Berry's Letter to Council dated the 28th of July 2017: "The implementation of this land swap proposal and to facilitate a long-term vision for Tanunda we would like to advance the exchange in a timely manner now that the old railway transaction has been agreed with the SA Government. Plans consistent with the massing study are underway with an experienced design team for planning consent. The lodging of these plans will be contingent on the advancement of the proposed land exchange and we would like to advise that the design team’s target date to complete concept plans is the end of September 2017."

**Recommendation**

**However, we agree with the Recommendation in the Draft Report:**

"9.1 That the Council reconsider all the information before it at the time it made the Decision, the information submitted by the Applicants and this report and determine if the Decision is the best and/or preferable decision."

**We further recommend to The Barossa Council that it set aside the original decision and not proceed with the Revocation of Classification of Land as Community Land.**
Erratum

Late last night, Shelley picked up an inadvertent error in the Response to the Draft Report – The Barossa Council – Section 270 Review Report – Matter of Revocation of Community Land Classification:

Page 9:

“This is not an accurate statement. Shelley believed that the ‘CEO’ she had the meeting with was The Barossa Council Chief Executive Officer, Mr Martin McCarthy. This was not the case and when she saw Mr McCarthy at the (19th of December 2017) SHOULD BE: 26th of April 2018 Special Council Meeting, it was only then that she realised that the ‘CEO’ she had met with in November 2017 was not Martin McCarthy but somebody else. She does not know to this day who the ‘CEO’ was that she met with.”

Chief Executive Officer, Mr Martin McCarthy was not present at the 19th of December 2017 Barossa Council Meeting. The 26th of April 2018 Special Council Meeting of The Barossa Council was the next Council meeting that Shelley attended following the December Council Meeting.
PO Box 180/33 Angas Street,
Tanunda SA 5352.

28 June 2018.

Ms. Felice D'Agostino,
Principal,
Norman Waterhouse Lawyers,
Level 15, 45 Pirie Street,
Adelaide SA 5000.

Dear Felice,

I was listening to David Bevan's Mornings Program on ABC Local Radio this morning. I heard about an 'unsolicited bid' for a commercial development (supermarket) to be sited on Richardson Reserve, which is located between The Golden Way, Grenfell Road and Richardson Drive, in Wynn Vale. Wynn Vale is in the Tea Tree Gully Council area. The land in question is just over 3 hectares in size. Apparently, if the land is purchased for the purposes of commercial development, then, the land valuation is much higher than it would otherwise be. Because a supermarket is proposed for the site, then, the value of the land is approximately $13 million. I'm sure there would be a transcript available if you wished to follow this up.

I am thinking that the same situation would apply to the Community Land currently owned by The Barossa Council. Chateau Tanunda are proposing to build an International Hotel on the Community Land, which would be a commercial development. Therefore if Chateau Tanunda purchased the land from The Barossa Council, rather than acquiring the land through the Proposed Community Land Swap, then they would be required to pay a much higher price. The revenue raised from a potential sale of the land is revenue foregone by The Barossa Council. The other option Chateau Tanunda has, should they wish to consider it, is to construct the International Hotel on land they already own.
One can only conclude that it is not in the community’s interest for the Proposed Community Land Swap between The Barossa Council and Chateau Tanunda to proceed.

Yours sincerely,

Helen Szuty.
7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.4 CHATEAU TANUNDA – COMMUNITY LAND PROPOSAL
B5789 17/68380

PURPOSE
To seek Council’s consideration to undertake a community consultation process with a view to removing the community land classification for land adjacent to Chateau Tanunda and swapping the land with land adjacent to Council property and private property on the western side of the Tanunda railway, to support the construction of a 5-star hotel facility. Relevant maps are provided as attachment 3.

RECOMMENDATION
That Council, being satisfied the proposal has extensive community benefit and can be managed in accordance with the Disposal of Land and Other Assets Policy:

(1) Agrees to undertake a six week community consultation process on a proposal to revoke the community land classification of Allotments 11 and 12 Basedow Road, Tanunda being Certificates of Title 5133/668 and 5902/824.

(2) Instructs the Chief Executive Officer to develop and release the consultation document outlining the proposal to transfer land on a commercial basis, subject to receiving legal advice that the proposal and process is compliant with Council’s asset disposal policy and legal responsibilities.

(3) Appoints a small working group of Mayor Sloane and Crs ……………. to support the Chief Executive Officer and Governance Advisor in formulating the consultation document and commercial negotiation of subsequent commercial arrangements for any approved land swap, should the revocation of community land classification be approved by the relevant Minister.

(4) Require the proprietor to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister.

REPORT
Background
Council has been presented background information in various briefings of the proposal to develop land adjacent to Chateau Tanunda, and to the eastern side of the railway corridor as a 5-star hotel development integrated with the Chateau and
including the possibilities of a culinary institute and supporting student accommodation.

It is important to note the proprietor of the Chateau has been successful in securing the State Government land between Council’s land and the rail corridor which will form a critical link to the hotel development.

The vision of the Chateau proprietor is provided at attachment 2.

Introduction
Correspondence has been received from the representative of Chateau Tanunda seeking to swap land between the Chateau and Council to facilitate the proposed development.

It is important to note this report does not address any planning merits of the proposal or other Development Act activity attached to the proposal; that is a matter independent of Council deliberations and will be assessed by the relevant authority at the time of development application.

Discussion
There are multiple matters that need to be considered and the proposed process needs to ensure full and transparent decision making.

Land Encumbrances

The land in question is currently encumbered in two ways:

1. The land is identified as Community Land pursuant to Section 193 of the Local Government Act. The land parcels are Allotment 11, Basedow Road, Tanunda, certificate title number 5133/408 and Allotment 12, Basedow Road, Tanunda, certificate title number 5902/824. These land parcels are identified on the map at attachment 3 as parcels A and B. The proposal is not consistent with the management plan at present and therefore cannot be leased or licenced for the purpose.

2. The land also has an indenture deed (described herein as a trust) dedication applied to it. The parcels of land were donated to Council by way of trust from the Keil Estate for the purposes of open space and recreation.

The land is zoned Tourist Accommodation, a prior decision of Council and the relevant planning Minister which considered this appropriate land for such development, however the current encumbrances exclude that use in totality.

Legal advice was sought as to the best way to address the trust matter. It was determined that a voluntary negotiated release with the trust holders would be an appropriate way. With the approval of the proprietor of the Chateau, the Chief Executive Officer met with the trust holders on two occasions and they have expressed strong support for the proposal and provided a letter of intent to revoke the trust. Importantly, any land that will be transferred to Council, if a swap is approved, as part of that transfer process it is proposed to rededicate the new parcel of land in accordance with the wishes of the Keil Estate and thus honour the gift to the people of Tanunda. A copy of the relevant correspondence is provided at attachment 4.

To address the community land encumbrance Council must undertake a process in accordance with Section 194 of the Local Government Act. That is:
Undertake a community consultation process outlining at a minimum:
  o Summary of the reasons for the proposal;
  o Statement of any dedications, reservations or trusts (explained above);
  o Statement of whether revocation of the classification is proposed with a view to sale or disposal of the land, and, if so, details of any Government assistance given to acquire the land and a statement of how the Council proposes to use the proceeds; and
  o Assessment of how implementation of the proposal would affect the area of the local community.

Should Council determine to proceed after consultation, then submit the proposal to the Minister with a report on all submissions and seek approval of the Minister.

If the Minister approves the revocation Council can then proceed to revoke the community land status for the purpose outlined.

If the revocation is supported and approvals obtained the Council then has an unencumbered land parcel which it can dispose of in accordance with the proposal.

It is estimated with a 6 week consultation period, 21 days is the minimum requirement, necessary administration and governance of the process, Ministerial approval and final revocation should it receive Ministerial consent will take at least another 6 weeks. This reflects best case scenario, being three months, taking us to the conclusion of December 2017.

Proposed Land for Transfer and Assessment of Its Strategic Purpose

The proposed land for transfer being offered by the proprietor is land adjacent to the car park at the Tanunda Soldiers’ Memorial Hall and travelling south behind residential development and concluding at or near the rear of the Tanunda Hospital. The current parcel of land is highlighted at C on the map at Attachment 3. However the land would need to undergo a land division so as to retain access to the rear of the Chateau and oval area, and release the balance of the land for the purposes to be available to a land swap.

Any land that is swapped, subject to achieving extinguishment of the encumbrances on the land, is proposed to be rededicated for community land use and consistent with the Keil Estate donation so the open space is not lost to the people of Tanunda.

The proposal land has worthy open space usage due to its closer interaction with Council’s existing hall asset as well as residential use and the main street. It is unlikely to have any significant development for the foreseeable future other than lower level recreational assets.

Further any development of the land into future residential development which is currently contemplated by the Development Plan will be prohibited under the reestablishment of the land encumbrances on the swapped parcel of land.

Whilst the land proposed for land swap has some minor improvements in strategic connection, in commercial reality, the land has no greater value to Council or the community than the current parcel of land as they in essence will perform the same function and will be encumbered so as to preclude any other form of development.

It is estimated that a land division will take a minimum of 3 months to be processed through the system, a further 6 weeks would be required for the approval of a
deposited plan of land division and further 6 weeks for issuing of titles, however, land settlement can take place upon an approved deposited plan. In total the land division process to reach a stage of settlement would take 4-5 months, the proprietor can commence this at any time and is not dependent on Council actions.

Commercial Negotiation

Some time has been devoted to considering the need for and timing of commercial negotiation of land swap details. There are various conditions precedent that need to occur before the parties actually have a viable proposal to execute, it is therefore considered that Council work towards a commercial agreement that sets out all foreseeable matters and once it determines to proceed with the community land consultation the commercial negotiations could run concurrently, but would always as the first condition precedent be dependent on revocation of the community land classification.

It is recommended that due to the public nature of the proposal that a small working group assist the Chief Executive Officer with negotiations and a probity advisor review the deliberations and agreement to ensure probity is maintained.

Disposal of Land and Other Assets Policy

An assessment of the proposal against the principles of the relevant policy have been undertaken at officer level and provided at attachment 6. These have not been independently reviewed due to the timeframes involved and so it is suggested this be done during the community land consultation process to ensure they are well tested and agreed independently.

In essence the analysis demonstrates there is significant community benefit in the proposal and as an outcome a land swap will not result in any loss of value of appropriate open space to the community. This is further reinforced through the current proposal to rededicate the land to be transferred on the western side of the railway corridor under the community land provisions of the Local Government Act and the Keil Estate thereby maintaining the same community service.

Community Consultation Proposal

It is proposed to undertake a 6 week consultation process recognising the expected community interest in the proposal. The consultation proposed as follows:

1. Development and release of extensive public consultation document;
2. Public notices in the Herald and Leader newspapers;
3. Media statement;
4. Placement of information on web-site, Better Barossa consultation platform and Facebook.
5. Displays at Council Library and Visitor Centre in Tanunda and seeking for the proprietor to also have displays at the Chateau.

The consultation period will seek written submissions through email, letter or our consultation platform.

Preliminary Benefits and Costs

It is estimated that the project, if successful will deliver:
A high class 5-star hotel development in the heart of the Barossa;
A vehicle for achievement of a culinary institute.
Significant construction (estimated at 150 FTE's) and ongoing job creation
(estimated at 97 FTE's).
Utilisation of appropriately zoned land.
Land available to Council that better integrates with existing ownership of
Council and integration with the main street precinct.

The costs of the project relevant to Council at this time, not including private
construction costs, land division, planning and development and other costs:

- Officer resources, absorbed.
- Legal, probity, and other professional advice:
  - Commercial negotiation up to $10,000.
  - Extinguishment of Deed and Re-establishment $5,000
  - Other advice $4,000
- Advertising and associated public consultation costs upwards of $1,500.
- State Government fees and charges, unknown at this time.
- Conveyancing costs $2,000.

These costs are not budgeted for.

It is recommended, other than officer costs, Council seeks as part of the commercial
arrangements reimbursement of costs incurred to support the project. Alternatively
Council will need to approve a budget adjustment which will impact the operating
position of Council by approximate $22,000; if that is the wish of Council it will be
undertaken as part of the Council first quarter budget review.

Summary and Conclusion

The vision as proposed provides for a significant investment for the Barossa area and
delivery of a high class facility. The current land parcels owned by Council are not of
significant community value or use and the swap of land to that adjacent to Council and
closer to the main street offers a more strategic parcel of land. It is
recommended that Council, should it commence the relevant processes, commit as part of the community consultation process to rededicate the swapped land under the Keil Estate and as community land to ensure it has at least the same community service outcome as the existing land.

In summary the steps envisaged are:

<table>
<thead>
<tr>
<th>Number</th>
<th>Action</th>
<th>Timeframe</th>
<th>Dependency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Community Consultation – Community Land Consultation – Council</td>
<td>7 weeks</td>
<td>Council approval</td>
</tr>
<tr>
<td>2.</td>
<td>Community Consultation – Community Land Consultation – Ministerial Approval</td>
<td>6 weeks</td>
<td>Part 1 Above</td>
</tr>
<tr>
<td>3.</td>
<td>Revocation of Community Land Classification</td>
<td>1 week</td>
<td>Part 2 Above</td>
</tr>
<tr>
<td>4.</td>
<td>Commercial Negotiation</td>
<td>7 weeks</td>
<td>Council approval to proceed – concurrent with 1 above.</td>
</tr>
<tr>
<td></td>
<td>Land Division</td>
<td>12 weeks</td>
<td>Private developer matter.</td>
</tr>
<tr>
<td>---</td>
<td>---------------</td>
<td>----------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>6.</td>
<td>Indenture Deed Management</td>
<td>4 weeks</td>
<td>Part 2 Above</td>
</tr>
<tr>
<td>7.</td>
<td>Approval of Deposited Plan</td>
<td>6 weeks</td>
<td>Part 5 Above</td>
</tr>
<tr>
<td>8.</td>
<td>Land Transfer</td>
<td>2 weeks</td>
<td>Part 2 and 4 Above</td>
</tr>
</tbody>
</table>

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1 – Correspondence from Tuscan
Attachment 2 – Strategic Vision
Attachment 3 – Maps
Attachment 4 – Letter Agreeing to Release Indenture Deed
Attachment 5 – Disposal of Land or Other Assets Policy
Attachment 6 – Assessment of Proposal against Disposal of Land or Other Assets Policy

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**

**Community Plan**

- Natural Environment and Built Heritage
- Community and Culture
- Health and Wellbeing
- Business and Employment
- How We Work – Good Governance

1.5 Provide support and advice in respect of properties and sites which have historic significance.
1.10 Facilitate opportunities to repurpose or find alternative use of built heritage.
2.2 Support the development of activities that celebrate the history and culture of the Barossa and its people.
2.6 Support a vibrant and growing arts, cultural, heritage and events sector.
2.8 Provide opportunities for the community to participate in local decision-making.
2.13 Advocate for education infrastructure and support improvements.
4.6 Ensure that community members can participate in cultural, recreational, sporting and learning opportunities.
5.1 Work closely with State Government, Federal Government and stakeholders to support economic growth, development and job creation.
5.3 Help build the capacity of the tourism sector and encourage the development of tourist services, including eco and recreational tourism infrastructure.
5.4 Attract investment for new and innovative industries, such as creative industries and cultural tourism.
5.5 Support education and training programs that directly respond to work-force gaps and innovation.

**Legislative Requirements**

Section 49 of the Local Government Act
Section 194 of the Local Government Act

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

Financial estimates are outlined in the body of the report.
Internal resources will be provided primarily by the Chief Executive Officer and Governance Advisor.

Risk Management considerations include the public interest in the matter, possibilities of loss of the project, public objection. It is considered the best way to mitigate these risks is to be completely open and transparent in Council’s decision making and provision of sufficient information. Further in-principle support from the Keil Estate trustees has already been provided. Also importantly the State Government has reviewed the proposal in the context if its land arrangements and has supported the project through arrangements for land transfer of the railway station land.

COMMUNITY CONSULTATION
Outlined in the body of the report.
RE: Land Swap Proposal, Chateau Tanunda

Dear Mr McCarthy,

We act as Development Manager for Chateau Tanunda and hereby submit a proposal for a land exchange between Barossa Council and Chateau Tanunda to facilitate the development of an international hotel together with education and Culinary Institute facilities that will create a new major tourism destination in Tanunda with long term economic and employment consequences.

There is a major area in Tanunda that is zoned for Tourist Accommodation of which the majority is owned by Chateau Tanunda, except for a parcel that is a Barossa Council reserve and a parcel that is the old railway station with an access road owned by the SA Government.

The current land holdings are not optimal for a $40m tourist destination development and in effect prevents the implementation of a development strategy that compliments and complies with the Barossa Development Plan.

Chateau Tanunda has taken the initiative of acquiring the old railway station and access road as part of implementing this exciting development strategy. The next step is the effect the land exchange with Barossa Council and Chateau Tanunda.

1. **Chateau Tanunda: development strategy that compliments and complies with Barossa Development Plan**

**Heritage**

In contemplating the development of tourist accommodation, we have considered the important heritage nature of Chateau Tanunda and its location. The Barossa Development Plan states:

**Heritage Objective**

“The continued use, or adaptive re-use of State and local heritage places that supports the conservation of their cultural significance”.

**Desired Character**

“It is expected that development will retain the historic character and cultural significance of the policy area through the retention of historic buildings and sensitively located and designed new development.”
All buildings identified to be of heritage significance or contributing to the character of this policy area will be carefully maintained and conserved. Work to these buildings should be undertaken in a manner to preserve historic fabric and be undertaken in a manner appropriate to the style and period of the building. This is of importance for places of early German construction techniques. The continued use of historic buildings is important and appropriately scaled tourism accommodation involving the restoration and re-use of historic buildings is encouraged”.

Response

Chateau Tanunda has undertaken a massing study for a new international hotel that combines new and old buildings.

The old railway station is being acquired and repurposed as part of the public areas of the hotel and used when the wine train is activated.

Part of the historic Bond Store is to be converted to student accommodation associated with a new SA Culinary Institute.

The SA Culinary Institute will be located in part of the upper level of the main winery building along with its continued use as a winery and for functions, events, displays and exhibitions.

Tourism

The tourism Objectives and Principles of the Barossa Development Plan have been considered by Chateau Tanunda in its development strategy for an international hotel.

Tourism Objective

1. Environmentally sustainable and innovative tourism development objective is met through first undertaking a demand study to determine the appropriate size and type of hotel. We concluded that a hotel of 100 - 120 rooms was appropriate and consistent with other regional hotels in Australia. In terms of innovation we have also included in the development plan;
   (a) SA Culinary Institute in the existing main chateau building,
   (b) Student accommodation in the Bond Store,
   (c) Villa accommodation for the market that is longer than an overnight stay,
   (d) Purchase and activation of the old railway station,
   (e) Reinstatement of the Barossa Wine Train which is owned by Chateau Tanunda, and
   (f) Use of these facilities at an existing internationally renowned winery to provide ‘innovative conferencing’ which will support mid-week events and conferences.

2. Tourism development that assists in the conservation, interpretation and public appreciation of significant natural and cultural features including State or local heritage places has been addressed through our development strategy.

3. Tourism development that contributes to local communities by adding vitality to neighbouring townships, regions and settlements is a material outcome from the proposed development. Of significance;
   (a) The economic multiplier of a 24/7 business in Tanunda that employs 97 fulltime equivalent staff on operations as well as 150 during construction, and
   (b) The extraordinary marketing and sales leverage and opportunities for Tanunda and the Barossa with an international hotel management company who employ 1000s of sales and marketing staff worldwide.
4. Increased opportunities for visitors to stay overnight is incorporated in a combination of accommodation opportunities and at a scale that can attract a significant increase in mid-week meetings and events.

**Principles of Development Control**

1. Tourism development should have a functional or locational link with its natural, cultural, or historical setting. The massing studies that have been undertaken (a copy is attached) concluded that proximity to the old rail station, to the town of Tanunda and Basedow Road was appropriate to create the functional link and to respond to the historical setting.

2. The existing historic Chateau Tanunda buildings establish a rectangle grid from the entrance off Basedow Road. New buildings on the east boundary would be inappropriate due to the light industry and distance from the town and rail station. The new hotel should be in a rectangular form on the land between the existing vines and the rail station.

   This has the additional benefit of linking the Bond Store use for student accommodation, the Culinary Institute and Villa accommodation in an operationally efficient manner.

3. The principle of tourism development should, where appropriate, add to the range of services and accommodation types available in an area has been addressed through the mixed-use nature of the accommodation.

**Tourist Accommodation Zone**

The location of a major tourism development has been determined by the Barossa Development Plan by zoning Chateau Tanunda land as Tourist Accommodation (TA).

**Objective**

The objective of the Tourism Accommodation Zone is to provide tourist accommodation and service facilities for visitors and holiday-makers on short and long-term visits to the area. This objective has been addressed in the attached massing study.

**Desired Character**

"As Tanunda is a focus of the Barossa Valley area, and popular with tourists, the town is ideally situated to provide short and long-term accommodation and recreation and entertainment facilities for tourists staying locally and those travelling between Adelaide and the northern parts of the State. It is both desirable and important for the town that opportunities for tourist developments located within the zone are capitalised" (TA Zone)

The development is a major tourist initiative with a capital cost more than $40 million.

Other appropriate uses will include related tourist operations and low-impact attractions such as;

(a) Retention of the oval for entertainment, markets, music, sport, outside exhibitions, and
(b) Use of the existing historic buildings for events, exhibitions, meetings, conferences, promotions.

There is no expansion of the existing winery and the vineyards are retained.

"It is expected that new buildings will be sited, designed and landscaped in a manner that will enhance the appearance of Chateau Tanunda as the dominant built form in the zone through appropriate building scale, setbacks and the retention of important vistas. Buildings adjacent the Chateau will be compatible in appearance with the historic character of the Chateau and its related buildings. Along Basedow Road,
buildings will exhibit a high standard of design and be of a height, scale, mass and bulk compatible with the residential setting on the opposite side of the road” (TA Zone)

The massing studies have in addressing this provision, concluded that there is a requirement for land consolidation on the west side of Chateau Tanunda wines where a significant parcel of Chateau Tanunda land to the west of the rail line needs to be exchanged for a Council reserve on the adjacent to the rail line on the east side.

The design and placement of buildings will be remove a potential conflict with the adjoining residential land and at the same time enhance the Desired Character of the development.

To develop the Chateau Tanunda land on the west side of the line has distinct disadvantages;

(a) The distance from the adjoining residential land may create a nuisance,
(b) The required set-bac ks from the rail reserve and the adjoining residential neighbours leaves an uncommercial narrow strip of land for a viable international hotel, and
(c) The car parking for such a project would be complicated.

“There is an opportunity to consolidate car parking with the adjacent District Town Centre Zone adjacent to the rail line to avoid large expanses of car park. All car parking areas will be sensitive to the landscape character and incorporate extensive landscaping to screen them from view, shade vehicles and maintain amenity”. (TA Zone)

The massing study attached responds to this opportunity in a very constructive manner. The location of the hotel and its facilities has through the proposed land exchange and purchase of land from the State Government, enabled the car parking to be located partly on Chateau Tanunda and partly on new consolidated Council land as envisaged by the TA Zone.

This efficient consolidation is only possible if the proposed land exchange requested in this letter is implemented.

2. Massing Study for an International Hotel at Chateau Tanunda

The attached massing study responds to the commercial requirements of a viable international hotel together with the Objectives, Principles, and Zoning requirements of the Barossa Development Plan.

There is a combination of utilizing existing buildings as well as new construction.

The development strategy responds to the need to preserve and protect the important wine business which means the hotel and its facilities are focused on the west of the Chateau land holdings. This location is close the town, accessible to locals and tourists, and incorporates the reintroduction of the Barossa Wine Train.

The hotel component is broken into the 4 connected components to not present as a long ‘wall’ of rooms.

3. Proposed Land Exchange

3.1 Chateau Tanunda transfers to Barossa Council
(a) Lot 74 CT 5962/946 DP 58229 on the west side of the rail reserve (see attached)

(b) portion is to be retained by Chateau Tanunda as marked in the attached massing study and subject to survey, to preserve and protect the winery business

(c) area is 1.440ha less the area referred to in (b)

(d) rail reserve CT 5902/822 unchanged save for future crossings at Mill Street and Ferdinand Street

3.2 Council to transfer to Chateau Tanunda

(a) Lot 11 CT 5133/408 DP 33882
(b) Area 6240 m²

3.3 Council to transfer to Chateau Tanunda

(a) Lot 12 CT 5902/824 DP 33882
(b) Area 7470 m²

3.4 Chateau Tanunda has agreed terms to purchase from the Minister for Transport

(a) CT 5902/821 DP 33882
(b) Area 3936 m²

3.5 Commercial Considerations

The values attributable to the land being exchanged by both parties should be subject to valuation by an experienced valuer and jointly instructed.

4. Advantages of the land swap to Council

Long term consolidation of Council land on the west side of the rail line provides a more substantial and usable land holding for public or community purposes. The current location of the Council land is complicated with Chateau Tanunda land surrounding it.

One of the iconic wineries of the Barossa remains protected and its appeal as a destination extended to being a major tourism facility with accommodation that will provide jobs and economic growth for Tanunda.

The land swap facilitates the implementation of the Desired Character of Council’s Tourist Accommodation Zoning. Without the land exchange, it is probable that the opportunity identified by Chateau Tanunda would lapse.

The implementation of the development strategy as facilitated by the land exchange will mean that the project is of interest to international hotel operators and preliminary discussions have taken place with several companies.

By attracting an international hotel operator, the Barossa enters a different league in terms of marketing the destination and economic outcomes. The operators have enormous reach in terms of distribution;
through airlines, travel agents, car rental programs, loyalty programs, events and conferences. The Chateau Tanunda hotel would have over 100 distribution channels to drive business to the Barossa.

5. Conclusion

The implementation of this land swap proposal and to facilitate a long-term vision for Tanunda we would like to advance the exchange in a timely manner now that the old railway transaction has been agreed with the SA Government.

Plans consistent with the massing study are underway with an experienced design team for planning consent. The lodging of these plans will be contingent on the advancement of the proposed land exchange and we would like to advise that the design team’s target date to complete concept plans is the end of September 2017.

Please feel free to direct any questions to us with a copy to John Geber at Chateau Tanunda (johngeber@chateautanunda.com).

We look to working with you in advancing this outstanding opportunity.

Yours faithfully

[Signature]

David Berry
Director
28 July 2017

ATTACHED
- Massing Study
- Title the subject of the land exchange
AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION

CHATEAU TANUNDA BAROSSA VALLEY

17 JULY 2017

AJ+C A L L E N J A C K H C O T T E R
**KEY FEATURES**

**ACCOMMODATION**
- 5 star lifestyle hotel 100-120 rooms
- Adapting part of the existing Bond Store for 60 bed student accommodation
- 60 villas to offer accommodation for a broader market including longer term stays that may be associated with training, education and cultural programs

**FACILITIES**
- Adapting the existing buildings to create major meeting and conference facilities to compliment SA programs on events, conferences, and meetings for national and international participants
- Function Space >1000m²
- Gym, spa and pool
- Oval used for outdoor events, recreation, markets, music, sport
- SA Culinary Institute for education, training, cultural and culinary tourism (similar to the Culinary Institute of America)

**ECONOMIC BENEFITS**
- Project Cost > $30 million
- Jobs FTE during construction: 150
- Jobs FTE post completion: 97
- Annual expenditure > $4 million with multiplier economic benefits

**MARKETING AND PROMOTION**
- Revival of the Barossa Wine Train: Adelaide – Tanunda
- Appointment of an international hotel operator as an overlay to manage these businesses, market SA and Tanunda nationally and internationally
- Promotion and marketing through the Chateau Tanunda wine business
- SA Culinary Institute with national and international markets
LOCAL CONTEXT

Tanunda is a major town in the Barossa Valley, located 70km north of Adelaide. Historic township circa 1850-1910. Chateau Tanunda established 1890. Traditional grid layout established to assist Murray Street (B19) and by Petercoot, North Para River and Tanunda Creek. Name derived from an Aboriginal word meaning water hole. Historic French style buildings quarried from Bethany, includes Chateau Tanunda winery.
Landscape: Significant old railway, figs, carob trees, Phylloxera camaniensis, Eucalypts, deciduous trees. Railway divides the township with development to the east with vineyards, light industry, primary industry.

Opportunities
- Potential to exploit the tourist train route and railway station as it is owned by Chateau Tanunda
- Chateau Tanunda history, historic buildings, uses; cricket ground, croquet lawn
- Vistas across the valley, vineyards and to nearby Barossa Ranges
- Low lying land with a slight fall north to south towards Tanunda Creek
- Land swap with State government to consolidate Chateau Tanunda landholdings
- Tourism development potential (hotel, villas, educational and cultural facilities, culinary institute etc) and benefits to the town and region
- Rationalise site access and circulation

Constraints
- Impact of the light industry to the east edge of the site
- Traffic and parking
- Topography, clever design and planning to nest the buildings into the landscape
- Respect the history of place with adaptive reuse and intersection of new buildings and uses.
- Working use of the winery balance with tourism destination (screen uses)
- Resolve connections over railway line to the town
- New carpark, screening
02 MASSING STUDY
PROPOSED USE

- Geometry of hotel complements that of the existing historic buildings and vineyards. “Completes the square” on the western edge of the vines.
- Main entry to central public area from town and Basedow Rd, combined with station.
- Central public area closely connected to hotel wings for ease of access & servicing central lounge/bar has views over vineyards.
- 50% of hotel rooms have views over vineyards, other 50% look to landscaped courtyards & pool.
- VIP Hotel Suites in house N. of Basedow Road.
- Villas close to central reception; some with views of vines, some looking towards oval.
- Pool in hotel courtyard, accessible from central public area, screened from road by planting.
- Culinary institute and function centre top level of Chateau Tanunda with wine tasting on level below.
- Student housing within restored Bond Store with internalised courtyard.
- Parking located close to Basedow Road for ease of access.
- Screened parking to existing storage area.
- Oval used for recreation, events, markets, sport, connection to town via Mill Street.
- Connections from Bushman & Mill Streets upgraded.

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION

Scale 1:2000

0 20m 40m 60m

N

17
LE CORDON BLEU COLLEGE OF CULINARY ARTS

Training Kitchen

LE CORDON BLEU COLLEGE OF CULINARY ARTS, PARIS
This map is a representation of the information currently held by The Barossa Council. While every effort has been made to ensure the accuracy of the product, Council accepts no responsibility for any errors or omissions. Any feedback on omissions or errors would be appreciated.
Dear Martin

Thank you for your letter of 23 December 2015.

We the undersigned agree in-principle so that parties may continue negotiations that:

1. As executors of the Deed we conditionally agree to cancel the Deed which is currently over land parcels Allotment 11, 12 and 13 contained in certificate of titles 5133/408, 5902/824 (was previously 5133/409) and 5133/410.

2. The conditions are, but not limited to;
   a. That we as executors shall not bear any costs for cancelling and re-establishing a new Deed;
   b. That no cancellation or re-establishment will occur until Mr Geber and Council achieve an agreed position;
   c. That Council undertakes all the necessary actions to satisfy the requirements of the Local Government Act;
   d. That the Minister for Local Government, should the project proceed to this advanced state, approves the release of the land from Community Land status; and
   e. We reserve the right to discuss any other matter that is reasonably required by all parties.

As stakeholders in this project we ask that you keep us apprised of progress as matters of significance come to hand.

Yours sincerely

Mr Roland Braunack
Mr Robert Homburg

As joint Executors of the Estate of Elma Linda Keil and the Indenture dated 28 June 1996
THE BAROSSA COUNCIL

DISPOSAL OF LAND OR OTHER ASSETS POLICY

<table>
<thead>
<tr>
<th>Strategic Plan Outcome:</th>
<th>4.1 Governance and Organisation - Responsibility</th>
<th>Document Code:</th>
<th>TBCPOC4750</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Owner:</td>
<td>Director - Corporate &amp; Community Services</td>
<td>Last Revised Date:</td>
<td>20/11/2012</td>
</tr>
<tr>
<td>Document Control:</td>
<td>Manager Financial Services</td>
<td>TRIM Reference:</td>
<td>14/42692</td>
</tr>
<tr>
<td>Date Approved:</td>
<td>10/09/2014</td>
<td>Next Review Date:</td>
<td>10/09/2018</td>
</tr>
</tbody>
</table>

1. Purpose

1.1 This Policy provides a framework to:
   a) define the methods by which Land and Other Assets are disposed of;
   b) demonstrate accountability and responsibility of Council;
   c) be fair and equitable to all parties involved;
   d) enable all processes to be monitored and recorded; and
   e) ensure that the best possible outcome is achieved for the Council.

1.2 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:
   a) obtaining value in the expenditure of public money; and
   b) providing for ethical and fair treatment of participants; and
   c) ensuring probity, accountability and transparency in all disposal processes.

2. Scope

This Policy does not cover:

   a) Land sold by Council for the non-payment of rates; or
   b) Disposal of goods which are not owned by Council, such as abandoned vehicles.

3. Definitions

In this Policy, unless the contrary intention appears, these words have the following meanings:

| Land                              | Land includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on Land. |

Disposal of Land or Other Asset Policy approved by Council on 10th day of September, 2014

This electronic copy is the approved version and is stored in Council’s Record Management System (TRIM). Printed copies are considered uncontrolled. Before using a printed copy please verify that it is the current version.

© The Barossa Council 2014

287
| **Other Assets** | Other Assets are any item owned by Council and used to deliver the services of Council including but not limited to:  
- Plant and Equipment  
- Furniture and Fittings  
- Attractive Assets  
- Other assets held by Council (refer to the Asset Classification, Capitalisation and Depreciation table in the Asset Accounting Policy for further detail). |
| **Non-Current Asset** | Refers to all assets except current (financial) assets such as cash, investments, debtors and inventories |
| **Balance Sheet** | Financial Statement as required periodically to meet legislative reporting |
| **Income Statement** | Financial Statement as required periodically to meet legislative reporting |
| **Community Land** | All local government land (except roads) that is owned by a council or under a council's care, control and management is taken to have been classified as community land unless –  
(a) the council resolves to exclude the land from classification as community land within three years after the commencement date; and  
(b) The land is unaffected by provisions of a reservation, dedication, trust or other instrument that would prevent or restrict its alienation. |
| **Not-for-Profit** | An organisation that uses surplus revenues to achieve its goals rather than distributing them as profit or dividends. |
| **Attractive Assets** | A non-consumable item of a portable and attractive nature which is not capitalised as per 15 Asset Classification, Capitalisation and Depreciation table in the Asset Accounting Policy (eg equipment, furniture, excess materials, second hand library books etc) which include:  
- Portable information technology such as laptops, Toughbooks, iPads and notepads etc  
- Small plant and equipment such as mobile phones, recording devices etc. |
| **Public Officers of The Barossa Council** | Council's Elected Members, Committee Members, Employees, Authorised Agents, and Contractors undertaking work on behalf of Council. |
| **Volunteers of The Barossa Council** | Volunteers are defined as persons who:  
- Undertake activities without monetary reward;  
- Undertake activities of their own free will;  
- Undertake activities of benefit to Council and the local community; and  
- Undertake activities that complement but do not replace the services provided by paid staff. |
4. **Policy Statement**

4.1 **Disposal of Land or Other Assets**

Any decision to dispose of Land or Other Assets will be made after considering (where applicable):

a) the usefulness of the Land or Other Asset;

b) the current market value of the Land or Other Asset;

c) the annual cost of maintenance;

d) any alternative future use of the Land or Other Asset;

e) any duplication of the Land or Other Asset or the service provided by the Land or Other Asset;

f) any impact the disposal of the Land or Other Asset may have on the community;

g) any cultural or historical significance of the Land or Other Asset;

h) the positive and negative impacts the disposal of the Land or Other Asset may have on the operations of the Council;

i) the long term plans and strategic direction of the Council;

j) the remaining useful life, particularly of an Asset;

k) a benefit and risk analysis of the proposed disposal;

l) the results of any community consultation process;

m) any restrictions on the proposed disposal;

n) the content of any community land management plan; and

o) any other relevant policies of the Council, including:

- Prudential Management Policy
- Asset Accounting Policy

4.2 **Disposal Principles**

Council must have regard to the following principles in its disposal of Land or Other Assets:

a) Encouragement of open and effective competition;

b) Obtaining Value for Money (this is not restricted to price alone)

An assessment of value for money must include consideration of (where applicable):

i. the contribution to Council’s long term financial plan and strategic management plans;

ii. any relevant direct and indirect benefits to Council, both tangible and intangible;

iii. efficiency and effectiveness;

iv. the costs of various disposal methods;

v. internal administration costs;

vi. risk exposure; and

vii. the value of any associated environmental benefits.

Disposal of Land or Other Asset Policy approved by Council on 10th day of September, 2014

Page 3 of 9

This electronic copy is the approved version and is stored in Council’s Record Management System (TRIM).
Printed copies are considered uncontrolled. Before using a printed copy please verify that it is the current version.

© The Barossa Council 2014
c) Ethical Behaviour and Fair Dealing
   i. Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

d) Probit, Accountability, Transparency and Reporting
   i. Council will demonstrate accountability in the sale of Land or Other Assets by ensuring that decisions are appropriately documented taking account of the considerations of the Clause and evidence provided to ensure that an independent third party can clearly see that the principles of this Clause have been followed or an appropriate waiver authorised.

   ii. Employees may approve the sale of an asset where the sale value of that asset does not exceed the Employees expenditure levels as delegated at Delegation 47 in Council’s Instrument of Delegation under the Local Government Act 1999 and the sale is in accordance with any policy or budgetary constraints set by the Council to perform or discharge the Council’s functions or duties or to achieve the Council’s objectives.

e) Ensuring compliance with all relevant legislation (see Section 7 of this Policy).

4.3 Accounting for Disposal of Non-Current Assets
   a) All Non-Current Assets will be removed from Council’s accounts upon disposal.

   b) When Land or Other Asset is disposed of and its selling price varies from the carrying amount in Council’s balance sheet, a gain or loss on disposal will be recognised directly to the Income Statement in accordance with AASB116.

   c) If Land or Other Asset is scrapped before it has been fully depreciated the carrying amount represents a loss on disposal and will be expensed.

4.4 Accounting for Disposal of Attractive Assets
An Attractive Asset does not require removing from Council’s accounts as the asset is not recorded in the Balance Sheet in accordance with the Asset Accounting Policy therefore sale proceeds will be recognised directly in the Income Statement as a gain on disposal.

4.4 Disposal Methods
4.4.1 Land disposal
   a) Surplus Land will be disposed taking into account the principles at Clause 4.2 and shall be the subject of a decision of Council to dispose of the Land and the method of disposal.
b) Where the Land forms or formed a road or part of a road, the Council must ensure that the Land is closed under the Roads Opening and Closing Act 1991 (SA) prior to its disposal. Further, that the land is excluded as Community Land as per Section 201 of the Local Government Act.

c) Where Land is classified as Community Land, the Council must satisfy the requirements of the Local Government Act and Public Consultation Policy.

d) Where the Council proposes to dispose of Land through the grant of a leasehold or licence interest, the Council must comply with:
   i. The Local Government Act;
   ii. Public Consultation Policy
   iii. Retail and Commercial Leases Act;
   iv. Crown Lands Act or dedications or other Crown Land matters such as Native Title;
   v. Development Act; or
   vi. Land Use Agreements Policy.

e) The Council will, where appropriate, dispose of Land through one of the following methods:
   i. Open Market Sale – which shall include advertisement for disposal of the Land through the local paper, and where appropriate, a paper circulating in the State, or by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with the Council’s Procurement Policy);
   ii. Expressions of Interest - seeking expressions of interest for the Land;
   iii. Select Tender - seeking tenders from a selected group of persons or companies;
   iv. Open Tender - openly seeking bids through tenders, including public auction;
   v. Direct Negotiation – with owners of Land adjoining the Land or others with a pre-existing interest in the Land, or where the Land is to be used by a purchaser whose purpose for the Land is consistent with the Council’s strategic objectives for the Land.

f) Selection of a suitable disposal method will include consideration in accordance with the principles of Clause 4.2 - of (where appropriate):
   i. the number of known potential purchasers of the Land;
   ii. the original intention for the use of the Land;
   iii. the current and possible preferred future use of the Land;
   iv. the opportunity to promote local economic growth and development;
   v. delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
vi. the total estimated value of the disposal; and
vii. compliance with statutory and other obligations.

g) The Council will not dispose of Land to any Public Officer or Volunteer of the
Council who has been involved in any process related to a decision to dispose of
the Land or the method of disposal of that Land.

h) If Land is to be disposed of through an Open Market Sale or by Expression of
Interest, then (unless the Council resolves otherwise) one independent
valuation must be obtained to establish the reserve price for the Land. The
independent valuation must be made no more than 6 months prior to the
proposed disposal.

i) If Land is to be disposed of through a Select Tender, Open Tender or Direct
Negotiation, then (unless the Council resolves otherwise) a minimum of two
independent valuations must be obtained to ensure that an appropriate market
value is obtained. The independent valuation must be made no more than 6
months prior to the proposed disposal.

j) The Council will seek to dispose of Land at or above current market valuation by
whichever method is likely to provide the Council with a maximum return,
unless there are reasons for the Council to accept a lesser return which is
consistent with the Council’s overall strategic direction. These reasons must be
documented in writing.

4.4.2 Other Assets disposal

a) The sale of Other Assets will be the responsibility of the relevant Council Officer
in accordance with the terms of their expenditure authority based on the sale
revenue expected. An Asset Disposal Form will be completed for the disposal of
any Other Asset excluding fleet vehicle trade-ins.

b) The Council will, where appropriate, dispose of Other Assets through one of the
following methods:
   i. Trade-In – trading in assets to suppliers
   ii. Expressions of Interest – seeking expressions of interest from buyers;
   iii. Select Tender – seeking tenders from a selected group of persons or
      companies;
   iv. Open Tender – openly seeking bids through tenders;
   v. Public Auction – advertisement for auction through the local paper
      and/or the Council Website and, where appropriate, a paper circulating
      in the State, or procuring the services of an auctioneer (following
      compliance with the Council’s Procurement Policy);
vi. Donation to Not-for-Profit organisations (via an Expression of Interest advertised in the local paper) operating within the Council area in support of Council’s community development strategic goal; or

vii. Write-off – in accordance with the Asset Accounting Policy (in the case of an Attractive Asset which is not covered by the Asset Accounting Policy – any faulty or damaged Attractive Asset which carries a potential risk will not be disposed of to a third party – but will be destroyed or scrapped).

c) Selection of a suitable method will include consideration of (where appropriate):
   i. the public demand and interest in the Other Asset;
   ii. the method most likely to return the highest revenue unless they are donated to Not-for-Profit organisations operating within the Council area;
   iii. the value of the Asset;
   iv. the costs of the disposal method compared to the expected returns; and
   v. compliance with statutory and other obligations.

d) A person who is either a Public Officer or Volunteer of the Council will not be permitted to purchase Other Assets (that Council is disposing of) unless:
   i. the purchase is through an Open Tender process;
   ii. the purchase is through a Public Auction,
   iii. they have not been involved in any disposal process or decision making; and
   iv. the tender submitted or bid made is the highest.

e) A person who is either a Public Officer or Volunteer of the Council will not make improper use of information, including confidential information, acquired by virtue of their position.

f) Purchasers of Other Assets must complete an ‘Asset / Item Disposal Disclaimer Form’ before receiving any Other Assets, agreeing that no warranty is given by the Council in respect of the suitability and condition of the Asset for the purchaser and that the Council will not be responsible for the Asset in any respect following the sale.

4.4.3 Waiver for Disposal Method

a) Council may grant a waiver to a disposal method for Land disposal contained within this Policy on condition there are extenuating circumstances that support an alternative disposal methodology but a waiver cannot be provided if it results in allowing Personnel to purchase Land contrary to the intent of Clauses 4.4.1.(g).
b) Council authorises the Chief Executive Officer or relevant Director to grant a waiver for disposal of Other Assets but the waiver cannot be provided such that it will allow Personnel to purchase Other Assets contrary to the intent of Clauses 4.4.2.(d) of this policy.

c) Any grant of waiver must be documented on the Asset / Item Disposal Method Waiver Form and approved prior to commencing any disposal process.

5. Supporting Documentation

- TBCFOR4601 Asset Disposal Form
- TBCFOR4751 Asset / Item Disposal Disclaimer Form
- TBCFOR4752 Asset / Item Disposal Method Waiver Form
- Community Land Management Plans
- Community Land Register
- Delegations Register – Instrument of Delegation under the Local Government Act 1999

6. Related Policies

- Public Consultation Policy
- Procurement Policy
- Asset Accounting Policy
- Prudential Management Policy
- Motor Vehicle Policy
- Land Use Agreements Policy
- The Code of Conduct for Council Employees clause 2.12

7. References

- Accounting Standards AASB 116 – Property Plant and Equipment
- Local Government Act 1999 (SA)
- Real Property Act 1886 (SA)
- Land and Business (Sale and Conveyancing) Act 1994 (SA)
- Development Act 1993 (SA)
- Retail and Commercial Leases Act 1995 (SA)
- Residential Parks Act 2007 (SA)
- Strata Titles Act 1988 (SA)
- Crown Land Management Act 2009 (SA)
- Community Titles Act 1996 (SA)
- Roads (Opening and Closing) Act 1991 (SA)
- Land Acquisition Act 1969 (SA)
- Independent Commissioner Against Corruption Act 2012
8. **Review**

This Policy shall be reviewed by the Council, in consultation with the relevant stakeholders, within four years or more frequently if legislation or Council needs change.

9. **Further Information**

This Policy is available for inspection at the Council offices at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. It is also available for inspection, download or printing, free of charge, from Council’s web site: www.barossa.sa.gov.au.

Any grievances in relation to this Policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council, PO Box 867, Nuriootpa SA 5355.

SIGNED: 

Mayor

DATED: 15/09/2014
### Assessment of Proposed Land Swap – Chateau Tanunda - Under the Disposal of Land or Other Assets Policy

<table>
<thead>
<tr>
<th>Relevant Clause Number</th>
<th>Policy Direction</th>
<th>Comment/Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Purpose</td>
<td>Sets out the general purpose of the policy</td>
<td>Noted</td>
</tr>
<tr>
<td>2 – Scope</td>
<td>Sets out exemptions that the policy does not apply to.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>3 – Definition of Land</td>
<td>Land includes community land.....</td>
<td>Condition is met and therefore the land in question is subject to the directions of the policy.</td>
</tr>
<tr>
<td>4.1 – Disposal of Land or Other Assets</td>
<td>Any decision to dispose of Land or Other Assets will be made after considering (where applicable):</td>
<td>The current land is not significantly developed or utilised, is removed from adjacent Council land and offers little in broader community benefit, of course there are adjacent landowners and users who possibly derive benefit in terms of visual amenity and recreation. The proposal to swap land would in essence deliver the same outcome with future possible better interaction of the land to the community due to its location.</td>
</tr>
<tr>
<td></td>
<td>a) the usefulness of the Land or Other Asset;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b) the current market value of the Land or Other Asset;</td>
<td>Whilst there is a perceived market value it is not derivable at present as it is encumbered and not saleable. It is considered that the land swap will be of equal market value, as any new parcel of land will be rededicated to the community and provide the same service level.</td>
</tr>
<tr>
<td></td>
<td>c) the annual cost of maintenance;</td>
<td>Minimal and no change in costs structures is expected for the open space areas.</td>
</tr>
<tr>
<td></td>
<td>d) any alternative future use of the Land or Other Asset;</td>
<td>The alternative use of the existing Council land under the swap would support a significant economic development in support of tourism and education. An investment of over $30M creating in the order of 150 FTE construction jobs and 97 FTE ongoing positions. Further it would support the re-utilisation of heritage and cultural assets at the Chateau as an integrated tourism, culinary and education development.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>e) any duplication of the Land or Other Asset or the service provided by the Land or Other Asset;</td>
<td>Not applicable.</td>
<td></td>
</tr>
<tr>
<td>f) any impact the disposal of the Land or Other Asset may have on the community;</td>
<td>Discussed at a) and d) above.</td>
<td></td>
</tr>
<tr>
<td>g) any cultural or historical significance of the Land or Other Asset;</td>
<td>The land was purchased by Council through funding from the Keil Estate and has an Indenture Deed over it, the trustees of this deed have been consulted and have provided a letter of intent that they would lift the trust.</td>
<td></td>
</tr>
<tr>
<td>h) the positive and negative impact the disposal of the Land or Other Asset may have on the operations of the Council;</td>
<td>None identifiable that do not already exist.</td>
<td></td>
</tr>
<tr>
<td>i) the long term plans and strategic direction of the Council;</td>
<td>Is consistent with a raft of economic, heritage and cultural, community and education strategies outlined in the Community Plan, please refer to Council report 7.2.1.2 of 18 August 2017 for full detail, and thus delivers upon the plan.</td>
<td></td>
</tr>
<tr>
<td>j) the remaining useful life, particularly of an Asset</td>
<td>Not applicable as it is land.</td>
<td></td>
</tr>
<tr>
<td>k) a benefit and risk analysis of the proposed disposal;</td>
<td>Significant benefits have been outlined at d) and i). The risk matters in brief have been outlined in the Council report 7.2.1.2 of 18 August 2017. The inability to deliver the outcome could put the commercial viability of the project at risk or result in sub-optimal outcomes with the development of tourism accommodation on land to the west of the railway corridor adjacent to residential area.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>i)</td>
<td>the results of any community consultation process;</td>
<td>This will be considered as part of the community consultation process being explored by the Council report 7.2.1.2 of 18 August 2017.</td>
</tr>
<tr>
<td></td>
<td>m) any restrictions on the proposed disposal;</td>
<td>The Keil Estate and Local Government restrictions have been outlined in the Council report 7.2.1.2 of 18 August 2017 and at g) above.</td>
</tr>
<tr>
<td></td>
<td>n) the content of any community land management plan; and</td>
<td>The community land management plan does not support Tourism Accommodation, and this is in conflict with the stated policies in the Development Plan. The purpose of the Council report 7.2.1.2 of 18 August 2017 is to address the matter and proceed towards achieving community comment and potential land swap that will see community access to similar open space preserved whilst delivering a significant economic driver for the community. Should the proposed land swap be approved, an appropriate community land management plan would be put in place over the swapped land.</td>
</tr>
<tr>
<td></td>
<td>o) any other relevant policies of the Council, including:</td>
<td>All other relevant matters have been explored in the Council report 7.2.1.2 of 18 August 2017. The Prudential Management Policy does not apply in this case and there are no specific accounting policy concerns.</td>
</tr>
<tr>
<td></td>
<td>Prudential Management Policy</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Asset Accounting Policy</td>
<td></td>
</tr>
</tbody>
</table>

4.2 – Disposal Principles

Encouragement of open and effective competition

This matter is being addressed by ensuring full, open and transparent decision making. The ability to release this land for general market competition is extremely limited as it is encumbered by both the Keil Estate Trust and the Community Land classification; the proposal put forward makes strategic sense due to its location with adjacent assets owned by the Chateau and its recent success in securing State land upon which the Tanunda train station resides. The trustees of the Keil Estate have supported lifting of the trust to facilitate this project on condition the
land included in the swap is rededicated for the same purpose. Council is therefore practically stopped from placing the land parcel on the open market and to do so could jeopardise the broader community and economic outcomes.

On balance, given the highly restrictive nature of the encumbrances on the land, the proposal to swap land assets so that the Tourism Accommodation land can be developed and integrated into the Chateau other assets whilst maintaining open space for the community is considered a sound strategic path forward and mitigates the market concern.

<table>
<thead>
<tr>
<th>4.2 – Disposal Principles</th>
<th>Obtaining value for money</th>
<th>As explained above there is no market for the land asset other than what is being proposed at this time, with the swap of land assets there is no loss to the community of open space whilst assisting to try and deliver an economic and community project.</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2 – Disposal Principles</td>
<td>Ethical behaviour and fair dealing</td>
<td>All dealings to date and negotiations and community consultations have been or will be consistent with this principle whilst ensuring the best possible outcome for the community.</td>
</tr>
<tr>
<td>4.2 – Disposal Principles</td>
<td>Probity, accountability, transparency and reporting</td>
<td>The Council and officers are dealing with the matter in a completely open and transparent manner through this assessment and the Council report 7.2.1.2 of 18 August 2017 and as intended all community consultation and other arrangements to be put in place should Council agree to continue will be undertaken (where legal) in open Council. It has also been recommended that Council have an independent probity advisor review this assessment and the process at the conclusion to ensure probity is maintained.</td>
</tr>
<tr>
<td>4.2 – Disposal Principles</td>
<td>Ensuring compliance with all relevant legislation</td>
<td>This will be achieved through the process envisioned by the Council report 7.2.1.2 of 18 August 2017.</td>
</tr>
<tr>
<td>4.3 – Accounting for Disposal of Non-Current Assets</td>
<td>Accounting requirements</td>
<td>Will be adhered to.</td>
</tr>
</tbody>
</table>
Summary

In summary from the analysis is it reasonable to conclude that the direct negotiation methodology for any future disposal through land swap is reasonable and risks are mitigated through open and transparent decision making, working towards the outcome that sees new land coming to Council as part of the land swap is preserved as open space and recreational area under the Community Land provisions of the Local Government Act and rededication of the Keil Estate trust over the land.
Extract of the Minutes of the Ordinary Council Meeting of 19 September 2017

7.2.1.4
CHATEAU TANUNDA – COMMUNITY LAND PROPOSAL
B5789 17/68380

The Chief Executive Officer clarified, due to reporting timing, that at Attachment 6 – Assessment of Proposed Land Swap – Chateau Tanunda – Under the Disposal of Land or Other Assets Policy references to Council report 7.2.1.2 of 18 August 2017 should read as Council report 7.2.1.4 of 19 September 2017.

MOVED Cr Miller that Council, being satisfied the proposal has extensive community benefit and can be managed in accordance with the Disposal of Land and Other Assets Policy:

(1) Agrees to undertake a six week community consultation process on a proposal to revoke the community land classification of Allotments 11 and 12 Basedow Road, Tanunda being Certificates of Title 5133/408 and 5902/824.

(2) Instructs the Chief Executive Officer to develop and release the consultation document outlining the proposal to transfer land on a commercial basis, subject to receiving legal advice that the proposal and process is compliant with Council’s asset disposal policy and legal responsibilities.

(3) Appoints a small working group of Mayor Sloane and Cr Lange to support the Chief Executive Officer and Governance Advisor in formulating the consultation document and commercial negotiation of subsequent commercial arrangements for any approved land swap, should the revocation of community land classification be approved by the relevant Minister.

(4) Require the proprietor to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister.

Seconded Cr de Vries  CARRIED 2014-18/1168

PURPOSE
To seek Council’s consideration to undertake a community consultation process with a view to removing the community land classification for land adjacent to Chateau Tanunda and swapping the land with land adjacent to Council property and private property on the western side of the Tanunda railway, to support the construction of a 5-star hotel facility. Relevant maps are provided at attachment 3.

REPORT
Background
Council has been presented background information in various briefings of the proposal to develop land adjacent to Chateau Tanunda, and to the eastern side of the railway corridor as a 5-star hotel development integrated with the Chateau and including the possibilities of a culinary institute and supporting student accommodation.

It is important to note the proprietor of the Chateau has been successful in securing the State Government land between Council’s land and the rail corridor which will form a critical link to the hotel development.
The vision of the Chateau proprietor is provided at attachment 2.

**Introduction**

Correspondence has been received from the representative of Chateau Tanunda seeking to swap land between the Chateau and Council to facilitate the proposed development.

It is important to note this report does not address any planning merits of the proposal or other Development Act activity attached to the proposal; that is a matter independent of Council deliberations and will be assessed by the relevant authority at the time of development application.

**Discussion**

There are multiple matters that need to be considered and the proposed process needs to ensure full and transparent decision making.

**Land Encumbrances**

The land in question is currently encumbered in two ways:

(1) The land is identified as Community Land pursuant to Section 193 of the Local Government Act. The land parcels are Allotment 11, Basedow Road, Tanunda, certificate title number 5133/408 and Allotment 12, Basedow Road, Tanunda, certificate title number 5902/824. These land parcels are identified on the map at attachment 3 as parcels A and B. The proposal is not consistent with the management plan at present and therefore cannot be leased or licenced for the purpose.

(2) The land also has an indenture deed (described herein as a trust) dedication applied to it. The parcels of land were donated to Council by way of trust from the Keil Estate for the purposes of open space and recreation.

The land is zoned Tourist Accommodation, a prior decision of Council and the relevant planning Minister which considered this appropriate land for such development, however the current encumbrances exclude that use in totality.

Legal advice was sought as to the best way to address the trust matter. It was determined that a voluntary negotiated release with the trust holders would be an appropriate way. With the approval of the proprietor of the Chateau, the Chief Executive Officer met with the trust holders on two occasions and they have expressed strong support for the proposal and provided a letter of intent to revoke the trust. Importantly, any land that will be transferred to Council, if a swap is approved, as part of that transfer process it is proposed to rededicate the new parcel of land in accordance with the wishes of the Keil Estate and thus honour the gift to the people of Tanunda. A copy of the relevant correspondence is provided at attachment 4.

To address the community land encumbrance Council must undertake a process in accordance with Section 194 of the Local Government Act. That is:

- Undertake a community consultation process outlining at a minimum:
  - Summary of the reasons for the proposal;
  - Statement of any dedications, reservations or trusts (explained above);
  - Statement of whether revocation of the classification is proposed with a view to sale or disposal of the land, and, if so, details of any Government assistance given to acquire the land and a statement of how the Council proposes to use the proceeds; and
  - Assessment of how implementation of the proposal would affect the area of the local community.
- Should Council determine to proceed after consultation, then submit the proposal to the Minister with a report on all submissions and seek approval of the Minister.
If the Minister approves the revocation Council can then proceed to revoke the community land status for the purpose outlined.

If the revocation is supported and approvals obtained the Council then has an unencumbered land parcel which it can dispose of in accordance with the proposal.

It is estimated with a 6 week consultation period, 21 days is the minimum requirement, necessary administration and governance of the process, Ministerial approval and final revocation should it receive Ministerial consent will take at least another 6 weeks. This reflects best case scenario, being three months, taking us to the conclusion of December 2017.

**Proposed Land for Transfer and Assessment of Its Strategic Purpose**

The proposed land for transfer being offered by the proprietor is land adjacent to the car park at the Tanunda Soldiers’ Memorial Hall and travelling south behind residential development and concluding at or near the rear of the Tanunda Hospital. The current parcel of land is highlighted at C on the map at attachment 3. However, the land would need to undergo a land division so as to retain access to the rear of the Chateau and oval area, and release the balance of the land for the purposes to be available to a land swap.

Any land that is swapped, subject to achieving extinguishment of the encumbrances on the land, is proposed to be rededicated for community land use and consistent with the Keil Estate donation so the open space is not lost to the people of Tanunda.

The proposal land has worthy open space usage due to its closer interaction with Council’s existing hall asset as well as residential use and the main street. It is unlikely to have any significant development for the foreseeable future other than lower level recreational assets.

Further any development of the land into future residential development which is currently contemplated by the Development Plan will be prohibited under the reestablishment of the land encumbrances on the swapped parcel of land.

Whilst the land proposed for land swap has some minor improvements in strategic connection, in commercial reality, the land has no greater value to Council or the community than the current parcel of land as they in essence will perform the same function and will be encumbered so as to preclude any other form of development.

It is estimated that a land division will take a minimum of 3 months to be processed through the system, a further 6 weeks would be required for the approval of a deposited plan of land division and further 6 weeks for issuing of titles, however, land settlement can take place upon an approved deposited plan. In total the land division process to reach a stage of settlement would take 4-5 months, the proprietor can commence this at any time and is not dependent on Council actions.

**Commercial Negotiation**

Some time has been devoted to considering the need for and timing of commercial negotiation of land swap details. There are various conditions precedent that need to occur before the parties actually have a viable proposal to execute, it is therefore considered that Council work towards a commercial agreement that sets out all foreseeable matters and once it determines to proceed with the community land consultation the commercial negotiations could run concurrently, but would always as the first condition precedent be dependent on revocation of the community land classification.

It is recommended that due to the public nature of the proposal that a small working group assist the Chief Executive Officer with negotiations and a probity advisor review the deliberations and agreement to ensure probity is maintained.

**Disposal of Land and Other Assets Policy**
An assessment of the proposal against the principles of the relevant policy have been undertaken at officer level and provided at attachment 6. These have not been independently reviewed due to the timeframes involved and so it is suggested this be done during the community land consultation process to ensure they are well tested and agreed independently.

In essence the analysis demonstrates there is significant community benefit in the proposal and as an outcome a land swap will not result in any loss of value of appropriate open space to the community. This is further reinforced through the current proposal to rededicate the land to be transferred on the western side of the railway corridor under the community land provisions of the Local Government Act and the Keil Estate thereby maintaining the same community service.

Community Consultation Proposal

It is proposed to undertake a 6 week consultation process recognising the expected community interest in the proposal. The consultation proposed as follows:

1. Development and release of extensive public consultation document;
2. Public notices in the Herald and Leader newspapers;
3. Media statement;
4. Placement of information on web-site, Better Barossa consultation platform and Facebook.
5. Displays at Council Library and Visitor Centre in Tanunda and seeking for the proprietor to also have displays at the Chateau.

The consultation period will seek written submissions through email, letter or our consultation platform.

Preliminary Benefits and Costs

It is estimated that the project, if successful will deliver:

- A high class 5-star hotel development in the heart of the Barossa;
- A vehicle for achievement of a culinary institute.
- Significant construction (estimated at 150 FTE’s) and ongoing job creation (estimated at 97 FTE’s).
- Utilisation of appropriately zoned land.
- Land available to Council that better integrates with existing ownership of Council and integration with the main street precinct.

The costs of the project relevant to Council at this time, not including private construction costs, land division, planning and development and other costs:

- Officer resources, absorbed.
- Legal, probity, and other professional advice:
  - Commercial negotiation up to $10,000.
  - Extinguishment of Deed and Re-establishment $5,000
  - Other advice $4,000
- Advertising and associated public consultation costs upwards of $1,500.
- State Government fees and charges, unknown at this time.
- Conveyancing costs $2,000.

These costs are not budgeted for.

It is recommended, other than officer costs, Council seeks as part of the commercial arrangements reimbursement of costs incurred to support the project. Alternatively Council will need to approve a budget adjustment which will impact the operating position of Council.
by approximate $22,000; if that is the wish of Council it will be undertaken as part of the Council first quarter budget review.

Summary and Conclusion
The vision as proposed provides for a significant investment for the Barossa area and delivery of a high class facility. The current land parcels owned by Council are not of significant community value or use and the swap of land to that adjacent to Council and closer to the main street offers a more strategic parcel of land. It is recommended that Council, should it commence the relevant processes, commit as part of the community consultation process to rededicate the swapped land under the Keil Estate and as community land to ensure it has at least the same community service outcome as the existing land.

In summary the steps envisaged are:

<table>
<thead>
<tr>
<th>Number</th>
<th>Action</th>
<th>Timeframe</th>
<th>Dependency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Community Consultation – Community Land Consultation – Council</td>
<td>7 weeks</td>
<td>Council approval</td>
</tr>
<tr>
<td>2.</td>
<td>Community Consultation – Community Land Consultation – Ministerial Approval</td>
<td>6 weeks</td>
<td>Part 1 Above</td>
</tr>
<tr>
<td>3.</td>
<td>Revocation of Community Land Classification</td>
<td>1 week</td>
<td>Part 2 Above</td>
</tr>
<tr>
<td>4.</td>
<td>Commercial Negotiation</td>
<td>7 weeks</td>
<td>Council approval to proceed – concurrent with 1 above.</td>
</tr>
<tr>
<td>5.</td>
<td>Land Division</td>
<td>12 weeks</td>
<td>Private developer matter.</td>
</tr>
<tr>
<td>6.</td>
<td>Indenture Deed Management</td>
<td>4 weeks</td>
<td>Part 2 Above</td>
</tr>
<tr>
<td>7.</td>
<td>Approval of Deposited Plan</td>
<td>6 weeks</td>
<td>Part 5 Above</td>
</tr>
<tr>
<td>8.</td>
<td>Land Transfer</td>
<td>2 weeks</td>
<td>Part 2 and 4 Above</td>
</tr>
</tbody>
</table>

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1 – Correspondence from Tuscan
Attachment 2 – Strategic Vision
Attachment 3 – Maps
Attachment 4 – Letter Agreeing to Release Indenture Deed
Attachment 5 – Disposal of Land or Other Assets Policy
Attachment 6 – Assessment of Proposal against Disposal of Land or Other Assets Policy

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
Community Plan
- Natural Environment and Built Heritage
- Community and Culture
- Health and Wellbeing
- Business and Employment
- How We Work – Good Governance
1.5 Provide support and advice to preserve properties and sites which have historic significance.
1.10 Facilitate opportunities to repurpose or find alternative use of built heritage.
2.2 Support the development of activities that celebrate the history and culture of the Barossa and its people.
2.6 Support a vibrant and growing arts, cultural, heritage and events sector.
2.8 Provide opportunities for the community to participate in local decision-making.
2.13 Advocate for education infrastructure and support improvements.
4.6 Ensure that community members can participate in cultural, recreational, sporting and learning opportunities.
5.1 Work closely with State Government, Federal Government and stakeholders to support economic growth, development and job creation.
5.3 Help build the capacity of the tourism sector and encourage the development of tourist services, including eco and recreational tourism infrastructure.
5.4 Attract investment for new and innovative industries, such as creative industries and cultural tourism.
5.5 Support education and training programs that directly respond to work-force gaps and innovation.

Legislative Requirements
Section 49 of the Local Government Act
Section 194 of the Local Government Act

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial estimates are outlined in the body of the report.

Internal resources will be provided primarily by the Chief Executive Officer and Governance Advisor.

Risk Management considerations include the public interest in the matter, possibilities of loss of the project, public objection. It is considered the best way to mitigate these risks is to be completely open and transparent in Council’s decision making and provision of sufficient information. Further in-principle support from the Keil Estate trustees has already been provided. Also importantly the State Government has reviewed the proposal in the context if its land arrangements and has supported the project through arrangements for land transfer of the railway station land.

COMMUNITY CONSULTATION

Outlined in the body of the report.
7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.1 REVOCATION OF COMMUNITY LAND CLASSIFICATION – BASEDOW ROAD, TANUNDA B7081

PURPOSE
Council is now asked to consider community feedback in response to its proposal to revoke the Community Land classification over Allotments 11 and 12 Basedow Road, Tanunda, with a view to exchanging these parcels for land adjacent to Council property and which are owned by Chateau Tanunda. Should Council agree with the revocation, the matter should then be referred to the Minister for Planning to consider in accordance with the Local Government Act 1999.

RECOMMENDATION

(1) That the Council note and consider the feedback from community members and the KelledyJones Lawyers’ independent assessment of the consultation and proposed disposal process, which are attached to this report.

(2) Pursuant to Section 194 of the Local Government Act 1999, that Council continue the process to revoke the Community Land classification for Allotments 11 and 12 Basedow Road, Tanunda, which are respectively contained in Certificates of Title Volume 5133 Folio 408 and Volume 5902 Folio 824.

(3) That the Chief Executive Officer prepare a report and submit it to the Minister for Planning seeking approval to revoke the Community Land classification of the said land parcels.

(4) That should the revocation be approved by the Minister for Planning, the matter be referred back to Council for final resolution in accordance with section 194(3)(b) of the Local Government Act 1999.

(5) That the Chief Executive Officer then proceed with the necessary steps to affect the proposed land exchange in accordance with the Council’s resolution of 19 September 2017.

REPORT

Background
On 19 September 2017 Council resolved:

MOVED Cr Miller

That Council, being satisfied the proposal has extensive community benefit and can be managed in accordance with the Disposal of Land and Other Assets Policy:

(1) Agrees to undertake a six week community consultation process on a proposal to revoke the community land classification of Allotments 11 and 12 Basedow
(2) Instructs the Chief Executive Officer to develop and release the consultation document outlining the proposal to transfer land on a commercial basis, subject to receiving legal advice that the proposal and process is compliant with Council’s asset disposal policy and legal responsibilities.

(3) Appoints a small working group of Mayor Sloane and Cr Lange to support the Chief Executive Officer and Governance Advisor in formulating the consultation document and commercial negotiation of subsequent commercial arrangements for any approved land swap, should the revocation of community land classification be approved by the relevant Minister.

(4) Require the proprietor to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister.

Seconded Cr de Vries                          CARRIED 2014-18/1168

Introduction
In accordance with the above resolution, officers provide the following for Elected Members’ information:

- Consultation Report: Revocation of Community Land Classification at attachment 1
- Copy of public notices in the Herald and Leader newspapers, media releases, and promotions on Council’s website, Our Better Barossa consultation platform and Facebook at attachment 2
- Map of landowners adjacent to the proposed land exchange parcels who were sent a letter outlining the proposal at attachment 3
- Copy of letter sent to these identified adjacent landowners at attachment 4
- Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform at attachment 5
- Copy of all correspondence from the community at attachment 6
- Copy of thank you letter sent to those who provided feedback at attachment 7
- Independent Assessment by KelledyJones Lawyers of the proposed disposal of Council land against the principles of Council’s Disposal of Land and Other Assets Policy at attachment 8.

Discussion
A public notice was placed in each of the Herald and Leader newspapers and on Council’s homepage on 1 November 2017, and letters written to owners of land adjacent to those parcels which are proposed for exchange - all inviting written comment on the attached Consultation Report by 5pm, 12 December 2017. This timeframe allowed a period of 6 weeks of community consultation, which in the interests of improved community engagement is considerably longer than the prescribed 21 day minimum under the Local Government Act at section 50(4).

The public notices also advised that the Consultation Report would be made available for download via Council’s website and in hard copy at its principal office, the Tanunda Library, and Chateau Tanunda. Officers also provided display maps and consultation documents in these three locations.

Further promotion of the consultation was undertaken via the Our Better Barossa consultation platform, weekly Facebook posts and in media releases.
There was a variety of feedback in the 20 submissions from the community both for and against the proposal, which is presented for Elected Member convenience in summary form and for completion with copies of all correspondence at, respectively, attachments 5 and 6. A thank you letter and invitation to attend the Council meeting, as per the template in attachment 7 was sent to each person who provided an address with their submission.

Although a detailed analysis was provided in the Consultation Report at attachment 3, regarding the disposal of land through land exchange as assessed against the principles of Council’s Disposal of Land and Other Assets Policy, it was also considered that further obtaining an independent assessment of the disposal of land process was prudent during the public consultation period.

Accordingly, KelledyJones Lawyers were briefed to prepare this independent assessment to review the probity, accountability, transparency and reporting of this public consultation process and proposed disposal of land process. It is provided at attachment 8 and has validated both processes.

After considering all the community feedback and the independent assessment, the Elected Body must now consider whether or not to approve the Consultation Report for referral to the Minister for Planning.

Should the Consultation Report be referred to the Minister and he approves revoking the Community Land classification over the two identified parcels, the matter will be referred back to the Elected Body for final endorsement in accordance with the Local Government Act at section 194(3)(b).

The Chief Executive Officer will then negotiate the necessary commercial arrangements with the proprietor of Chateau Tanunda, and organise the appropriate valuations, where required, and the formal voluntary release from the trustees of the community land to finalise the approved land exchange.

Summary and Conclusion
The Council is asked to consider and approve the officer recommendation and refer the matter of revocation to the Minister for Planning.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1 – Consultation Report: Revocation of Community Land Classification
Attachment 2 – Copy of public notices in the Herald and Leader newspapers, media releases, and promotions on Council’s website, Our Better Barossa consultation platform and Facebook
Attachment 3 – Map of adjacent landowners who were sent proposal letter
Attachment 4 – Copy of letter sent to adjacent landowners
Attachment 5 – Summary table of responses from the community
Attachment 6 – Copies of correspondence from the community
Attachment 7 – Copy of thank you letter sent to those who provided feedback
Attachment 8 - Independent Assessment by KelledyJones Lawyers of the proposed disposal of Council land against the principles of Council’s Disposal of Land and Other Assets Policy
Community and Culture:

2.3 Support and promote community involvement and networks and provide opportunities for participation in local decision making.

Legislative Requirements
Local Government Act 1999, Sections 50 and 194

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

There is no financial or resource implications in finalising this report for referral to the Minister for Planning. Risk is mitigated by complying with the relevant sections of the Local Government Act as to the revocation of community land classification and Council's Public Consultation Policy and Disposal of Land and Other Assets Policy and the validation these two Council's processes by way of an independent assessment.

**COMMUNITY CONSULTATION**

Community consultation has occurred in accordance with section 194 of the Local Government Act and Council’s Public Consultation Policy.
Consultation Report

Pursuant to Section 194 of the Local Government Act 1999
PROPERTY DETAILS

Land Name: Allotments 11 and 12 Basedow Road, Tanunda

Address: 11 and 12 Basedow Road, Tanunda

Certificate of Title References: Volume 5133 Folio 408 and Volume 5902 Folio 824 (see attached titles)

1. **Reason for proposal**

The relevant vacant parcels of land ("the community land") were donated to Council as open space under an Indenture Deed, through the Keil Estate.

Chateau Tanunda sits adjacent to the community land. Recently the proprietor of Chateau Tanunda secured the right to land owned by the State Government known as the Tanunda Railway Station land, which sits adjacent to both the community land and Chateau Tanunda.

The proprietor of land upon which Chateau Tanunda resides and now having the rights to the Tanunda Railway Station land, has developed a concept for a five-star hotel, short term villa accommodation and a culinary institute with associated small scale student accommodation.

To facilitate the development that would be integrated with the Chateau and Railway Station land, the proprietor has approached Council to undertake a land exchange to assist in facilitating the hotel development and at the same time moving the hotel away from adjoining residential properties.

The vision for the development is at Attachment 1.

Importantly Council’s community land is zoned as tourism accommodation land in accordance with the current Development Plan pursuant to the Development Act 1993, it therefore has already been strategically determined as an appropriate location for tourism accommodation development.

2. **Proposed Land for Transfer and Assessment of its Strategic Purpose**

The following proposal is subject to Council achieving extinguishment of the encumbrances on the community land as outlined by the Indenture Deed. Refer to paragraph 3 below for specifics of the Deed.

The proposed land for transfer to Council being offered by Chateau Tanunda in exchange for the community land is land adjacent to the car park at the Tanunda Soldiers’ Memorial Hall which traverses south behind residential development and concludes at or near the rear of the Tanunda Hospital. The proposed land that Council would receive is
highlighted at “E” on the map at Attachment 2. The land that Council proposes to exchange is highlighted at “A” and “B” on the map at Attachment 2. However before the proposed land can be transferred to Council, it would need to undergo a land division so as to retain access to the rear of the Chateau and oval area. The balance of the proposed land would then be made available for the land exchange.

The proposed land that would be transferred by Chateau Tanunda to Council, would be rededicated for community land purposes which is consistent with the terms of the Keil Estate donation, so the open space remains for the benefit of the people of Tanunda.

The proposed land from Chateau Tanunda to Council has worthy open space usage due to its closer interaction with Council’s existing Hall asset as well as residential use and the main street. It is unlikely to have any significant development for the foreseeable future other than lower level recreational assets. In any case, development would be limited to that expected of open space and recreational use and the restrictions placed on the land through the re-dedication of land under the principles of the Keil Estate trust and establishment of the land as community land under the Local Government Act 1999 (the Act).

Further, any development of the proposed land from Chateau Tanunda to Council into future residential development which is currently contemplated by the Development Plan will be prohibited by rededication of land under the principles of the Keil Estate trust.

3. Reservation/Dedication/Trust

The Council’s community land parcels are Allotment 11, Basedow Road, Tanunda, Certificate of Title Volume 5133 Folio 408 and Allotment 12, Basedow Road, Tanunda, Certificate of Title Volume 5902 Folio 824. They are identified on the map at Attachment 2 as parcels “A” and “B”.

The community land parcels are currently encumbered in two ways:

(1) The land is formally classified as Community Land pursuant to Section 193 of the Local Government Act 1999 (“the Act”).

(2) The land also has an indenture deed (described herein as a trust) dedication applied to it. The parcels of land were donated to Council by way of trust from the Keil Estate for the purposes of open space and recreation.

Council has been in discussions with the trustees of the Keil Estate and they have provided in-principle written support for the land exchange on condition the proposed land that would be transferred to Council be rededicated under a similar deed.
4. Relevance to Community Consultation

Before the community land can be dealt with in the proposed way, its formal classification as “Community Land” under the Local Government Act must be considered and if supported by Council, revoked.

The Act established a framework for the classification of land owned by or under Council’s care, control and management – this is known as “community land”. The framework ensures a consistent and strategic approach to the administration and management of local government land. Its objectives are to protect the interests of the whole community regarding the land for current and future generations.

The Act requires Council to consult with its community over proposals to revoke land from the Community Land classification framework.

Accordingly, Council has approved a 6 week consultation process which will start on Wednesday, 1 November 2017 and conclude at 5pm, local time on Tuesday, 12 December 2017. The approved consultation process shall be:

(1) Development and release of an extensive public consultation document;
(2) Public notices in the Herald and Leader newspapers;
(3) Media statement;
(4) Placement of information on web-site, Better Barossa consultation platform and Facebook.
(5) Displays at Council Library and Visitor Centre in Tanunda and seeking for the Chateau Tanunda proprietor to also have displays at the Chateau.

The consultation period will seek written submissions through email, letter or Council’s Better Barossa consultation platform.

After the consultation period, a report will be prepared for Council’s consideration including submissions received, to determine if it will proceed with the revocation of the community land status of the relevant parcels of community land and to continue negotiations for the proposed land exchange.

5. Future use of Land

It is anticipated that should the community land classification be revoked and:

1. an agreed negotiated commercial agreement be reached for exchange of land parcels as described above, in essence disposing of community land via direct transfer to Chateau Tanunda;
2. a land division of Chateau Tanunda’s land (as outlined at Attachment 2 and marked parcel “E”) and development approval is approved;
3. development approval for the hotel is approved;
the land would be utilised to provide tourism accommodation.

The land which is transferred to Council by Chateau Tanunda as part of the land exchange proposal will provide open space and recreational space, as the current community land parcels provided, but are of increased community benefit as they are located closer to existing Council assets and the main street of Tanunda. The land is currently not used for community purpose.

There has been no Government assistance in purchasing the community land which is the subject of this proposal.

6. Effect on the Area and Local Community

It has been estimated that the proposal in its entirety could generate the following benefits for the area and local community:

- A high class 5-star hotel development in the centre of the Barossa;
- A vehicle to establish a culinary institute;
- Significant construction (estimated at 150 FTEs) and ongoing job creation (estimated at 97 FTEs);
- Utilisation of appropriately zoned land;
- Land available to Council that better integrates with existing Council assets and integration with the main street precinct for open space and recreational purposes.

7. Other Key Legislative Considerations

Whilst this report addresses the requirements under Section 194 of the Local Government Act, the disposal of any unencumbered land through land exchange has been additionally assessed against the principles of Council’s Disposal of Land and Other Assets Policy, should approval for the revocation of the community land classification be obtained.

At this time Council is satisfied that a land exchange proposal is sound, however this analysis will be further independently assessed as part of the community consultation process.

While a detailed analysis can be found at Attachment 3, by way of summary, the analysis demonstrates there is significant community benefit in the proposal and as an outcome a land exchange will not result in any loss of value of appropriate open space to the community. This is further reinforced by the proposal to rededicate the land transferred by Chateau Tanunda to Council, in accordance with the community land classification of the Act and restrictions under the Keil Estate thereby maintaining the same community service.
Certificate of Title - Volume 5133 Folio 408

Parent Title(s)  CT 1065/20, CT 4085/156
Creating Dealing(s)  RTD 7251297, RE 7505372, RE 7505372A
Title Issued  21/07/1993  Edition 3  Edition Issued 06/04/1995

Estate Type  FEE SIMPLE

Registered Proprietor  
THE BAROSSA COUNCIL  
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land  
ALLOTMENT 11 DEPOSITED PLAN 33882  
IN THE AREA NAMED TANUNDA  
HUNDRED OF MOOROOROO

Easements  
SUBJECT TO EASEMENT(S) OVER THE LAND MARKED D TO AUSTRALIAN NATIONAL RAILWAYS COMMISSION  
(RE 7505372A)

TOGETHER WITH FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED C

Schedule of Dealings  
NIL

Notations  
Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General's Notes  NIL
Administrative Interests  NIL
The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.

Certificate of Title - Volume 5902 Folio 824

Parent Title(s)  CT 5133/409, CT 5713/408
Creating Dealing(s)  RTC 9261303

Estate Type
FEE SIMPLE

Registered Proprietor
THE BAROSSA COUNCIL
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land
ALLOTMENT 12 DEPOSITED PLAN 33882
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Easements
SUBJECT TO EASEMENT(S) OVER THE LAND MARKED E TO AUSTRALIAN NATIONAL RAILWAYS COMMISSION (RE 7505372A)
SUBJECT TO FREE AND UNRESTRICTED RIGHT(S) OF WAY OVER THE LAND MARKED C

Schedule of Dealings
NIL

Notations

Dealings Affecting Title  NIL
Priority Notices  NIL
Notations on Plan  NIL
Registrar-General's Notes  NIL
Administrative Interests  NIL
Product Register Search (CT 5902/824)

Date/Time
20/11/2017 03:51PM

Customer Reference
Chateau-Allot12

Order ID
20171120010089

Cost
$28.25
AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION

CHATEAU TANUNDA BAROSSA VALLEY
ACCOMMODATION
• 5 star lifestyle hotel 100-120 rooms
• Adapting part of the existing Bond Store for 60 bed student accommodation
• 60 villas to offer accommodation for a broader market including longer term stays that may be associated with training, education and cultural programs

FACILITIES
• Adapting the existing buildings to create major meeting and conference facilities to compliment SA programs on events, conferences, and meetings for national and international participants
• Function Space >1000m²
• Gym, spa and pool
• Oval used for outdoor events, recreation, markets, music, sport
• SA Culinary Institute for education, training, cultural and culinary tourism (similar to the Culinary Institute of America)

ECONOMIC BENEFITS
• Project Cost > $30 million
• Jobs FTE during construction: 150
• Jobs FTE post completion: 97
• Annual expenditure > $4 million with multiplier economic benefits

MARKETING AND PROMOTION
• Revival of the Barossa Wine Train: Adelaide – Tanunda
• Appointment of an international hotel operator as an overlay to manage these businesses, market SA and Tanunda nationally and internationally
• Promotion and marketing through the Chateau Tanunda wine business
• SA Culinary Institute with national and international markets
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>KEY FEATURES</td>
<td>2</td>
</tr>
<tr>
<td>01 SITE ANALYSIS</td>
<td>4</td>
</tr>
<tr>
<td>LOCAL CONTEXT</td>
<td>6</td>
</tr>
<tr>
<td>02 MASSING STUDY</td>
<td>15</td>
</tr>
<tr>
<td>PROPOSED USE</td>
<td>17</td>
</tr>
<tr>
<td>03 IMAGERY</td>
<td>18</td>
</tr>
</tbody>
</table>
LOCAL CONTEXT
Tanunda is a major town in the Barossa Valley, located 70km north of Adelaide. Historic township circa 1850-1910. Chateau Tanunda established 1890. Traditional grid layout established to west of Murray Street (B19) and by watercourses North Para River and Tanunda Creek. Name derived from an Aboriginal word meaning water hole. Historic blue stone buildings quarried from Bethany, include Chateau Tanunda winery. Landscape - Significant Moreton Bay figs, Carob trees, Phoenix canariensis, Eucalypts, deciduous trees. Railway divides the township with development to the east with vineyards, light industry, primary industry.

Key destinations
• Chateau
• Railway station (tourism trail)
• Heysen Tourist trail
• Town centre commerce
• Sports and recreation
• Hospital
• Schools

Opportunities
• Potential to exploit the tourist train route and railway station as it is owned by Chateau Tanunda.
• Chateau Tanunda history, historic buildings, uses, cricket ground, croquet lawn
• Vistas across the valley, vineyards and to nearby Barossa Ranges
• Low lying land with a slight fall north to south towards Tanunda Creek
• Land swap with State government to consolidate Chateau Tanunda landholdings
• Tourism development potential (hotel, villas, educational and cultural facilities, culinary institute etc and benefits to the town and region)
• Rationalise site access and circulation

Constraints
• Impact of the light industry to the east edge of the site
• Traffic and parking
• Topography, clever design and planning to nest the buildings into the landscape
• Respect the history of place with adaptive reuse and intersection of new buildings and uses.
• Working use of the winery balance with tourism destination (screen uses)
• Resolve connections over railway line to the town
• New carpark, screening
CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
7 BASEDOWN ROAD, TANUNDA

CHATEAU TANUNDA ENTRY

STREETSCAPE

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
16-22 BASEDOWN ROAD, TANUNDA

32 - 34 BASEDOWN ROAD, TANUNDA

STREETScape

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
CHATEAU TANUNDA VIEW LOOKING NORTH

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
UNDERSTANDING OF SITE, PLACE, HISTORY

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
UNDERSTANDING OF SITE, PLACE, HISTORY

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
PROPOSED USE

- Geometry of hotel complements that of the existing historic buildings and vineyards. "Completes the square" on the western edge of the vines.
- Main entry to central public area from town and Basedow Rd, combined with old station
- Central public area closely connected to hotel wings for ease of access & servicing central lounge / bar has views over vineyards
- 50% of hotel rooms have views over vineyards, other 50% look to landscaped courtyards & pool
- VIP Hotel Suites in house N. o7 Basedow Road
- Villas close to central reception; some with views of vines, some looking towards oval
- Pool in hotel courtyard, accessible from central public area, screened from road by planting.
- Culinary institute and function centre top level of Chateau Tanunda with wine tasting on level below
- Student housing within restored Bond Store with internalised courtyard
- Parking located close to Basedow Road for ease of access
- Screened parking to existing storage area
- Oval used for recreation, events, markets, sport, connection to town via Mill Street
- Connections from Bushman & Mill Streets upgraded

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
03 IMAGERY
CULINARY INSTITUTE OF AMERICA TYPICAL FLOOR PLAN

CHATEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
LE CORDON BLEU COLLEGE OF CULINARY ARTS, PARIS
EXISTING LAND TITLES

A land exchange between The Barossa Council and Château Tanunda has been proposed to facilitate the development of an international hotel together with education and Culinary Institute facilities that will create a new major tourism destination in Tanunda with long term economic and employment opportunities.

Château Tanunda own the majority of lots zoned for Tourist Accommodation, with the exception of the reserve owned by The Barossa Council including the old railway station with access from Basedow Road.

The current land holdings are outlined below by lot (plan / parcel number) and current ownership and highlighted on the plan.

- Lot 11 CT 5133/408 D33882 The Barossa Council
- Lot 12 CT 5902/824 D33882 The Barossa Council
- Lot 72 CT 5902/821 D58229 Château Tanunda
- Lot 73 CT 5902/822 D88229 SA Government - Rail reserve easement
- Lot 74 CT 5962/946 D58229 Château Tanunda

Château Tanunda has taken the initiative of acquiring C (Lot 72) from the SA Government to enable the development strategy. This lot includes the railway station and access road.

PROPOSED LAND EXCHANGE

The next step is to effect a land exchange between The Barossa Council and Château Tanunda:

Lots to be transferred to Council
- E (Lot 74 CT 5962/946 D58229) excluding a portion to the south to be retained by Château Tanunda.

Lots to be transferred to Château Tanunda
- A, Lot 11 CT 5133/408 D33882
- B, Lot 12 CT 5902/824 D33882

CHÂTEAU TANUNDA BAROSSA VALLEY AN ICONIC WINERY BECOMES AN INTERNATIONAL TOURIST DESTINATION
### Attachment 3 – Assessment Against Disposal of Land and Other Assets Policy

<table>
<thead>
<tr>
<th>Relevant Clause Number</th>
<th>Policy Direction</th>
<th>Comment/Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Purpose</td>
<td>Sets out the general purpose of the policy</td>
<td>Noted</td>
</tr>
<tr>
<td>2 – Scope</td>
<td>Sets out exemptions that the policy does not apply to.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>3 – Definition of Land</td>
<td>Land includes community land.....</td>
<td>Condition is met and therefore the land in question is subject to the directions of the policy.</td>
</tr>
</tbody>
</table>
| 4.1 – Disposal of Land or Other Assets | Any decision to dispose of Land or Other Assets will be made after considering (where applicable):  
  a) the usefulness of the Land or Other Asset;  
  b) the current market value of the Land or Other Asset;  
  c) the annual cost of maintenance;  
  d) any alternative future use of the Land or Other Asset; | The current land is not significantly developed or utilised, is removed from adjacent Council land and offers little in broader community benefit, of course there are adjacent landowners and users who possibly derive benefit in terms of visual amenity and recreation. The proposal to swap land would in essence deliver the same outcome with future possible better interaction of the land to the community due to its location.  
  Whilst there is a perceived market value it is not derivable at present as it is encumbered and not saleable. It is considered that the land swap will be of equal market value, as any new parcel of land will be rededicated to the community and provide the same service level.  
  Minimal and no change in costs structures is expected for the open space areas.  
  The alternative use of the existing Council land under the swap would support a significant economic development in support of tourism and education. An investment of over $30M creating in the order of 150 FTE construction jobs and 97 FTE ongoing positions. Further it would support the re-utilisation of heritage and cultural assets at the Chateau as an integrated tourism, culinary and education development. |
<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>e)</td>
<td>any duplication of the Land or Other Asset or the service provided by the Land or Other Asset;</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>f)</td>
<td>any impact the disposal of the Land or Other Asset may have on the community;</td>
<td>Discussed at a) and d) above.</td>
</tr>
<tr>
<td>g)</td>
<td>any cultural or historical significance of the Land or Other Asset;</td>
<td>The land was purchased by Council through funding from the Keppel Estate and has an Indenture Deed over it, the trustees of this deed have been consulted and have provided a letter of intent that they would lift the trust.</td>
</tr>
<tr>
<td>h)</td>
<td>the positive and negative impacts the disposal of the Land or Other Asset may have on the operations of the Council;</td>
<td>None identifiable that do not already exist.</td>
</tr>
<tr>
<td>i)</td>
<td>the long term plans and strategic direction of the Council;</td>
<td>Is consistent with a raft of economic, heritage and cultural, community and education strategies outlined in the Community Plan, please refer to Council report 7.2.1.4 of 19th September 2017 for full detail, and thus delivers upon the plan.</td>
</tr>
<tr>
<td>j)</td>
<td>the remaining useful life, particularly of an Asset;</td>
<td>Not applicable as it is land.</td>
</tr>
<tr>
<td>k)</td>
<td>a benefit and risk analysis of the proposed disposal;</td>
<td>Significant benefits have been outlined at d) and i). The risk matters in brief have been outlined in the Council report 7.2.1.4 of 19th September 2017. The inability to deliver the outcome could put the commercial viability of the project at risk or result in sub-optimal outcomes with the development of tourism accommodation on land to the west of the railway corridor adjacent to residential area.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>l) the results of any community consultation process;</td>
<td>This will be considered as part of the community consultation process being explored by the Council report 7.2.1.4 of 19th September 2017.</td>
<td></td>
</tr>
<tr>
<td>m) any restrictions on the proposed disposal;</td>
<td>The Keil Estate and Local Government restrictions have been outlined in the Council report 7.2.1.4 of 19th September 2017 and at g) above.</td>
<td></td>
</tr>
<tr>
<td>n) the content of any community land management plan; and</td>
<td>The community land management plan does not support Tourism Accommodation, and this is in conflict with the stated policies in the Development Plan. The purpose of the Council report 7.2.1.4 of 19th September 2017 is to address the matter and proceed towards achieving community comment and potential land swap that will see community access to similar open space preserved whilst delivering a significant economic driver for the community. Should the proposed land swap be approved, an appropriate community land management plan would be put in place over the swapped land.</td>
<td></td>
</tr>
<tr>
<td>o) any other relevant policies of the Council, including:</td>
<td>All other relevant matters have been explored in the Council report 7.2.1.4 of 19th September 2017. The Prudential Management Policy does not apply in this case and there are no specific accounting policy concerns.</td>
<td></td>
</tr>
<tr>
<td>• Prudential Management Policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Asset Accounting Policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.2 – Disposal Principles</td>
<td>Encouragement of open and effective competition</td>
<td></td>
</tr>
<tr>
<td></td>
<td>This matter is being addressed by ensuring full, open and transparent decision making. The ability to release this land for general market competition is extremely limited as it is encumbered by both the Keil Estate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Trust and the Community Land classification; the proposal put forward makes strategic sense due to its location with adjacent assets owner by the Chateau and its recent success in securing State land upon which the Tanunda train station resides. The trustees of the Keil Estate have supported lifting of the trust to facilitate this project on condition the</td>
<td></td>
</tr>
</tbody>
</table>
| 4.2 – Disposal Principles | Obtaining value for money | Land included in the swap is rededicated for the same purpose. Council is therefore practically stopped from placing the land parcel on the open market and to do so could jeopardise the broader community and economic outcomes. On balance, given the highly restrictive nature of the encumbrances on the land, the proposal to swap land assets so that the Tourism Accommodation land can be developed and integrated into the Chateau other assets whilst maintaining open space for the community is considered a sound strategic path forward and mitigates the market concerns.

4.2 – Disposal Principles | Ethical behaviour and fair dealing | As explained above there is no market for the land asset other than what is being proposed at this time, with the swap of land assets there is no loss to the community of open space whilst assisting to try and deliver an economic and community project.

4.2 – Disposal Principles | Probity, accountability, transparency and reporting | All dealings to date and negotiations and community consultations have been or will be consistent with this principle whilst ensuring the best possible outcome for the community.

4.2 – Disposal Principles | Ensuring compliance with all relevant legislation | The Council and officers are dealing with the matter in a completely open and transparent manner through this assessment and the Council report 7.2.1.4 of 19th September 2017 and as intended all community consultation and other arrangements to be put in place should Council agree to continue will be undertaken (where legal) in open Council. It has also been recommended that Council have an independent probity advisor review this assessment and the process at the conclusion to ensure probity is maintained.

4.3 – Accounting for Disposal of Non-Current Assets | Accounting requirements | This will be achieved through the process envisioned by the Council report 7.2.1.4 of 19th September 2017. Will be adhered to.
<table>
<thead>
<tr>
<th>4.3 – Accounting for Disposal of Attractive Assets</th>
<th>Accounting requirements</th>
<th>Not applicable.</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.4.1 – Disposal Methods – Land Disposal</td>
<td>Explanation of various disposal methods including Direct Negotiation</td>
<td>As outlined in various components of this analysis the ability to undertake any market approach for the land is unable to be achieved, direct negotiation is identified as a valid method and is that which is proposed in this process due to the restrictive nature of the land and its strategic purpose.</td>
</tr>
<tr>
<td>4.4.2 – Disposal Methods – Other Assets</td>
<td>Explanation of various disposal methods</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>4.4.3 Waiver for Disposal Methods</td>
<td>Conditions for waiver for disposal methods</td>
<td>No waiver is being sought as direct negotiation is an acceptable disposal methodology, and there is only one adjacent land owner who can meet the conditions for the release of the Keil Estate trust.</td>
</tr>
<tr>
<td>5 – Supporting Documentation</td>
<td>Administrative notes within the policy</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>6 – Related Policies</td>
<td>Administrative notes within the policy</td>
<td>Noted</td>
</tr>
<tr>
<td>7 – References</td>
<td>Cross references to relevant legislation or accounting requirements</td>
<td>Noted</td>
</tr>
<tr>
<td>8 – Review</td>
<td>Review time period</td>
<td>Noted</td>
</tr>
<tr>
<td>9 – Further Information</td>
<td>Administrative notes within the policy</td>
<td>Noted</td>
</tr>
</tbody>
</table>

**Summary**

In summary from the analysis it is reasonable to conclude that the direct negotiation methodology for any future disposal through land swap is reasonable and risks are mitigated through open and transparent decision making, working towards the outcome that sees new land coming to Council as part of the land swap is preserved as open space and recreational area under the Community Land provisions of the Local Government Act and rededication of the Keil Estate trust over the land.
REVOCATION OF LAND FROM COMMUNITY LAND CLASSIFICATION

PROPOSED LAND EXCHANGE WITH CHATEAU TANUNDA

Notice is given under section 194(2)(b) of the Local Government Act 1999 that public comment is invited on a Council proposal to revoke the following land from classification as Community Land:

Land Name: Vacant Land at Allotments 11 and 12 Basedow Road, Tanunda

Address: Allotments 11 and 12, Basedow Road, Tanunda

Title References: Volume 5133 Folio 488 and Volume 5902 Folio 824

Council has received an application to remove the Community Land classification for the above land parcels which are adjacent to Chateau Tanunda, to then proceed with a land transfer to Chateau Tanunda on a commercial basis, in exchange for land adjacent to both Council property and private property on the eastern side of the Tanunda railway, to support the construction of a 5-star hotel facility at Chateau Tanunda.

Interested persons may inspect documents relating to the land at The Barossa Council’s Principal Office at 43-51 Tanunda Road, Nuriootpa; or at the Tanunda Library at 66 Murray Street, Tanunda during business hours; or on Council’s website at www.barossa.sa.gov.au; or at Chateau Tanunda at 9 Basedow Road, Tanunda during business hours.

Written submissions on the proposed revocation of the Community Land should be addressed to the Chief Executive Officer, The Barossa Council, PO Box 867, Nuriootpa SA 5355 or email to barossa@barossa.sa.gov.au. Submissions must be received by 5pm Tuesday 12 December, 2017.

Martin McCarthy
Chief Executive Officer
Public Notice in the Herald Newspaper - 1 November 2017 Edition

Barossa Local Health Cluster Inc.
2017 Annual General Meeting
Wednesday, 29th November 2017 at 5.30pm
Nuriootpa Sports and Function Centre,
Penrice Road, Nuriootpa SA 5555

Please join us at the Barossa Local Health Cluster Inc. Annual General Meeting (AGM). Light refreshments will be served.

Two management committee positions are available. Nominations close on Wednesday 8th November 2017.

For more information on nominating for a management committee position, or to register your attendance at the AGM, please email regionalstrategies@countryaphn.org.au or phone Brenton Chispell on 0457 733 008.

Murray Pest Control
Barossa

You need to be on top of your pest control. We understand pest control. We are the experts. Call us now and we'll discuss your pest control needs.

Contact Us
08 8562 2822

SPRINGTON TRANSFER STATION
Saturday 11 November - Saturday 25 November
9.00am – 3.00pm

For Pesticides, Fertiliser, Fumigants, Gardening Chemicals, Agrochemicals or General Household Chemicals.

Sprading, spreading, spraying and storage advice available.

PRICES REDUCED!!

Contact: Chris Hall
Phone: 0427 971 216

For a free quote, call 0427 971 216 and we'll provide you with a full quote for your garden maintenance needs.

For all your garden maintenance needs, call Chris Hall on 0427 971 216.

Contact:

Barossa Local Health Cluster Inc.
2017 Annual General Meeting
Wednesday, 29th November 2017 at 5.30pm
Nuriootpa Sports and Function Centre,
Penrice Road, Nuriootpa SA 5555

Please join us at the Barossa Local Health Cluster Inc. Annual General Meeting (AGM). Light refreshments will be served.

Two management committee positions are available. Nominations close on Wednesday 8th November 2017.

For more information on nominating for a management committee position, or to register your attendance at the AGM, please email regionalstrategies@countryaphn.org.au or phone Brenton Chispell on 0457 733 008.

Murray Pest Control
Barossa

You need to be on top of your pest control. We understand pest control. We are the experts. Call us now and we'll discuss your pest control needs.

Contact Us
08 8562 2822

SPRINGTON TRANSFER STATION
Saturday 11 November - Saturday 25 November
9.00am – 3.00pm

For Pesticides, Fertiliser, Fumigants, Gardening Chemicals, Agrochemicals or General Household Chemicals.

Sprading, spreading, spraying and storage advice available.

PRICES REDUCED!!

Contact: Chris Hall
Phone: 0427 971 216

For a free quote, call 0427 971 216 and we'll provide you with a full quote for your garden maintenance needs.

For all your garden maintenance needs, call Chris Hall on 0427 971 216.

Contact:
REVOCATION OF LAND FROM COMMUNITY LAND CLASSIFICATION

PROPOSED LAND EXCHANGE WITH CHATEAU TANUNDA

Notice is given under section 194(2)(b) of the Local Government Act 1999 that public comment is invited on a Council proposal to revoke the following land from classification as Community Land:

Land Name: Vacant Land at Allotments 11 and 12 Basedow Road, Tanunda
Address: Allotments 11 and 12, Basedow Road, Tanunda
Title References: Volume 5133 Folio 4-8 and Volume 5902 Folio 8-4

Council has received an application to remove the Community Land classification for the above land parcels, which are adjacent to Chateau Tanunda, in return for a land transfer to Chateau Tanunda on a commercial basis, in exchange for land adjacent to both Council property and private property on the western side of the Tanunda railway, to support the construction of a 5-star hotel facility at Chateau Tanunda.

Interested persons may inspect documents relating to the land at the Barossa Council’s Principal Office at 43-51 Tanunda Road, Nuriootpa; or at the Tanunda Library at 46 Murray Street, Tanunda during business hours; or on Council’s website at www.barossa.sa.gov.au; or at Chateau Tanunda at 9 Basedow Road, Tanunda during business hours.

Written submissions on the proposed revocation of the Community Land should be addressed to the Chief Executive Officer, The Barossa Council, PO Box 867, Nuriootpa SA 5355 or email to barossa@barossa.sa.gov.au. Submissions must be received by 5pm Tuesday 12 December, 2017.

Martin McCarthy
Chief Executive Officer
ATTACHMENT 2
OUR BETTER BAROSSA CONSULTATION PLATFORM

Have your say

We are seeking feedback from the you, the community, in relation to a proposal to exchange community land in Tanunda with Chateau Tanunda.

The proposal seeks to swap Council-owned community land with land currently owned by Chateau Tanunda, to facilitate a future development which would include five-star tourism accommodation.

The location of the proposed land offered to Council by Chateau Tanunda in exchange for community land is adjacent to the car park at the Tanunda Soldiers' Memorial Hall. This land expands in a southerly direction behind a residential development and ends near the Tanunda Hospital.

Council has been approached by the proprietor of Chateau Tanunda to undertake a land exchange, to facilitate future tourism accommodation development.

The two-page summary document which simplifies the overall proposal has been developed to help the community better understand the complexities of the proposed land exchange.

Members of the community are encouraged to visit either Chateau Tanunda, the Numoota Council office or the Tanunda Library to see visual displays of the proposal, including maps and concept drawings.

For more information and to have your say visit www.ourbetterbarossa.com.au. Consultation closes 5pm 12 December 2017.

This is your chance to get involved and be an active participant in Council's decision making process.

Please see a range of material below to help inform you and provide further information regarding this proposed land exchange with Council and Chateau Tanunda. You can submit feedback in the orange box below.

- Consultation Report
- Two Page Summary
- Media Release
- Local Context and Map
Chateau Tanunda proposed land exchange

The Barossa Council is seeking feedback from the community in relation to a proposal to exchange community land in Tanunda, with Chateau Tanunda.

The proposal seeks to swap Council-owned community land with land currently owned by Chateau Tanunda, to facilitate a future development which would include five-star tourism accommodation.

Mayor Bob Sloane is encouraging the community to take advantage of this opportunity to get involved and be an active participant of Council’s decision making process.

“Council is committed to protecting the interests of the whole community regarding the use of this land, both now and for future generations,” he said, “which is why we are giving the community a chance to be part of these discussions.”

Mayor Sloane acknowledges Council is confident there is significant community benefit in this proposal, particularly in relation to increased tourism opportunities, economic benefit, long term job creation and the retention of land dedicated for open space and recreation.

“The land Council stands to acquire as part of this ‘exchange’ will be retained for open space and recreation purposes, as part of the original Indenture Deed, through Kell Estate,” said Mayor Sloane.

“The land exchange has the potential to provide increased connectivity with the main street of Tanunda and Council assets, including the Barossa Visitor Information Centre and Barossa Regional Gallery.”

“Council is confident this proposal has significant benefit for the community.”

A two-page summary document which simplifies the overall proposal has been developed to help the community better understand the complexities of the proposed land exchange.

Members of the community are encouraged to visit either Chateau Tanunda, the Nuriootpa Council office or the Tanunda Library to see visual displays of the proposal, including maps and concept drawings.

For more information and to have your say visit www.councilbarossa.com.au

Consultation closes 5pm 12 December 2013.

Click here to view the Two Page Summary

Click here to view the Local Context and Map

Click here to view the consultation report
The Barossa Council
31 October • •

We are seeking feedback from the community in relation to a proposal to exchange community land in Tanunda, with Chateau Tanunda.

The proposal seeks to swap Council-owned community land with land currently owned by Chateau Tanunda, to facilitate a future development which would include five-star tourism accommodation. Consultation closes 5pm 12 December.

For more information http://ow.ly/le50gwaC.

H ave Your Say on The Barossa Council’s Proposed Land Exchange with Chateau Tanunda

Consultation Period: 3 November to 12 December

www.ourbetterbarossa.com.au

The Barossa Council
14 November at 19:00 • •

Have you had your say in relation to our proposed land exchange with Chateau Tanunda?

We’re seeking your feedback on the proposal which seeks to swap Council-owned community land with land currently owned by Chateau Tanunda, to facilitate a future development including five-star tourism accommodation. Consultation closes 5pm 12 December. For more information visit http://ow.ly/9QSH30gSpII or check out the displays at the Tanunda Library, Chateau Tanunda or Council’s Nuriootpa office.

H ave Your Say on The Barossa Council’s Proposed Land Exchange with Chateau Tanunda

Consultation Period: 3 November to 12 December

www.ourbetterbarossa.com.au

The Barossa Council
29 November at 03:00 • •

Have you had your say about our proposed land exchange with Chateau Tanunda?

We’re seeking your feedback on the proposal which seeks to swap Council-owned community land with land currently owned by Chateau Tanunda, to facilitate a future development including five-star tourism accommodation. Consultation closes 5pm 12 December. For more information visit http://ow.ly/9QSH30gsPII or check out the displays at the Tanunda Library, Chateau Tanunda or Council’s Nuriootpa office.

H ave Your Say on The Barossa Council’s Proposed Land Exchange with Chateau Tanunda

Consultation Period: 3 November to 12 December

www.ourbetterbarossa.com.au

The Barossa Council
6 December at 07:00 • •

There’s still time for you to have your say on our proposed land exchange with Chateau Tanunda!

We’re keen to hear your views on the proposal which seeks to swap Council-owned community land with land currently owned by Chateau Tanunda, to facilitate a future development including five-star tourism accommodation. Consultation closes 5pm 12 December. For more information visit http://ow.ly/9QSH30gsPII or check out the displays at the Tanunda Library, Chateau Tanunda or Council’s Nuriootpa office.
ATTACHMENT 3

Map of landowners adjacent to the proposed land exchange parcels who were sent a letter outlining the proposal.
ATTACHMENT 4 – LETTER TO ADJACENT LANDOWNERS

31 October 2017

NAME
Address
TANUNDA SA 5352

Public Consultation: Proposed Community Land Exchange with Chateau Tanunda and the Revocation of Community Land classification under section 194(2) of the Local Government Act 1999

The Barossa Council is consulting its community about the potential removal of the “Community Land” classification over two of its vacant community land parcels near the Tanunda Train Station.

This public consultation was triggered as a result of an application to Council by the proprietor of Chateau Tanunda who seeks to exchange an adjacent parcel of land for these two community land parcels, on a commercial basis, in order to facilitate the development of an international hotel together with a culinary institute subject to the relevant development approvals.

While we have provided a summary map on the next page which shows the location of the relevant land parcels, we encourage you to refer to the entire Consultation Report which outlines the particulars of the proposed land exchange and the vision for the new development. The Report can be found at our public consultation site at www.ourbetterbarossa.com.au and on our website at www.barossa.sa.gov.au.

If you prefer to view the concept and maps or read a hard copy, you can attend during business hours at our Principal Office at 43-51 Tanunda Road, Nuriootpa; or the Tanunda Library at 66 Murray Street, Tanunda; or at Chateau Tanunda at 9 Basedow Road, Tanunda.

Should you wish to respond to any aspect of the Consultation Report, please do so in writing by 5pm, Tuesday, 12 December 2017 to the Chief Executive Officer via the Our Better Barossa site, or at barossa@barossa.sa.gov.au or c/o The Barossa Council, PO Box 867 Nuriootpa SA 5355.

All submissions will be compiled into a report and placed on the public agenda at the next available Council meeting, where Elected Members will consider the merits of revoking the Community Land classification and if they agree to do so, they will recommend to do so to the Minister of Planning, who has oversight in these cases.

Yours sincerely,

Martin McCarthy
Chief Executive Officer
Château Tanunda has taken the initiative of acquiring C (Lot 72) from the SA Government to enable the development strategy. This lot includes the railway station and access road.

**PROPOSED LAND EXCHANGE**

The next step is to effect a land exchange between The Barossa Council and Château Tanunda:

**Lots to be transferred to Council**
- E, Lot 74 CT 5662/946 D98229 (excluding a portion to the south to be retained by Château Tanunda)

**Lots to be transferred to Château Tanunda**
- A, Lot 11 CT 5133/408 D33882
- B, Lot 12 CT 5902/824 D33882
## Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform

<table>
<thead>
<tr>
<th>Name</th>
<th>Town</th>
<th>For or Against Proposal</th>
<th>Additional Comments or Concerns</th>
<th>Officer Response</th>
</tr>
</thead>
</table>
| 1 Ron Bailey       | Not specified         | For                     | If this does not go through we are not serious about promoting the Barossa as in our slogan.  
Could this be the return of the Barossa Wine Train? I honestly hope so.  
Providing all protocol and regulations are put in place and adhered to I definitely hope this does proceed and is not appealed and given in to by a minority. | Transparent and wide consultation process has occurred to obtain as much community feedback as possible.  
Council is not the decision maker in regards to the use of the Old Tanunda Railway Station as it is a State owned asset.  
All protocols followed under the Local Government Act 1999.  
Independent assessment obtained regarding Council’s Disposal of Land and Other Assets Policy. |
| 2 Susan Guy        | Not specified         | For                     | The whole proposal sounds great! And even better with the train line working again!            | The State Government is the decision maker as regards the train line.                                                                                                                                   |
| 3 Nelly at Auchii  | Not specified         | For                     | The land exchange will help to improve the infrastructure, promote tourism and make Barossa known to the world, not just a tiny village with good wines. | No further response.                                                                                                                                                                                   |
| 4 Joanne Nash      | Not specified         | Not specified           | Doesn’t matter what people’s feedback is, council will do what they want anyway.               | Transparent and wide consultation process has occurred to obtain as much community feedback as possible in accordance with Public Consultation Policy and Local Government Act protocols. |

366
<table>
<thead>
<tr>
<th>No</th>
<th>Name</th>
<th>Location</th>
<th>Response</th>
<th>Concerns/Comments</th>
<th>Council Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Lisa Barclay</td>
<td>Tanunda</td>
<td>Not against</td>
<td>Existing concerns about water management and run off from Chateau Tanunda holding ponds.</td>
<td>Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.</td>
</tr>
<tr>
<td>6</td>
<td>Volunteer Radio with Sandie M</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Wants to keep the Old Tanunda Railway Station for community use.</td>
<td>Council is not the decision maker in regards to the use of the Old Tanunda Railway Station as it is a State owned asset.</td>
</tr>
<tr>
<td>7</td>
<td>Loris Pullen</td>
<td>Not specified</td>
<td>For</td>
<td>The proposal sounds like a great idea, for future tourist development in the Barossa.</td>
<td>No further response.</td>
</tr>
<tr>
<td>8</td>
<td>Peter and Angela Heuzenroeder</td>
<td>Tanunda</td>
<td>For</td>
<td>Concerned about the use of Mill Street and traffic congestion. Land opposite 17 Mill Street used by children as a bicycle track, pity to destroy this harmless activity.</td>
<td>Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.</td>
</tr>
<tr>
<td>9</td>
<td>Sonya Day</td>
<td>Not specified</td>
<td>Against</td>
<td>Concerned that plans for hotel put it too close to Chateau – put a hotel there and you will take the grandeur away and that’s not what the Barossa is about.</td>
<td>As above.</td>
</tr>
<tr>
<td>10</td>
<td>Kerin and Julie Ramsey</td>
<td>Not specified</td>
<td>Against</td>
<td>Council cannot swap community land that has been gifted to the council to benefit a privately owned business.</td>
<td>The community land parcels have been donated by the Keil Trust, but Council has obtained support from the Trustees to exchange the two parcels, with the same land use restrictions to be placed in land it receives in</td>
</tr>
</tbody>
</table>
**Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform**

<table>
<thead>
<tr>
<th>No.</th>
<th>Name(s)</th>
<th>Location</th>
<th>Position</th>
<th>Concerns</th>
<th>Council Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>Wayne and Marilyn Mensforth</td>
<td>Tanunda</td>
<td>Against</td>
<td>Concerns for traffic increase and congestion on Bushman Street, loss of bird life, trees and open space.</td>
<td>Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. Officers clarified that proposed extended car park is off Basedow Road, not Bushman Street, and that further, Bushman Street would not be extended. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.</td>
</tr>
<tr>
<td>12</td>
<td>David and Judith Heuzenroeder</td>
<td>Tanunda</td>
<td>Not specified</td>
<td>Concerns for traffic increase and congestion on Mill Street.</td>
<td>Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.</td>
</tr>
<tr>
<td>13</td>
<td>Jeff Meek</td>
<td>Not specified</td>
<td>Against</td>
<td>Wants the train line and station to remain for public use.</td>
<td>Council is not the decision maker as regards the train line/station as it is a State owned asset.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 5

**Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform**

<table>
<thead>
<tr>
<th>No.</th>
<th>Name(s)</th>
<th>Location</th>
<th>Position</th>
<th>Concerns</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>Elva Hueppauf</td>
<td>Not specified</td>
<td>Against</td>
<td>Concerns with parking</td>
<td>Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.</td>
</tr>
<tr>
<td>15</td>
<td>Emily Faulkner</td>
<td>Tanunda</td>
<td>Against</td>
<td>Concerns that losing land that is used by locals, to be swapped for land that is of inferior quality.</td>
<td>Land that is proposed to be transferred to Council better integrates with existing Council assets and integrates with the main street precinct for open space and recreational purposes for more people to use.</td>
</tr>
<tr>
<td>16</td>
<td>Shelley James and Robbert Sennef</td>
<td>Tanunda</td>
<td>Against</td>
<td>Seek to be consulted about meeting the conditions of release for Keil Indenture Deed.</td>
<td>CEO and Governance Advisor have met with Ms James and Mr Sennef to discuss their general concerns about the proposed land exchange. Response to these specific concerns as follows: Refers to the Consultation Report at Attachment 3 - 4.4.3 Waiver for Disposal Methods – where CEO asserts that “no waiver is being sought as direct negotiation is an acceptable disposal methodology, and there is only one adjacent land owner who can meet the conditions for the release of the Keil Estate Trust”. The only adjacent landowner who can meet the conditions for the release of the Keil Estate Trust is the Chateau Tanunda proprietor who is offering similar sized and quality land in exchange of two parcels of community land.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 5

### Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seek an independent review that the principles of Council’s Disposal of Land or Other Assets Policy have been met.</td>
<td>The Keil Estate Trust does not require any consultation with adjacent landowners prior to releasing land under its trust structure. The executors of the Trust Estate have indicated their support for the proposal on various conditions including that the exchange land be rededicated to the community. Officers have provided this independent review by KelledyJones Lawyers at Attachment 8 to this Council report.</td>
</tr>
<tr>
<td>Seek two independent valuations of the relevant land parcels.</td>
<td>Refer to above. Further, upon Council approval to proceed with the land exchange, comprehensive and current valuations will be obtained in due course. The Chateau Tanunda land parcel for transfer can only be valued after it has been appropriately sub-divided in accordance with the original proposal to exchange. Officers have provided this as part of the independent review by KelledyJones Lawyers at Attachment 8 to this Council report.</td>
</tr>
<tr>
<td>Seek that Council appoint an independent probity advisor to review the assessment and the process at the conclusion to ensure probity is maintained.</td>
<td>Clause 7 at page 5 of the Consultation Report: CEO asserts that Council will “rededicate the land transferred by Chateau Tanunda to Council in accordance with the community land classification of the (Local Government) Act and restrictions under the Keil Estate, thereby maintaining the same community service”.</td>
</tr>
<tr>
<td>Seek guarantee that land from Chateau Tanunda is maintained as per original Keil Indenture Deed.</td>
<td>As above.</td>
</tr>
<tr>
<td>Seek new community land management plan for new land if it is transferred to Council.</td>
<td></td>
</tr>
</tbody>
</table>

As above.
### ATTACHMENT 5

**Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform**

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Location</th>
<th>Position</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Ngaire Ingham</td>
<td>Tanunda</td>
<td>Against</td>
<td>The current open space should be kept for community enjoyment. Disrespectful to the person who bequeathed land to trade it for commercial development. Concerned with increased traffic congestion and building works, noise and impact on lifestyle.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Land that is proposed to be transferred to Council better integrates with existing Council assets and integrates with the main street precinct for open space and recreational purposes for more people to use. As above and also Council has worked closely with the Estate of Mrs Keil to provide a good outcome for the community with the proposed exchange of land parcels. Clause 7 at page 5 of the Consultation Report: CEO asserts that Council will “rededicate the land transferred by Chateau Tanunda to Council in accordance with the community land classification of the (Local Government) Act and restrictions under the Keil Estate, thereby maintaining the same community service”. Council will not be involved in the development assessment process, as this will be independently assessed by the State Government, but would encourage frank and timely discussion between the Chateau and concerned adjacent landowners as part of the consultation process on formal development plans. These planning matters will be raised formally with the proponent in any case as they further develop their design for consideration.</td>
</tr>
</tbody>
</table>
### Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Contact Details</th>
<th>Concerns</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>Pauline Hakala</td>
<td>Not specified</td>
<td>Concerns about Triple B FM's future</td>
<td>Council has been working with Triple B FM to help address its future.</td>
</tr>
<tr>
<td>19</td>
<td>Cathy Arnst</td>
<td>Not specified</td>
<td>Concerns about Triple B FM's future</td>
<td>Council has been working with Triple B FM to help address its future.</td>
</tr>
<tr>
<td>20</td>
<td>Garry Wharton*</td>
<td>Not specified</td>
<td>Concerned with future of Triple B radio and that any deal should include the re-establishment of Triple B.</td>
<td>Council has been working with Triple B FM to help address its future.</td>
</tr>
</tbody>
</table>

*This submission was received just after the consultation deadline, but is included by way of transparency.
ATTACHMENT 6
Copy of correspondence from the community
From: RON BAILEY <ron.bailey@yahoo.com.au>
Subject: PROPOSED COMMUNITY LAND EXCHANGE

Message Body:
If this does not go through we are not serious about promoting the Barossa as in our slogan. This is a no brainer in my opinion.
The land in question at this point in time is useless. It would make a lot more sense having the land closer and more accessible to the community being on the town side of the railway line, as well as being easier to access and maintain.
If these people are prepared and willing to make this happen it is a Very Big Positive for the Valley.
We as a Community are very quick to judge and look at the negatives moving forward sometimes.
Yes you're going to get negatives but in this situation the positives well and truly out weigh the negative.
Could this be the return of the Barossa Wine Train? I honestly hope so.
Providing all protocol and regulations are put in place and adhered to I definitely hope this does proceed and is not appealed and given in to by a minority.

--
This e-mail was sent from a contact form on A WordPress Site (http://ourbetterbarossa.com.au)

From: Susan Guy <guybuilders@bigpond.com>
Subject: Chateau Tanunda proposed land exchange

Message Body:
the whole proposal sounds great! And even better with the train line working again!

--
This e-mail was sent from a contact form on A WordPress Site (http://ourbetterbarossa.com.au)
Hi,

We are in support of any development in the Barossa. Just settling down in the Barossa, we find the lack of activities, hotels and night life in the Barossa. The land exchange will help to improve the infrastructure, promote tourism and make Barossa known to the world; not just a tiny village with good wines. Comparing Bordeaux area, Bourgogne ( France ) Napa Valley in California and many vineyard areas in the world, Barossa has a lack of international tourists. Why are there no loads and loads of Chinese tourists who are willing to spend in the Barossa?

The aim is not to have small amount of rich tourists but to attract as many tourists as possible, so that everyone in the community can benefit from tourism. Foreign income helps us grow and keeps our economy going.

We need new dynamic young people to bring us ahead in this challenging world. New opinions should be supported by our Barossa community. Things need to change to bring us ahead!

Kind regards,

Nelly
For the attention on the Chief Executive Officer

Dear Martin McCarthy,

With regard to the proposed land exchange and future development at Chateau Tanunda, we would like to note our reservations to the proposed construction.

Our property 105 Bethany Road backs on to the Chateau property, we are the property across the train line. We have been in consultation with John Giebe previously as on a few occasions his holding ponds have overflowed onto our property, while discussions have been held no proper resolution has occurred. The current water management plan at Chateau Tanunda is insufficient and this has caused the washing away of our topsoil and results in erosion paths though our vineyards and access tracks. There is also the risk to the vines should there be contaminants in the water when this occurs.

While we are not against the development in principle we do want to protect our rights and property. As this development would result in increased water catchment we would seek assurances that the proper water management plans will be implemented so that overflows of this nature or worse do not occur again, possibly even on a larger scale.

Thank you for your consideration on this matter.

Kind regards

Lisa Barclay
On behalf of the Hueppaufl family trust

From: Loris Pullen <pullen.loris@gmail.com>
Subject: Proposed land exchange with Chateau Tanunda

Message Body:
The proposal sounds like a great idea, for future tourist development in the Barossa.

---
This e-mail was sent from a contact form on A WordPress Site (http://ourbetterbarossa.com.au)
The Chairperson  
Barossa Council  
Nuriootpa 5355

Dear Sir,

As next door neighbours to Château Tanunda at the end of Mill Street, we wish to make the following points about the development and land exchange between the owners of the Château and the Barossa Council.

We applaud the thrust of the proposal in general terms but do have the following concerns.

**Mill Street**

1. Our main concern is the use to be made of Mill Street, a narrow, historic street dating from the early days of Tanunda.

2. Extra traffic along this street will exacerbate difficulties for residents and visitors. There are already parking problems causing road congestion between Murray Street and McDonnell Street.

3. Traffic congestion in the street is increased by the location of the clinic where cars are turning and reversing very frequently.

4. Extra traffic past the hospital area in Mill Street is not appropriate.

**Our Requests**

5. We would like more details about the proposed upgrade of historic Mill Street.

6. We strongly urge the owners of the Château to keep all grape trucks and wine tankers out of Mill Street.

7. Generally the use of Mill Street should be discouraged. We think that the Basedow Road entrance should be preferred. A larger No Through Road sign needs to be erected at the end of Mill Street.

8. Over more than one generation the land directly opposite 17 Mill Street has been used by children as a bicycle track where they have made jumps and circuits and generally enjoyed themselves. It would be a great pity to see this harmless activity in a quiet corner of the town destroyed.

**In Summary**

9. This proposal, if executed with sensitivity of design and proper consultation with adjoining landowners **has exciting possibilities**. Please keep us informed of developments.

Yours sincerely,

Peter and Angela Heuzenroeder
Attachment 3a

Fri 1/12/2017 1:18 PM
Our Better Barossa <wordpress@ourbetterbarossa.com.au>
Consultation Feedback

To: MBX Marketing

You forwarded this message on 1/12/2017 4:47 PM.

From: Sonya Day <bentonvorgirl@hotmail.com>
Subject: Proposed Community Land Exchange

Message Body:
To Whom It May Concern

After reading the Consultation Report and looking at all the maps and proposed Hotel Development, I can understand the community and employment benefits of this proposal. The amount of new jobs estimated, the Culinary School and getting the Wine Train back up and running would be all be wonderful things for the Barossa.

However, even with all of that, I have to say that I am not in favour. The Proposal puts a hotel behind a hotel basically. It seems cramped and the views that guests would have is one block of vineyard fronting Bosedow Road. One of the good, no greats thing about the Barossa is space and even though I know the architects would be sympathetic of putting new buildings next to the iconic Chateau, I just don’t think it will work. Its one of the things that makes the Chateau grand, is the space around it. Put a Hotel there (even 5 star) and you will lose that grandeur away and that’s not what the Barossa is about.

Regards
Sonya Day

---

Thu 30/11/2017 8:36 PM
Our Better Barossa <wordpress@ourbetterbarossa.com.au>
Consultation Feedback

To: MBX Marketing

You forwarded this message on 1/12/2017 4:47 PM.

From: Kerin and Julie Ramsey <kerin.ramsey@bigpond.com.au>
Subject: Proposed community land exchange

Message Body:
Council cannot swap community land that has been gifted to the council to benefit a privately owned business. The land must stay in council ownership. Support Trible B radio station and improve the old railway station for all to enjoy.
From: Marilyn Mensforth [mailto:mensoforthm@gmail.com]
Sent: Monday, 4 December 2017 10:50 AM
To: MEX Barossa; Nicole Westrich
Subject: Public Consultation (PC) Submission - Proposed Land Exchange with Chateau Tanunda

Nicole Westrich
Barossa Council
43 - 51 Tanunda Road
Nuriootpa SA 5355

Dear Nicole

Please accept this email as our formal submission in relation to the PC process and wish for the enclosed to be included when the outcome of the PC process is presented to the 19 December Council meeting, for consideration.

As you kindly explained the PC process is at this time only in relation to the concept plan for the Chateau's redevelopment, however we would like to highlight our concern right from the onset of the project.

After recently building our new home on the corner of MacDonnell and Bushman Streets Tanunda, the only negative is how busy the traffic is on MacDonnell Street during the day. Having said that we fully accept the day traffic as part of living so close to the main street. Unfortunately we never anticipated that we may also need to live with an even higher traffic volume and noise during the day and the possibility of non stop traffic noise during the night with cars accessing the proposed carpark and hotel.

This concern is in relation to the statement made on page 7 of the PC report, being a plan of the area stating that Bushman Street is a "Potential Future Connection" and page 17 stating "Connections from Bushman & Mill Streets upgraded". The page 7 plan clearly shows that there is the intention to extend Bushman Street into the planned complex carpark which allows for 150 spaces.

However does Council realise that Bushman Street, which runs along the side of our house, currently ends at the driveway of a private residence? Therefore can Council please explain how / where the proposed continuation of Bushman Street will happen?

If Council somehow was to open up Bushman Street as a thoroughfare to the proposed complex, it would not be acceptable as it would have a major impact on the home owners on the town side of the complex. The traffic volume and noise day and night along Bushman Street would be unbearable and would reduce the value of properties. As mentioned the traffic along MacDonnell Street, which intersects with Bushman Street, is extremely fast and non stop during the day and further vehicles would cause considerable concern. Besides access to private properties, MacDonnell Street is used to access the Hospital, Medical Centre, Wohlers Community Club, Kindergarten and Basedow Road.

Presently the area for the proposed connection is open space with lots of trees and bird life therefore please consider how this would be affected. A consideration would be for the connection to the complex be a walk and bike way which patrons can use to access Murray Street with vehicle access to the complex / carpark from Basedow Road.

As we are directly affected by the concept of extending Bushman Street, may I ask that we be notified by mail / email by Council or which ever body is appointed for the Development Approval process, of any proposed changes to Bushman Street so we are able to make comment.

Kind regards
Wayne and Marilyn Mensforth
Attachment 3a

---Original Message---
From: Judy Heuerroeder [mailto:jude@bigpond.com]
Sent: Monday, 4 December 2017 5:15 PM
To: Nicole Weilich [mailto:rbarossa.sa.gov.au]
Subject: Chateau Tanunda plans re Mill St Tanunda

After a phone call to you from Marilyn Menzies, the recommended I send this submission re Chateau Tanunda plans to alter Mill St Tanunda to you

Plan to make Mill St a thoroughfare from Murray St to Chateau Tanunda.

1. Mill St either end too narrow.
2. Width one way only between Edward St and MacDonnell St, and from No14 Mill St to Chateau Tanunda.
3. Hospital heavy during the week near the Tanunda Hospital and the Medical Practice.
4. Hospital environment would be compromised by passing through traffic.
5. No footpath from No 14 Mill St onwards, no provision for one unless trees are removed.
6. Already 3 adequate entrances to the Chateau Tanunda from Bosedow Rd.
7. Cross road at MacDonnell St and Mill St very poor line of vision, incidents will increase with greater traffic flow.
8. Make Mill St extension to the Chateau Tanunda a bike and walking track, leave gates that are there at present and open them for traffic if the oval is in use.

We would appreciate this submission being put to the Council.

David and Judith Heuerroeder

---Message Forward---
To: MBX Marketing
You forwarded this message on 7/12/2017 3:25 PM.
We removed extra line breaks from this message.

From: jeff meek <j.meek@hotmail.com>
Subject: proposed land exchange

Message Body:
I strongly oppose the land swap for the following reason.
To give away our land & train station to private investment so he can use our assets for his personal gain is not a reason. The future use of our asset (train station & line) to bring tourists & the use for all locals to enjoy is too great. Considering our nearest working train line is in Gawler, once it’s gone it’s gone forever & we have no say over it & the public will have no access to old train station.
DO NOT DO THIS, IT’S FOR ALL BAROSSA NOT JUST A FEW
regards Jeff
Attachment 3a

Council Members

I do not approve of Mr Giebert from Chateau Tanunda using a land exchange deal with the Barossa Council.

The piece of land was given to Tanunda Council now Barossa Council by Noble's Estate and should not be transferred. They have plenty land they can use.

The piece of land they want to exchange is tucked away behind the homes and does not have easy access. The land is used by Caravan & Mobile homes for parking. We do not have enough parking for Caravans. If they use the land their will be less car parking.

How long will it be before they buy the rest of land for their own use?

---

From: Emily Faulkner <emily.maclean@iinet.net.au>
Subject: Chateau Tanunda land swap

Message Body:
I am writing to express my concern about the proposed swap between Chateau Tanunda and the Council. My family and I regularly access the current Council land and were not happy to hear it could be swapped for development by the Chateau. It is a lovely piece of land with big gum trees and a great open space. It would be a shame for it to be lost to the community, we have always felt so lucky to be able to access such a space so close to our home. The land being offered in return is of a lesser quality and would actually be less useful to our community. I am sure that I am not the only person who feels this way, hopefully the Council will take in to account the opinions of the people who live in this area and will lose a great space before making this decision.

---

This e-mail was sent from a contact form on A WordPress Site [http://ourbetterbarossa.com.au]
5 Basedow Road,
Tamunda SA 5352.

11 December 2017.

Mr. Martin McCarthy,
Chief Executive Officer,
The Barossa Council,
PO Box 867,
Nuriootpa SA 5355.

Dear Mr. McCarthy,

We welcome the opportunity to respond to the Consultation Report regarding the Proposed Community Land Swap with Chateau Tanunda and the Revocation of Community Land Classification under Section 194 (2) of the Local Government Act 1999.

We understand that all submissions received by Council will be compiled into a report and placed on the Public Agenda at the next available Council Meeting, which we believe will be on Tuesday the 19th of December 2017, where elected members will consider the merits of revoking the Community Land classification and if they agree to do so, they will recommend to do so to the Minister of Planning who has oversight in these cases. (We believe the relevant Minister is the Minister for Local Government, Geoff Brock).

We note that Section 194 (2) states: “Before a council revokes the classification of land as community land – (b) the council must follow the relevant steps set out in its public consultation policy.”

The Barossa Council’s Public Consultation Policy at 4.2 states: “In carrying out its consultation processes, Council applies the following principles:

- Council decision making will be informed, transparent and accountable.
- Members of the community have a right to be informed about issues affecting their area and their lives and to influence Council’s decisions about these issues.”

We bought our heritage listed property at 5 Basedow Road Tanunda in February 2007 and moved in two years later following refurbishment. We love our home, the surrounds and the Tanunda community we have moved into. We enjoy sitting out the front at our home enjoying the ambience, the peace and quiet, the birds including the parrots and the rabbits and we hope to be able to continue to do so for the next ten years or more. We are aware that people walk their dogs, tourists park their Winnebagos and adults and children ride their bikes over the Community Land which
is adjacent to us and love to explore what they call “The Magic Forest.” Local community markets are held here on a regular basis and there was one held on Saturday the 9th of December with many people in attendance.

We note that Lot 106777 12 Basedow Road Tanunda, CT 5902/824D33882, and Lot 106775 11 Basedow Road Tanunda, CT 5133/408D33882, have Community Land Management Plans applying to them which would need to be revoked if the proposed land swap with Chateau Tanunda proceeds. These Lots are currently listed in The Barossa Council’s Community Land Register under Management Plan 2 Undeveloped Reserves and Gardens (or those with minor improvements.) We further acknowledge that these Lots are currently subject to the terms and conditions of the Keil Estate Indenture Deed.

We note that the terms of the Keil Estate Indenture Deed state that the funds provided ($65,000.00) by the said Elma Linda Keil deceased were specifically provided on the condition contained in her will that the said land was to be purchased for purposes of park gardens or sporting facilities within the area of the District Council of Tanunda and that the Council give an undertaking that the said land would be used in perpetuity for that purpose and not sold at any time in the future thus preserving the said land for such purposes; and whereas the Council agreed to accept the benefit and to purchase the said land under those conditions.

Clause 2 in the Keil Estate Indenture Deed states that the Council... shall restore the said land to a neat, clean and tidy appearance and shall exercise all due care and diligence in the ongoing maintenance, preservation and improvement of the said land for the purposes of its use as a public park lands and recreation area.

As neighbours to this Community Land currently owned by the Barossa Council we are disappointed that more attention has not been paid to this land over the years (we have been living next door for the previous 10 years) to enhance their amenity while retaining their use as open space for recreation.

We would also like to refer to 4.4.3 Waiver for Disposal Methods – Conditions for Waiver for Disposal Methods (Attachment 3 to the Consultation Report.) “No waiver is being sought as direct negotiation is an acceptable disposal methodology and there is only one adjacent land owner who can meet the conditions for the release of the Keil Estate trust.”

We are the adjacent landowners referred to in Attachment 3. To date, we have not been directly consulted about meeting the conditions for the release of the Keil Estate trust.

We are also aware that should this land be swapped with Chateau Tanunda as is proposed, then, it will no longer be available for community groups for example, during the The Tour Down Under, The Valley Hot Rodders, the Barossa Vintage Festival, the Tanunda Band Festival, the Barossa Gourmet Weekend and the Tanunda Christmas Parade. We also believe that there will be less public green space in the Tanunda Town Centre than ever before if the land swap is agreed to. We believe that the public green space which currently exists at The Hub is in no way comparable to
the green spaces currently available in the town centres of Lyndoch, Nuriootpa and Angaston.

We are also aware that the proposed land swap is informed by The Barossa Council’s Disposal of Land or Other Assets Policy. We note at 1. Purpose 1.1 “This Policy provides a framework to:

a) define the methods by which Land and Other Assets are disposed of;
b) demonstrate accountability and responsibility of Council;
c) be fair and equitable to all parties involved;
d) enable all processes to be monitored and recorded; and

e) ensure that the best possible outcome is achieved for the Council.

1.2 Furthermore, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards:

a) obtaining value in the expenditure of public money; and
b) providing for ethical and fair treatment of participants; and
c) ensuring probity, accountability and transparency in all disposal processes.”

4.1 Disposal of Land or Other Assets states:

“Any decision to dispose of Land or Other Assets will be made after considering (where applicable):

a) the usefulness of the Land or Other Asset;
b) the current market value of the Land or Other Asset;
c) the annual cost of maintenance;
d) any alternative future use of the Land or Other Asset;
e) any duplication of the Land or Other Asset;
f) any impact the disposal of the Land or Other Asset may have on the community;
g) any cultural or historical significance of the Land or Other Asset;
h) the positive and negative impacts the disposal of the Land or Other Asset may have on the operations of the Council;
i) the long term plans and strategic direction of the Council;
j) the remaining useful life, particularly of an Asset;
k) a benefit and risk analysis of the proposed disposal;
l) the results of any community consultation process;
m) any restrictions on the proposed disposal;
n) the content of any community land management plan; and
o) any other relevant policies of the Council, including:
• Prudential Management Policy
• Asset Accounting Policy”.

Evidence suggests that these issues have not been considered in full in Attachment 3 of the Consultation Report.
In fact, it is stated that “An assessment of the proposal against the principles of the relevant policy have been undertaken at officer level and provided at Attachment 6. (Attachment 3 in the Consultation Report). These have not been independently reviewed due to the timeframes involved and so it is suggested this be done during the Community Land Consultation Process to ensure they are well tested and agreed independently.” (The Barossa Council, CEO Report 19 September 2017, page 313.)

We believe that this must be done to ensure the community receives value for money for the Community Land proposed to be swapped with Chateau Tanunda.

Further 4.4.1 (i) states that “if Land is to disposed of through a … Direct Negotiation, then (unless the Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 6 months prior to the proposed disposal.”

We do not believe that to date two independent valuations have been obtained with regard to the existing value of the Community Land proposed to be swapped. We also note that the Lot to be transferred from Chateau Tanunda, Lot 77 CT 5962/946D58229, “excludes a portion to the south to be retained by Chateau Tanunda.” This portion of land has not been defined and its value is not known.

We note further at Attachment 3 of the Consultation Report 4.2 Disposal Principles—Probit, accountability, transparency and reporting—

“It has also been recommended that Council have an independent probity adviser review this assessment and the process in the conclusion to ensure probity is maintained.”

We strongly recommend to Council that this step be taken in the interests of probity, accountability and transparency.

We note that Chateau Tanunda has taken the initiative of acquiring C Lot 72 from the SA Government to enable the development strategy. This Lot includes the railway station and access road.

We also note that Clause 4 of the Keil Estate Indenture Deed states that the Council may however develop the said land or part thereof to enhance its future use in conjunction and in sympathy with the railway station facilities and complex adjoining the said land should such facilities be themselves properly restored and once again become a railway passenger station whether on a regular commercial basis or for tourist purposes or is used for some other commercial or public purpose provided that it retains its primary character as park lands and a recreation area for the public.

We are fearful that the proposed community land swap and future Chateau Tanunda development would sound the death knell for future train services between Gawler and the Barossa.
In summary, we recommend that the following steps be completed by The Barossa Council prior to a decision being made on the merits of the Proposed Community Land Swap:

1. As adjoining land owners we ask to be consulted about meeting the conditions for the release of the Keil Estate Indenture Deed as discussed in the Consultation Report.

2. An independent review be undertaken of the assessment of the proposal against the principles outlined in The Barossa Council’s Disposal of Land or Other Assets Policy.

3. Two independent valuations be obtained with regard to the existing value of the Community Land proposed to be swapped and the existing value of the Chateau Tanunda land proposed to be swapped.

4. Council appoint an independent probity advisor to review this assessment and the process at the conclusion to ensure probity is maintained.

5. After due consideration, if and when the Proposed Community Land Swap is agreed to, Council guarantees that the land received from Chateau Tanunda is maintained as per the terms and conditions of the Keil Estate Indenture Deed. We understand that this has also been agreed to by the current trustees of the Keil Estate Indenture Deed.

6. A revised Community Land Management Plan is developed as soon as possible for the newly acquired land from Chateau Tanunda.

Yours faithfully,

[Signatures]

Robbert (Bob) Sennef

Shelley James
The Barossa Council  
Chief Executive Officer  
PO Box 867  
NURIOOTPA SA 5355

barossa@barossa.sa.gov.au

Dear Sir/Madam

Re: Public Consultation: Land Swap with Chateau Tanunda of Community Land

I write with regard to the land swap proposed with Chateau Tanunda to which I strongly disagree. I am concerned with what will happen to the lovely little heritage town of Tanunda as private development attempts to change the town to benefit itself.

I understand that the subject land was actually gifted to the Barossa Council by a deceased Estate together with a large sum of money for its up-keep. I regularly enjoy walking my dogs in this area with friends and family and hope to be able to continue to do so.

There is no other open space area equal to this Reserve and I feel it should be kept as it is for the Community’s enjoyment, the reason for which it was bequeathed. I feel it is disrespectful to the deceased person, to now take up this gift so that it can be turned into a Carpark, Hotel and swimming pool for private commercial development.

I also live on Basedow Road and am concerned with the potential change in the aesthetics of the area. There are many private family homes and retirees living in the immediate locality who benefit from the open space provided by the land Reserve.

The increase in vehicle traffic, noise from building works and extra foot traffic late at night which comes with an International Hotel will severely impact my own property and quiet lifestyle.

Therefore, I believe that Chateau Tanunda should utilise their own land better and develop their Hotel within their existing boundaries.

Yours sincerely,

NGAIRE INGHAM
22 Basedow Road
TANUNDA SA 5352
-----Original Message-----
Sent: Wednesday, 13 December 2017 7:09 AM
To: MBX Marketing <MBXMarketing@barossa.sa.gov.au>
Subject: Consultation Feedback

From: Gary Wharton <mukalele@gmail.com>
Subject: land exchange with Chatau Tanunda

Message Body:
I have no objection to this exchange but am concerned about the future of bbbfm COMMUNITY radio and think any deal should include the reestablishment of bbb.
My feeling is that council is pulling out of its community involvements overall. Note I do not say obligations. When I moved to the barossa I marvelled at the councils involvement with disability services, aged care, charity and other community services and I don't know if my perception is correct but it is nevertheless how it appears.
I really think council should be seen to support community activities including community radio.

--
This e-mail was sent from a contact form on A WordPress Site (https://ourbetterbarossa.com.au)
ATTACHMENT 7

THANK YOU LETTER TO THOSE WHO PROVIDED FEEDBACK

Dear Mr Bailey:

Thank you for your recent feedback to The Barossa Council regarding the proposed community land exchange with Chateau Tanunda.

Your correspondence will be compiled with all other public feedback and attached to a report for Council’s consideration at its Tuesday 19 December 2017 meeting. The Council meeting commences at 9am at the Nuriootpa Chamber, 43-51 Tanunda Road, Nuriootpa.

You are welcome to attend in the public gallery and listen to the Elected Members discuss and decide, among other agenda items, whether or not community land classification should be removed from the relevant parcels of land, with a view to exchanging them with Chateau Tanunda.

Please note that Elected Members will not be receiving any questions without notice from the public gallery during the meeting.

In the week leading up to that Council meeting, you will find the agenda for the entire meeting on Council’s website here. You will also find the meeting minutes at that link within 5 days of the meeting, so that even if you are unable to attend, you can read about the Elected Members’ decision on this matter.

Should you have any questions about this process, please contact me via details below.

Sincerely
13 December 2017

Ms Nicole Westrich
The Barossa Council
43-51 Tanunda Road
NURIOOPTA SA 5355

VIA EMAIL: nwestrich@barossa.sa.gov.au

Dear Nicole

INDEPENDENT ASSESSMENT OF PROPOSED LAND EXCHANGE WITH OWNER OF CHATEAU TANUNDA

We refer to our email exchanges earlier this week and confirm our instructions to provide an independent assessment of the Council proposal to exchange Council-owned community land with land owned by Chateau Tanunda.

Executive Summary

In completing the independent assessment, we advise as follows:

- Council’s process to date and its further proposed steps, accord with the requirements of the Local Government Act 1999 (“the LG Act”) to revoke the classification of the current community land as community land.

- Council’s public consultation process for the revocation of the community land classification accords with its requirements under the LG Act and its Public Consultation Policy.

- Given the in-principle agreement of the Executors of the Deceased Estate of Elma Linda Keil, it appears that there is no impediment to the Dedication over the community land being released under the Deed of Indenture.

- In its process to date and its further proposed steps, the Council has complied with the requirements of the LG Act and its Disposal of Land and Other Asset Policy in considering disposal of the land.

- The Council’s process to date and its further proposed steps demonstrate compliance with principles of probity, accountability, transparency and reporting in disposal of the land.

- Given the proposed disposal method, the Council will need to resolve to either not require independent valuations, or to grant a waiver to the proposed disposal method for the land and to record its reasons for this proposed methodology.
Background

1. In 1996, the then District Council of Tanunda purchased three parcels of land, being Certificates of Title 5133/408, 5133/409 and 5133/410, for public park land purposes.

2. The purchase was partially funded by a gift from the deceased estate of Elma Linda Keil. A condition of which was that the funds were to be used to purchase land for the purposes of parks, gardens or sporting facilities within the area of the District Council of Tanunda and that the then Council undertake that the land be used in perpetuity for that purpose and not sold at any time in the future.

3. A Deed of Indenture was entered into between the then executors of the deceased estate and the District Council of Tanunda, dated 28 June 1996, to this effect. The Council agreed to ensure that the land remained as dedicated parklands and a recreation area for the benefit of the public.

4. The Deed of Indenture specifically provides, at paragraph 2(9) that:
   
   …the Executors reserve the right to modify waive or release wholly or in part all or any of the covenants conditions and restrictions herein relating to the said land and the performance thereof by the Council.

5. On 1 July 1996, the Barossa Council (“the Council”) was formed through the amalgamation of the District Council of Angaston, the District Council of Barossa, and the District Council of Tanunda. The Council is the successor to the District Council of Tanunda.

6. The land sits adjacent to land known as the Tanunda Railway Station land, formerly owned by the South Australian State Government and now secured by Chateau Tanunda, as well as to the land owned by Chateau Tanunda.

7. The land is classified as community land under section 193 of the LG Act and is subject to the Council’s Community Land Management Plan 2, which applies to undeveloped reserves and gardens (or those with only minor improvements).

8. The land is zoned as ‘tourism accommodation land’ under the Council’s current Development Plan.

9. Chateau Tanunda has developed a concept for a five-star hotel, short term villa accommodation and a culinary institute with associated small scale student accommodation. This would be integrated into both the existing Chateau Tanunda land, and the Tanunda Railway station land.

10. In order to facilitate the development and achieve the best results for both the development, the Council and the community, Chateau Tanunda has proposed that a land exchange occur, with community land identified as Certificates of Title 5133/408 and 5902/824 (which includes the land previously included in 5133/409) being transferred to Chateau Tanunda (“the Community Land”), in exchange for similar parcels of land owned by Chateau Tanunda being transferred to the Council (“the Exchanged Land”).
11. The land being offered to the Council is land adjacent to the car park at the Tanunda Soldier’s Memorial Hall. This land is owned by the Council and is more accessible to the main street.

12. In order to achieve the proposal, the Council must consider and complete the following:

12.1 the revocation of the community land classification of the Community Land under the LG Act;

12.2 reaching final agreement to remove the dedication over the Community Land with the trustees under the Deed of Indenture; and

12.3 entering into an agreement with [the owners of] Chateau Tanunda for the transfer of the Community Land and the transfer of the Exchanged Land to the Council.

13. We note that the proposal is also subject to a land division of the parcels of land which include the Exchanged Land, in order to create the lots to form the Exchanged Land and a small parcel to be retained to allow access to Chateau Tanunda land. This division will be subject to usual development approval considerations and processes, which are not part of this assessment.

14. The proposal is also subject to Chateau Tanunda submitting a development application and receiving approval for, the proposed development, which will be subject to the usual processes and considerations. Again this is not a part of this assessment.

Community Land Revocation

15. Section 194 of the LG Act sets out the process by which the Council may revoke the classification of land as community land.

16. Section 194(2) and (3) of the LG Act specifically set out that:

(2) Before a council revokes the classification of land as community land—

(a) the council must prepare and make publicly available a report on the proposal containing—

(i) a summary of the reasons for the proposal; and

(ii) a statement of any dedication, reservation or trust to which the land is subject; and

(iii) a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and a statement of how the council proposes to use the proceeds; and

(iv) an assessment of how implementation of the proposal would affect the area and the local community; and
(v) if the council is not the owner of the land—a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification; and

(b) the Council must follow the relevant steps set out in its public consultation policy.

(3) After complying with the requirements of subsection (2), the Council—

(a) must submit the proposal with a report on all submissions made on it as part of the public consultation process to the Minister; and

(b) if the Minister approves the proposal—may make a resolution revoking the classification of the land as community land.

17. The Council has prepared a report pursuant to section 194(2)(a) of the LG Act ("the Report") and has made the Report publicly available on its website. The Council has also provided a two page summary and visual displays, including maps and concept drawings, at the Council offices at Nurioopta and at the Tanunda Library. The visual display has also been made available at Chateau Tanunda.

18. We have reviewed the report and confirm that it complies with the requirements of section 194(2)(a) of the LG Act as it includes:

18.1 a summary of the reasons for the proposal;

18.2 a statement of the dedication and trust to which the land is subject, including how this is to be dealt with;

18.3 an outline of the future use of the land, being disposal via the proposed land exchange, and an outline of the proposed land exchange and how it will impact the Council and the community, together with a statement that no Government assistance was given to acquire the land;

18.4 an assessment of how the proposal will impact the local community and area; and

18.5 confirmation that the Council is the owner of the land.

19. The recent case of Coastal Ecology Protection Group Inc & Ors v City of Charles Sturt [2017] SASC 136 ("the Coastal Ecology Decision") emphasised the importance of ensuring full compliance with the Council public consultation policy where public consultation is required under the LG Act.

20. Section 50 of the LG Act provides that the Council must prepare and adopt a public consultation policy, which must set out steps that it will follow in cases where the LG Act requires the Council to undertake public consultation in accordance with its policy.

21. Such steps must provide interested persons with a reasonable opportunity to make submissions and provide for publication of a notice in a newspaper circulating within the area and on a website, describing the matter and inviting interested persons to make submissions within a stated period (not less than 21 days). It must also provide for consideration of any submissions made in response.
22. Section 194(2)(b) of the LG Act provides that the Council must follow its public consultation policy before revoking the classification of land as community land.

23. The Council has adopted a Public Consultation Policy, as approved by the Council on 26 September 2016.

24. The Council has engaged in a six (6) week consultation process, which included:
   24.1 development and release of an extensive public consultation document;
   24.2 public notices in the Herald and Leader newspapers;
   24.3 release of a media statement;
   24.4 placement of information on its website, the Better Barossa consultation platform and Council’s Facebook homepage; and
   24.5 displays at the Council Library and Visitor Centre in Tanunda, at Chateau Tanunda and at the Council offices in Nurioopta.

25. Written submissions have been sought through email, letter, or the Better Barossa consultation platform and will be included in a report for the consideration of the Council in formal meeting.

26. On review of the public consultation process both as undertaken to date and to be undertaken, we confirm that the process:
   26.1 complies with the requirements of the LG Act, specifically sections 50 and 194; and
   26.2 complies with the Council’s Public Consultation Policy.

**Release of Dedication under the Kiel Trust**

27. As above, the Community Land is subject to a dedication pursuant to a Deed of Indenture, entered into with the Executors of the Deceased Estate of Elma Linda Keil.

28. The Deed of Indenture, on its face, prevents sale of the Community Land, as it is dedicated in perpetuity for public parkland purposes under the Deed and may not be sold at any time in the future.

29. However, the Deed also expressly provides for the Executors to modify, waive or release wholly or partly all or any of such covenants, conditions and restrictions.

30. The Executors have conditionally and in-principle provided their support to a release of the Community Land from the covenants, conditions and restrictions under the Deed, to allow for the land exchange, provided that the Exchanged Land is re-dedicated under the same or similar covenants. The Executors have also indicated a number of other conditions, including that:
   30.1 no costs be borne by the Executors;
   30.2 no release will occur until a final agreement has been reached on all matters; and
30.3 the Council undertakes any necessary actions under the LG Act and that the Minister for Local Government approve the proposal to revoke the classification of the land as community land.

31. Given the provisions of the Deed and the in-principle support of the Executors, I advise that there is no apparently insurmountable impediment to the release of the dedications under the Deed of Indenture.

32. We further note that the Costal Ecology Decision considered land subject to dedicated purposes (albeit under the Crown Lands Act 2009), and confirmed the test of whether the land was used in accordance with the dedicated purpose is whether it is consistent with the dedicated purpose, rather than whether it is in furtherance of the dedicated purpose.

33. Given the advice above that release of the dedications under the Deed of Indenture can be achieved, we do not consider the Coastal Ecology Decision has any relevant impact for this matter. However, as the dedicated purpose was to provide land for the purposes of parks, gardens or sporting facilities within the area of the District Council of Tanunda and the same or equivalent land will still be provided for this same purpose under the proposed land exchange, we consider that the land exchange will still be consistent with the dedicated purpose.

Transfer of Land

34. If the Council is successful in obtaining the approval of the Minister to its proposal to revoke the classification of land as Community Land, pursuant to section 201(1) of the LG Act, the Council may sell or otherwise dispose of its interest in the land.

35. Section 49 of the LG Act requires that the Council prepare and adopt procurement policies, practices and procedures, and policies on contracts and tenders, including on the sale or disposal of land or other assets.

36. The Council has adopted its Disposal of Land or other Asset Policy, as approved by the Council on 20 September 2014.

37. Paragraph 4.1 sets out considerations for the Council before making a decision to dispose of land or other assets.

38. The Council has considered and assessed each of these in its Report in Attachment 3. We have reviewed the assessment and consider that each of the considerations has been adequately taken into account by the Council, save for the outcome of the community consultation process currently underway, which will be considered by the Council prior to making its decision.

39. Paragraph 4.2 sets out the principles to which the Council must have regard in its disposal of land or other assets.

40. Again, the Council has assessed and considered these principles in Attachment 3 to its Report. We have reviewed the assessment and consider that, generally, the principles have been adequately addressed.
41. The Council has maintained a fully transparent and open process, including extensive community consultation.

42. The Council has recognised that, in effect, competition (or an open or other public process) is not possible due to the restrictions on the land and that the only viable disposal option is the proposed land exchange. The land exchange is recognised as providing significant value to the community through economic growth. The land exchange will not result in a reduction in Council land assets, with land of the same or similar value and size being exchanged and, as we understand it, being community land located in a more accessible location.

43. In assessing probity, accountability, transparency and reporting, as set out in paragraph 4.2(d), the Council is required to demonstrate accountability by ensuring that decisions are appropriately documented and evidence provided to ensure that an independent third party can identify that the principles in paragraph 4.2 have been followed.

44. The preparation of the detailed Consultation Report, as well as the assessment included at Attachment 3 and other documents attached and the extensive public consultation, with the report, documents, summaries and visual displays being made available, is demonstrable of high levels of probity, accountability, transparency and reporting. The reasoning for all decisions is clearly documented and evidenced and compliant with the principles in paragraph 4.2 and is evident and easily identifiable.

45. Paragraph 4.4.1 of the Policy sets out land disposal methods. The Council is required to make a decision to dispose of the land and the method of disposal.

46. Direct negotiation is set out as a valid method, to occur with owners of land adjoining the land or others with a pre-existing interest in the land.

47. In this matter, it has been identified by the Council that the proposed transferee is the only viable purchaser, as it is able to make provision to allow the Council to release the Dedication over the land.

48. However, paragraph 4.4.1(j) provides that if land is to be disposed of through direct negotiation then, unless the Council resolves otherwise, a minimum of two recent independent valuations must be obtained.

49. We understand the Council has not obtained such valuations and does not intend to do so. Further, in order to assess the land exchange on this basis, valuations of the Exchanged Land would also be necessary.

50. Therefore the Council will need to resolve to dispense with this requirement. In circumstances where the disposal is via a land exchange of land of the same or similar size and value and the land currently has little or no value due to the restrictions of the Dedication, this is, in our opinion, a reasonable and valid step for the Council.

51. Alternatively, the Council may grant a waiver under paragraph 4.4.3(a) to allow an alternative disposal method, allowing for the direct negotiation with the owner of Chateau Tanunda without the need to obtain valuations or similar.
52. Otherwise, I consider the steps taken or proposed to be taken by the Council to make a decision to dispose of the land via the land exchange proposed, comply with Council's Disposal of Land or Other Asset Policy. However, as a matter of precautionary practice and good governance, it is our advice that each step taken by the Council under the Policy (in particular, see paragraphs 49–51 above) be subject to the recording of its reasons for taking that step.

Once a decision is made to proceed with the proposal, the Council will still need to enter into a formal agreement with Chateau Tanunda to document the exchange, including any conditions precedent to the exchange, which will include the community land classification revocation, the dedication release, and the sub-division of the Exchanged Land. If the formal agreement has not been entered into by the time of Ministerial approval under section 194 of the LG Act, the Minister might request that the Council provide an undertaking not to resolve to exclude the community land classification until the formal agreement has been entered into.

If you have any questions, please contact me (or my colleague, Chris Morey).

Yours sincerely
KELLEDYJONES LAWYERS

MICHAEL KELLEDY
Direct Line: 08 8113 7103
Mobile: 0417 653 417
Email: mkelledy@kelledyjones.com.au
Extract of the Minutes of the Ordinary Council Meeting of 19 December 2017

6.1 VISITORS TO THE MEETING
9.04am – Representatives Mrs Shelley James and others – (Debate agenda item 7.2.1.1 – revocation of Community Land Classification – Basedow Road, Tanunda) - Refer Minute Page 2017/590

7.2.1.1
REVOCATION OF COMMUNITY LAND CLASSIFICATION – BASEDOW ROAD, TANUNDA B7081

MOVED Cr Lange

(1) That the Council note and consider the feedback from community members and the Kelley Jones Lawyers’ Independent Assessment of the consultation and proposed disposal process, which are attached to this report.

(2) That, further to the Independent Assessment at page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value, and the land currently has little or no market value due to the restrictions of the Dedication of the Keil Trust and the community land classification, the Council dispenses with the requirement of its Disposal of Land and Other Assets Policy at paragraph 4.4.1(i) to obtain any independent valuations in this matter.

(3) Pursuant to Section 194 of the Local Government Act 1999, that Council continue the process to revoke the Community Land classification for Allotments 11 and 12 Basedow Road, Tanunda, which are respectively contained in Certificates of Title Volume 5133 Folio 408 and Volume 5902 Folio 824.

(4) That the Chief Executive Officer prepare a report and submit it to the Minister for Planning seeking approval to revoke the Community Land classification of the said land parcels.

(5) That should the revocation be approved by the Minister for Planning, the matter be referred back to Council for final resolution in accordance with section 194(3)(b) of the Local Government Act 1999.

(6) That the Chief Executive Officer then proceed with the necessary steps to affect the proposed land exchange in accordance with the Council’s resolution of 19 September 2017.

Seconded Cr de Vries

CARRIED 2014-18/1269

PURPOSE
Council is now asked to consider community feedback in response to its proposal to revoke the Community Land classification over Allotments 11 and 12 Basedow Road, Tanunda, with a view to exchanging these parcels for land adjacent to Council property and which are owned by Chateau Tanunda. Should Council agree with the revocation, the matter should then be referred to the Minister for Planning to consider in accordance with the Local Government Act 1999.

REPORT
Background
On 19 September 2017 Council resolved:
MOVED Cr Miller

That Council, being satisfied the proposal has extensive community benefit and can be managed in accordance with the Disposal of Land and Other Assets Policy:

(1) Agrees to undertake a six week community consultation process on a proposal to revoke the community land classification of Allotments 11 and 12 Basedow Road, Tanunda being Certificates of Title 5133/408 and 5902/824.

(2) Instructs the Chief Executive Officer to develop and release the consultation document outlining the proposal to transfer land on a commercial basis, subject to receiving legal advice that the proposal and process is compliant with Council’s asset disposal policy and legal responsibilities.

(3) Appoints a small working group of Mayor Sloane and Cr Lange to support the Chief Executive Officer and Governance Advisor in formulating the consultation document and commercial negotiation of subsequent commercial arrangements for any approved land swap, should the revocation of community land classification be approved by the relevant Minister.

(4) Require the proprietor to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister.

Seconded Cr de Vries  CARRIED 2014-18/1168

Introduction
In accordance with the above resolution, officers provide the following for Elected Members’ information:

- Consultation Report: Revocation of Community Land Classification at attachment 1
- Copy of public notices in the Herald and Leader newspapers, media releases, and promotions on Council’s website, Our Better Barossa consultation platform and Facebook at attachment 2
- Map of landowners adjacent to the proposed land exchange parcels who were sent a letter outlining the proposal at attachment 3
- Copy of letter sent to these identified adjacent landowners at attachment 4
- Summary table of responses from the community via postal service, email and the Our Better Barossa consultation platform at attachment 5
- Copy of all correspondence from the community at attachment 6
- Copy of thank you letter sent to those who provided feedback at attachment 7
- Independent Assessment by KelledyJones Lawyers of the proposed disposal of Council land against the principles of Council’s Disposal of Land and Other Assets Policy at attachment 8.

Discussion
A public notice was placed in each of the Herald and Leader newspapers and on Council’s homepage on 1 November 2017, and letters written to owners of land adjacent to those parcels which are proposed for exchange - all inviting written comment on the attached Consultation Report by 5pm, 12 December 2017. This timeframe allowed a period of 6 weeks of community consultation, which in the interests of improved community engagement is considerably longer than the prescribed 21 day minimum under the Local Government Act at section 50(4).

The public notices also advised that the Consultation Report would be made available for download via Council’s website and in hard copy at its principal office, the Tanunda Library, and Chateau Tanunda. Officers also provided display maps and consultation documents in
these three locations.

Further promotion of the consultation was undertaken via the Our Better Barossa consultation platform, weekly Facebook posts and in media releases.

There was a variety of feedback in the 20 submissions from the community both for and against the proposal, which is presented for Elected Member convenience in summary form and for completion with copies of all correspondence at, respectively, attachments 5 and 6. A thank you letter and invitation to attend the Council meeting, as per the template in attachment 7 was sent to each person who provided an address with their submission.

Although a detailed analysis was provided in the Consultation Report at attachment 3, regarding the disposal of land through land exchange as assessed against the principles of Council’s Disposal of Land and Other Assets Policy, it was also considered that further obtaining an independent assessment of the disposal of land process was prudent during the public consultation period.

Accordingly, KelleyJones Lawyers were briefed to prepare this independent assessment to review the probity, accountability, transparency and reporting of this public consultation process and proposed disposal of land process. It is provided at attachment 8 and has validated both processes.

After considering all the community feedback and the independent assessment, the Elected Body must now consider whether or not to approve the Consultation Report for referral to the Minister for Planning.

Should the Consultation Report be referred to the Minister and he approves revoking the Community Land classification over the two identified parcels, the matter will be referred back to the Elected Body for final endorsement in accordance with the Local Government Act at section 194(3)(b).

The Chief Executive Officer will then negotiate the necessary commercial arrangements with the proprietor of Chateau Tanunda, and organise the appropriate valuations, where required, and the formal voluntary release from the trustees of the community land to finalise the approved land exchange.

Summary and Conclusion
The Council is asked to consider and approve the officer recommendation and refer the matter of revocation to the Minister for Planning.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1 – Consultation Report: Revocation of Community Land Classification
Attachment 2 – Copy of public notices in the Herald and Leader newspapers, media releases, and promotions on Council’s website, Our Better Barossa consultation platform and Facebook
Attachment 3 – Map of adjacent landowners who were sent proposal letter
Attachment 4 – Copy of letter sent to adjacent landowners
Attachment 5 – Summary table of responses from the community
Attachment 6 – Copies of correspondence from the community
Attachment 7 – Copy of thank you letter sent to those who provided feedback
Attachment 8 – Independent Assessment by KelleyJones Lawyers of the proposed disposal of Council land against the principles of Council’s Disposal of Land and Other Assets Policy

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
How We Work – Good Governance
Corporate Plan
Community and Culture:
2.3 Support and promote community involvement and networks and provide opportunities for participation in local decision making.

Legislative Requirements
Local Government Act 1999, Sections 50 and 194

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
There is no financial or resource implications in finalising this report for referral to the Minister for Planning. Risk is mitigated by complying with the relevant sections of the Local Government Act as to the revocation of community land classification and Council’s Public Consultation Policy and Disposal of Land and Other Assets Policy and the validation these two Council’s processes by way of an independent assessment.

COMMUNITY CONSULTATION
Community consultation has occurred in accordance with section 194 of the Local Government Act and Council’s Public Consultation Policy.
2.1. DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

2.1.1 APPROVAL TO PROCEED WITH FINAL CONSIDERATION OF REVOCATION OF COMMUNITY LAND CLASSIFICATION – BASEDOW ROAD, TANUNDA B7081

Author: Governance Advisor

PURPOSE

Following approval of the Minister’s delegate dated 19 April 2018 that Council has complied with requirements, Council can now proceed to final consideration of the revocation of Community Land classification over the two allotments known as 11 and 12 Basedow Road, Tanunda. Council is now asked to formally approve the revocation of the said land from Community Land classification in accordance with Local Government Act requirements.

RECOMMENDATION

(1) That pursuant to Section 194(3)(b) of the Local Government Act 1999, Council revokes the Community Land classification over Allotment 11 Basedow Road, Tanunda described in Certificate of Title Volume 5133 Folio 408, and Allotment 12 Basedow Road, Tanunda described in Certificate of Title Volume 5902 Folio 824.

(2) That the Chief Executive Officer excludes Allotments 11 and 12 Basedow Road, Tanunda from the Council’s Community Land Register.

(3) That the Chief Executive Officer advises adjacent landowners of the Council’s decision from the Special Council meeting held 26 April 2018.

(4) That the Chief Executive Officer proceeds with negotiating the commercial arrangements for the proposed land exchange in accordance with the Council resolution of 19 September 2017 (2014-18/1168).

(5) That the Chief Executive Officer facilitates the cancellation of the existing Indenture Deed with the trustees of the Elma Keil Trust, dated 28 June 1996 and replaces it with a new Indenture Deed to reflect the same restrictions with respect to the incoming land from Chateau Tanunda.

REPORT

Background

On 19 December 2017, Council resolved:

MOVED Cr Lange

(1) That the Council note and consider the feedback from community members and the Kelley Jones Lawyers’ Independent Assessment of the consultation and proposed disposal process, which are attached to this report.
(2) That, further to the Independent Assessment at page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value, and the land currently has little or no market value due to the restrictions of the Dedication of the Keil Trust and the community land classification, the Council dispenses with the requirement of its Disposal of Land and Other Assets Policy at paragraph 4.4.1(i) to obtain any independent valuations in this matter.

(3) Pursuant to Section 194 of the Local Government Act 1999, that Council continue the process to revoke the Community Land classification for Allotments 11 and 12 Basedow Road, Tanunda, which are respectively contained in Certificates of Title Volume 5133 Folio 408 and Volume 5902 Folio 824.

(4) That the Chief Executive Officer prepare a report and submit it to the Minister for Planning seeking approval to revoke the Community Land classification of the said land parcels.

(6) That should the revocation be approved by the Minister for Planning, the matter be referred back to Council for final resolution in accordance with section 194(3)(b) of the Local Government Act 1999.

(7) That the Chief Executive Officer then proceed with the necessary steps to affect the proposed land exchange in accordance with the Council’s resolution of 19 September 2017.

Seconded Cr de Vries CARRIED 2014-18/1269

Introduction
The report to the Minister was sent on 21 December 2017 and contained copies of reports to Council and confirmed minutes of the relevant decisions, and copies of public notices and supporting materials used for public consultation.

Approval to proceed with final consideration to revoke the community land classification was received on 19 April 2018 (see Attachment 1).

Discussion
Once the Minister (or his delegate) approves Council has complied with the legal requirements for community land revocation, section 194(3)(b) of the Local Government Act 1999 requires Council to formally resolve the revocation of the community land classification.

Upon Council’s approval, the Chief Executive Officer will then advise adjacent landowners of the Council’s decision.

Officers will remove reference to the relevant parcels in Council’s Community Land Register.

As Members will recall, the community land had additional restrictions placed on it in an Indenture Deed from the Elma Keil Trust of June 1996 (as funds from the latter had been used to initially purchase the parcels). Further to Council’s written agreement with the trustees of the Trust, the current Indenture Deed will be cancelled and a new Deed will be finalised by the Chief Executive Officer to ensure that the incoming land from Chateau Tanunda will receive the same restrictions as were in place over the outgoing community land.

Council has been provided extensive material and information from the consultation processes undertaken and is aware of matters raised that are of interest in the planning work and this has been communicated formally to representatives of the
Chateau. Further, Council is aware of the objections to this proposal by some nearby residents and has provided an opportunity to these residents to present to Council in December 2017. The Minister’s delegate has written to those that made representation to his office, informing them of the approval given to Council to proceed with final consideration.

Summary and Conclusion
The Council is asked to consider the Officer recommendation and confirm the revocation of the Community Land classification so as to give effect to the Council resolution of 17 September 2017 to exchange land with Chateau Tanunda.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1: Letter from the Department of Planning, Transport and Infrastructure confirming the Ministerial delegate’s approval dated 19 April 2018.

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

How We Work – Good Governance
Corporate Plan
Community and Culture:
  2.3 Support and promote community involvement and networks and provide opportunities for participation in local decision making.

Legislative Requirements
Local Government Act 1999, Section 194

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
There are no financial or resource implications. Risk is mitigated by complying with the relevant section of the Local Government Act.

Further to Council resolution of 19 September 2017 (Resolution Number: 2014-18/1168), Council will “require the proprietor (of Chateau Tanunda) to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister” (Moved, Cr Miller, Seconded Cr de Vries).

COMMUNITY CONSULTATION
Community consultation for this entire revocation of community land process has occurred in accordance with Section 194 of the Local Government Act 1999 and Council’s Public Consultation Policy and been further validated by the KelleyJones Independent Assessment dated 13 December 2017 and approval to proceed with final consideration by Council received from the Minister’s delegate dated 19 April 2018.
Mr Martin McCarthy  
Chief Executive Officer  
The Barossa Council  
PO Box 867  
NURIOOTPA SA 5355

Dear Mr McCarthy,

I write in response to a letter seeking approval for the Barossa Council’s (the Council’s) proposal to revoke the community land classification of the whole of the land contained in Certificate of Title Volume 5133 Folio 408, and Certificate of Title Volume 5902 Folio 824, and known respectively as Allotment 11 and 12 on Basedow Road, Tanunda.

I have considered the information provided to me by the Council and in making my decision (under delegation) I have taken into account the nature of the public consultation undertaken by the Council.

After carefully considering the effect of the revocation on the area and the local community, I am of the opinion that, on balance, the revocation will be more positive than not in its effect. I approve the Council’s proposal to revoke the classification as community land of the whole of the land contained in Certificate of Title Volume 5133 Folio 408, and Certificate of Title Volume 5902 Folio 824, and known respectively as Allotment 11 and 12 located on Basedow Road, Tanunda.

If the Council wishes to proceed with the revocation it will need to pass a motion to revoke the community land classification pursuant to section 194(3)(b) of the Local Government Act 1999.

Yours sincerely,

Andrew McKeegan  
Chief Development Officer  
DEPARTMENT OF PLANNING, TRANSPORT AND INFRASTRUCTURE  

19 April 2018
ATTACHMENT 4b
Extract of Minutes – Special Council meeting 26 April 2018
Extract of Minutes of the Special Council Meeting of 26 April 2018

2.1.1 APPROVAL TO PROCEED WITH FINAL CONSIDERATION OF REVOCATION OF COMMUNITY LAND CLASSIFICATION – BASEDOW ROAD, TANUNDA

Author: Governance Advisor

Mayor Sloane advised the meeting that a request from a member of the public had been received seeking deferral of the matter 2.1.1 – Approval to Proceed with Final Consideration of Revocation of Community Land Classification – Basedow Road, Tanunda, to the Council meeting to be held on Tuesday 15 May 2018.

Cr Lange sought clarification on the effect of any deferral.

Mr Martin McCarthy, Chief Executive Officer, advised that Council had received the necessary statutory approval to proceed with consideration for the revocation, and it is now a matter for Council to decide to revoke the community land classification or not.

Cr Lange moved the motion as written:

**MOVED Cr Lange**

(1) That pursuant to Section 194(3)(b) of the Local Government Act 1999, Council revokes the Community Land classification over Allotment 11 Basedow Road, Tanunda described in Certificate of Title Volume 5133 Folio 408, and Allotment 12 Basedow Road, Tanunda described in Certificate of Title Volume 5902 Folio 824.

(2) That the Chief Executive Officer excludes Allotments 11 and 12 Basedow Road, Tanunda from the Council’s Community Land Register.

(3) That the Chief Executive Officer advises adjacent landowners of the Council’s decision from the Special Council meeting held 26 April 2018.

(4) That the Chief Executive Officer proceeds with negotiating the commercial arrangements for the proposed land exchange in accordance with the Council resolution of 19 September 2017 (2014-18/1168).

(5) That the Chief Executive Officer facilitates the cancellation of the existing Indenture Deed with the trustees of the Elma Keil Trust, dated 28 June 1996 and replaces it with a new Indenture Deed to reflect the same restrictions with respect to the incoming land from Chateau Tanunda.

Seconded Cr de Vries  CARRIED 2014-18/1376

**PURPOSE**

Following approval of the Minister’s delegate dated 19 April 2018 that Council has complied with requirements, Council can now proceed to final consideration of the revocation of Community Land classification over the two allotments known as 11 and 12 Basedow Road, Tanunda. Council is now asked to formally approve the revocation of the said land from Community Land classification in accordance with Local Government Act requirements.

**REPORT**

Background
On 19 December 2017, Council resolved:

**MOVED Cr Lange**

(1) That the Council note and consider the feedback from community members and the Kelley Jones Lawyers’ Independent Assessment of the consultation and proposed disposal process, which are attached to this report.

(2) That, further to the Independent Assessment at page 1, as the proposed disposal of land is via an exchange of land of the same or similar size and value, and the land currently has little or no market value due to the restrictions of the Dedication of the Keil Trust and the community land classification, the Council dispenses with the requirement of its Disposal of Land and Other Assets Policy at paragraph 4.4.1(i) to obtain any independent valuations in this matter.

(3) Pursuant to Section 194 of the Local Government Act 1999, that Council continue the process to revoke the Community Land classification for Allotments 11 and 12 Basedow Road, Tanunda, which are respectively contained in Certificates of Title Volume 5133 Folio 408 and Volume 5902 Folio 824.

(4) That the Chief Executive Officer prepare a report and submit it to the Minister for Planning seeking approval to revoke the Community Land classification of the said land parcels.

(6) That should the revocation be approved by the Minister for Planning, the matter be referred back to Council for final resolution in accordance with section 194(3)(b) of the Local Government Act 1999.

(7) That the Chief Executive Officer then proceed with the necessary steps to affect the proposed land exchange in accordance with the Council’s resolution of 19 September 2017.

**Seconded Cr de Vries**

CARRIED 2014-18/1269

**Introduction**

The report to the Minister was sent on 21 December 2017 and contained copies of reports to Council and confirmed minutes of the relevant decisions, and copies of public notices and supporting materials used for public consultation.

Approval to proceed with final consideration to revoke the community land classification was received on 19 April 2018 (see Attachment 1).

**Discussion**

Once the Minister (or his delegate) approves Council has complied with the legal requirements for community land revocation, section 194(3)(b) of the Local Government Act 1999 requires Council to formally resolve the revocation of the community land classification.

Upon Council’s approval, the Chief Executive Officer will then advise adjacent landowners of the Council’s decision.

Officers will remove reference to the relevant parcels in Council’s Community Land Register.

As Members will recall, the community land had additional restrictions placed on it in an Indenture Deed from the Elma Keil Trust of June 1996 (as funds from the latter had been used to initially purchase the parcels). Further to Council’s written agreement with the trustees of the Trust, the current Indenture Deed will be cancelled and a new Deed will be finalised by the Chief Executive Officer to ensure that the incoming land from Chateau Tanunda will receive the same restrictions as were in place over the outgoing community land.

Council has been provided extensive material and information from the consultation processes undertaken and is aware of matters raised that are of interest in the planning work and this has been communicated formally to representatives of the Chateau. Further, Council is aware of the objections to this proposal by some nearby residents and has provided an opportunity to these residents to present to Council in December 2017. The Minister’s delegate has written to those that made representation to his office, informing them of the approval given to Council to proceed with final consideration.
Summary and Conclusion
The Council is asked to consider the Officer recommendation and confirm the revocation of the Community Land classification so as to give effect to the Council resolution of 17 September 2017 to exchange land with Chateau Tanunda.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1: Letter from the Department of Planning, Transport and Infrastructure confirming the Ministerial delegate’s approval dated 19 April 2018.

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
- How We Work – Good Governance
- Corporate Plan
  Community and Culture:
  2.3 Support and promote community involvement and networks and provide opportunities for participation in local decision making.

Legislative Requirements
Local Government Act 1999, Section 194

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
There are no financial or resource implications. Risk is mitigated by complying with the relevant section of the Local Government Act.

Further to Council resolution of 19 September 2017 (Resolution Number: 2014-18/1168), Council will “require the proprietor (of Chateau Tanunda) to pay all reasonable external legal, consultant and advertising and other costs arising from the community consultation and subsequent commercial arrangements should the revocation of community land be approved by the relevant Minister” (Moved, Cr Miller, Seconded Cr de Vries).

COMMUNITY CONSULTATION
Community consultation for this entire revocation of community land process has occurred in accordance with Section 194 of the Local Government Act 1999 and Council’s Public Consultation Policy and been further validated by the KelleyJones Independent Assessment dated 13 December 2017 and approval to proceed with final consideration by Council received from the Minister’s delegate dated 19 April 2018.
Attachment 5
Section 270 Internal review Assessment of Resources
## SECTION 270 INTERNAL REVIEW ASSESSMENT OF RESOURCES

### Decision to be reviewed:
Review of Council decision on 26 April 2018 to revoke community land classification over 11 and 12 Basedow Road, Tanunda

### Reference
Ref 18/35087

<table>
<thead>
<tr>
<th>Date</th>
<th>Officer (ie: IRCO, Reviewer including regular position, interviewees)</th>
<th>Activity (research, interviewing, report writing etc.)</th>
<th>Level of Officer</th>
<th>Hourly rate for officer + 20% Full Cost Attribution (a)</th>
<th>Time taken (minutes) (b)</th>
<th>Cost $ (based on hourly rate) (a) x (b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30/04/2018</td>
<td>IRCO / GA</td>
<td>Review letter of complaint and request to undertake section 270 review</td>
<td>Level 6</td>
<td>$54</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td>30/04/2018</td>
<td>IRCO / GA</td>
<td>Discussion with Ombudsman to discuss complaint</td>
<td>Level 6</td>
<td>$54</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Discussion with CEO</td>
<td>Level 6</td>
<td>$129.60</td>
<td>0.33</td>
<td>$42.77</td>
</tr>
<tr>
<td></td>
<td>CEO</td>
<td>Discussion with GA</td>
<td>CEO</td>
<td>$129.60</td>
<td>0.5</td>
<td>$64.80</td>
</tr>
<tr>
<td>2/05/2018</td>
<td>IRCO / GA</td>
<td>Drafting letter and discussion with legal advisor</td>
<td>Level 6</td>
<td>$54.00</td>
<td>2</td>
<td>$108.00</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Review of legal advice</td>
<td>Level 6</td>
<td>$54.00</td>
<td>1</td>
<td>$54.00</td>
</tr>
<tr>
<td>3/05/2018</td>
<td>IRCO / GA</td>
<td>Emails and discussion with CEO</td>
<td>Level 6</td>
<td>$54</td>
<td>0.5</td>
<td>$27.00</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Emails and discussion with GA</td>
<td>Level 6</td>
<td>$129.60</td>
<td>0.5</td>
<td>$64.80</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Emails to and from the Ombudsman’s Assessment Officer</td>
<td>Level 6</td>
<td>$54</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Drafting letter to confirm receipt of complaint</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.5</td>
<td>$27.00</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Review letter to confirm receipt of complaint</td>
<td>Level 6</td>
<td>$129.60</td>
<td>0.33</td>
<td>$42.77</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Attending to hand deliver acknowledgement to applicant’s home postbox</td>
<td>Level 6</td>
<td>$54</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Telephone call with applicant (Mr Sennef)</td>
<td>Level 6</td>
<td>$54</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td>9/05/2018</td>
<td>IRCO / GA</td>
<td>Email to and from Ombudsman’s Assessment Officer</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>Discussion with external party lawyer/external IRCO</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td>10/05/2018</td>
<td>IRCO / GA</td>
<td>Discussion with Ombudsman’s Assessment Officer</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.33</td>
<td>$17.82</td>
</tr>
<tr>
<td>11/05/2018</td>
<td>IRCO / GA</td>
<td>Email and discussion with alternative legal advisor</td>
<td>Level 6</td>
<td>$54.00</td>
<td>1</td>
<td>$54.00</td>
</tr>
<tr>
<td></td>
<td>CEO</td>
<td>Discussion with GA</td>
<td>CEO</td>
<td>$129.60</td>
<td>0.33</td>
<td>$42.77</td>
</tr>
<tr>
<td>12/05/2018</td>
<td>IRCO / GA</td>
<td>Preparation of draft council report to appoint independent external party to conduct the internal review</td>
<td>Level 6</td>
<td>$54.00</td>
<td>1</td>
<td>$54.00</td>
</tr>
<tr>
<td>15/05/2018</td>
<td>IRCO / GA</td>
<td>Attendance to Council meeting in case of Member questions and speaking with applicant and her advocate</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.5</td>
<td>$27.00</td>
</tr>
<tr>
<td>23/05/2018</td>
<td>IRCO / GA</td>
<td>Briefing independent external party to conduct review</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.5</td>
<td>$27.00</td>
</tr>
<tr>
<td>25/05/2018</td>
<td>IRCO / GA</td>
<td>answering further questions from external party</td>
<td>Level 6</td>
<td>$54.00</td>
<td>1</td>
<td>$54.00</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>answering further questions from external party</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.5</td>
<td>$27.00</td>
</tr>
<tr>
<td></td>
<td>IRCO / GA</td>
<td>email to CEO</td>
<td>Level 6</td>
<td>$54.00</td>
<td>0.5</td>
<td>$27.00</td>
</tr>
<tr>
<td></td>
<td>CEO</td>
<td>review and discuss email from GA</td>
<td>CEO</td>
<td>$129.60</td>
<td>0.33</td>
<td>$42.77</td>
</tr>
<tr>
<td>4/06/2018</td>
<td>Chris Morey, Kelledy Jones</td>
<td>Briefing to conduct initial investigation into complaint due to conflict of internal staff</td>
<td></td>
<td></td>
<td></td>
<td>$3,191.55</td>
</tr>
<tr>
<td>25/06/2018</td>
<td>Felice D’Agostino, Norman Waterhouse Lawyers</td>
<td>External party briefed to undertake internal review of Council decision</td>
<td></td>
<td></td>
<td></td>
<td>$4,000.00</td>
</tr>
<tr>
<td>14/06/2018</td>
<td>CEO</td>
<td>Review draft report and respond</td>
<td>CEO</td>
<td>$129.60</td>
<td>1</td>
<td>$129.60</td>
</tr>
<tr>
<td>3/07/2018</td>
<td>CEO</td>
<td>Review revised draft report after considering further information from applicant and respond</td>
<td>CEO</td>
<td>$129.60</td>
<td>1</td>
<td>$129.60</td>
</tr>
<tr>
<td>Date</td>
<td>ID</td>
<td>Description</td>
<td>ID</td>
<td>Amount</td>
<td>Hours</td>
<td>Total</td>
</tr>
<tr>
<td>------------</td>
<td>------</td>
<td>--------------------------------------------------</td>
<td>------</td>
<td>--------</td>
<td>-------</td>
<td>-------</td>
</tr>
<tr>
<td>4/07/2018</td>
<td>CEO</td>
<td>Review final report and respond to last changes - minor</td>
<td>CEO</td>
<td>$129.60</td>
<td>0.25</td>
<td>$32.40</td>
</tr>
<tr>
<td>5/07/2018</td>
<td>CEO</td>
<td>Develop with IRCO Council report</td>
<td>CEO</td>
<td>$129.60</td>
<td>0.5</td>
<td>$64.80</td>
</tr>
<tr>
<td>6/7/2018</td>
<td>IRCO/GA</td>
<td>Background reading, develop and write Council report</td>
<td>Level 6</td>
<td>$54.00</td>
<td>4</td>
<td>$216.00</td>
</tr>
</tbody>
</table>

**TOTAL COST OF REVIEW PROCESS - TO DATE**: $8,666.18

**KEY**
- A: Applicant
- IRCO: Internal Review Contact
- GA: Officer
- CEO: Chief Executive Officer
- GA: Governance Advisor
COUNCIL MEETING
EXECUTIVE SERVICES
CHIEF EXECUTIVE OFFICER REPORT
17 JULY 2018

7.2.1 DEBATE AGENDA – CHIEF EXECUTIVE OFFICER

7.2.1.6
LOCAL GOVERNMENT (RATE OVERSIGHT) AMENDMENT ACT 2018 (“the Bill”)
B7353

PURPOSE
Council has received correspondence from the Minister for Local Government the Hon Stephan Knoll concerning the Local Government (Rate Oversight) Amendment Act 2018, the so called rate capping system. The correspondence and attachments are at Attachment 1. The purpose of this report is to review the Bill and endorse a submission to the Local Government Association (LGA) and the Office of Local Government as requested by the Minister, in regard to the Bill.

RECOMMENDATION
Council having considered the Local Government (Rate Oversight) Amendment Act 2018 and explanatory paper, relevant analysis of officers and the Local Government Association:

(1) Acknowledge the Minister’s consultation on the Bill and the State Government’s policy position that it took to the State Election in March 2018.

(2) Support the intent of the Bill but instruct the Chief Executive Officer and Mayor to continue to engage with the Minister, Office of Local Government and Local Government Association to address the technical concerns with the Bill.

(3) Endorse and instruct the Chief Executive Officer to make a submission to the Local Government Association and Office of Local Government in accordance with the matters raised and contained in the Summary document as presented at Attachment 4.

(4) Endorse the alternative reform agenda outlined by the Local Government Association.

REPORT
Background
In 2014 the Liberal Party took the concept of a rate capping policy to the electorate, it did so again at the March 2018 election, from which they formed a majority government. In mid-2015 the State Parliament undertook an investigation into the policy of rate capping and in July 2016 the South Australian Economic and Finance Committee found that council’s should continue to set rates after full consultation with their communities and that rate capping should not be introduced. In March 2016 the then Liberal opposition entered a private members’ Bill to parliament to introduce rate capping and it was defeated. Further in 2017 the Liberal opposition tried to introduce rate capping through the Local Government (Boundary Adjustment)
Amendment Act debate through amendments which were not allowed. Labour, SA-Best and the Greens all took anti-rate capping policy positions to the March 2018 election.

**Introduction**
Without restating the extensive research and debate on the matter of rate capping, which is well outlined at Attachment 3 in the LGA Special Meeting agenda it is worth noting:

1. Rates collect in the order of 4% of the taxation burden in Australia.
2. Local policy settings and services are the purview of the locally elected members for which they are accountable through the electoral process.
3. Rates are already set in full consultation with community through the business planning and budget process.
4. Whilst efficiencies should form part of a broad reform agenda, including reduction of imposed ‘red-tape’ it has been shown in other jurisdictions that services and infrastructure are impacted adversely and capping does not necessarily lead to efficiencies.
5. There remain significant cost impacts that are outside of Council’s control including NRM levies, waste levies, international impacts (e.g. China recycling policy), prevailing economic conditions, new legislative requirements (e.g. Litter and Nuisance Act).

The LGA papers also outline an extensive reform agenda that should be supported to further drive improvements in the sector and the legislative frameworks imposed upon Councils.

Equally the Liberal party took a position to the electorate to introduce a system to manage rate increases and has been supported by the electorate. The Minister is moving toward a system that is collaborative and consultative, whilst there are technical differences and areas for debate within the model, it, on balance is an improvement to prior policy positions.

Attachment 4 is a summary of the matters raised that are relevant to Council and go to the area a submission would be made to the LGA and Office of Local Government, if supported.

**Summary and Conclusion**
The Council has been invited by the Minister to make comment and further the LGA has asked Council to consider the Bill carefully and indicate its support or opposition and determine if it will make a submission and if so what its submission shall be.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**
Attachment 1 - Correspondence from the Minister, the Bill and Explanatory Paper
Attachment 2 - Workshop presentation notes of Council workshop held 4 July 2018
Attachment 3 – LGA Special Meeting Agenda including notes and analysis
Attachment 4 – Summary of Bill and proposed response to LGA and Office of Local Government

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**

- Natural Environment and Built Heritage
- Community and Culture
Community Plan
All strategies as the ability to deliver on the strategies is dependent on funding the expenses to deliver the mix of services and infrastructure.

Legislative Requirements
Local Government Act 1999, Chapter 10

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

**Financial**

Financial estimates of three rate capping scenarios are provided at Attachment 2. In summary based on achieving new property growth of 0.7% annually:

1. A rate cap based on CPI would require annual savings in the order of $741,000 each and every year or in the order of 1.9% savings against the 2018/19 budget base. This equates to a savings requirement of 2.7% or $8.3M over the 10 year financial plan. This is significant given over the past 6 years Council made operating expense savings against the long term plan settings of 2012/13 of $4.806M or 2.31%. The ability to meet such savings through efficiencies is unlikely as there has already been significant improvements to the budget since 2012/13 and the most likely scenario in this case is the need to reduce capital and operating expenditure which means less infrastructure development and reduction in services and/or service levels including threat to the ability to deliver on The Big Project.

2. A rate cap based on a mid-point between the current CPI and Local Government Price index would require annual savings in the order of $47,750 each and every year or in the order of 0.1% savings against the 2018/19 budget base. This equates to a savings requirement of 0.2% or $0.535M over the 10 year financial plan. This is insignificant and can be achieved, however will constrain to a minor extent future additional expenditure with the commitment to The Big Project.

3. A rate cap based on a current Local Government Price Index would not require annual savings against the current long term plan.

**Resource**

Obviously resourcing matters would be depend on rate cap amount determined by ESCOSA. The possible scenarios outlined above could lead to service and service level reductions including less capital investment, this would translate into reduction in positions both internally and externally as works reduce so too will the need for contractors and external service suppliers.
Risk management at present is based on ensuring sound knowledge and research of the Bill, its impacts and ensuring a constructive dialogue with relevant parties including the Minister, Office of Local Government and LGA. Future risk issues are associated with ensuring financial sustainability depending on the outcomes of the Bill and if passed the setting of the rate cap, delivering services within the rate cap, finding further efficiencies and not harming our regional community through the reduction in investment.

COMMUNITY CONSULTATION

There has been no community consultation undertaken by the Department and due to timeframe to respond, which is 3 August there is little opportunity to Council to undertake an engagement process.
Dear Mayor Sloane

As you are aware, our Government was elected with a strong commitment to introduce a rate capping scheme into South Australia to assist and support our households and businesses.

In line with this commitment, I will be introducing the Local Government (Rate Oversight) Amendment Bill 2018 into Parliament this week, with the intention to have a rate capping system operational for the 2019-2020 financial year.

This Bill will deliver the two fundamental objectives of rate capping – firstly, ensuring that council rate increases are subject to strong oversight by both an independent regulator and ratepayers, and secondly, that all councils have the financial capacity to perform their duties and functions as their communities expect.

The Bill therefore includes three key elements:

1. **Primary rate cap determinations**: provisions enabling a cap to be set, determining that the cap applies to council revenue recoverable from general rates, and providing for its annual calculation based on a ‘base standard rate’ for councils to capture growth in rateable properties from year to year.

2. **Variation applications**: provisions that enable councils to apply for a variation of the rate cap, by demonstrating engagement with their community on the proposal, and that a variation is necessary within the context of the council’s operations and long term financial planning.

3. **Monitoring and reporting**: provisions that enable monitoring and reporting on the rate oversight system, to ensure both compliance and understanding of the effect of rate oversight on councils.

The Government has a strong commitment to the independence and transparency of the rate oversight system. Accordingly, the Bill proposes that the Essential Services Commission of South Australia (ESCOSA) be tasked to deliver the key elements of the system: determining the rate cap; accepting and assessing applications for a variation on the cap; and undertaking necessary monitoring and reporting on the system.
I am of course aware of the vital importance of this legislation to all councils and their communities, and have therefore attached both the Bill and an Explanatory Paper. These documents are also available at: https://www.dpti.sa.gov.au/local_govt/publications

This will enable your Council to make comments on the Bill (through the Office of Local Government website above). As the Bill will be introduced very shortly, I also clarify that I will consider these comments, and may amend the Bill if I deem it necessary.

While the legislative framework is essential to establishing rate capping, many of the details of the rate oversight system that will be of most interest to councils, including the application process for variations on the cap, will be established through non-statutory mechanisms, such as guidelines to be published by ESCOSA.

The Government has therefore tasked ESCOSA to develop advice and guidelines that will explain the expected basis of the rate cap, support councils’ compliance with the application of the cap, and detail the process by which applications for variations on the cap may be made, received and assessed.

This work will be completed over 2018, and will provide a further opportunity for your Council to engage with the detail of the proposed rate oversight system.

I look forward to engaging with your Council and the local government sector more widely as we develop a practical and effective rate oversight system for South Australia.

Yours sincerely

HON STEPHAN KNOLL MP
MINISTER FOR TRANSPORT, INFRASTRUCTURE AND LOCAL GOVERNMENT

18 June 2018
South Australia

Local Government (Rate Oversight) Amendment Bill 2018

A BILL FOR
An Act to amend the Local Government Act 1999.
The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title
This Act may be cited as the Local Government (Rate Oversight) Amendment Act 2018.

2—Commencement
This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions
In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of Local Government Act 1999

4—Amendment of section 3—Objects
Section 3(f)—after "communities" insert:
and to provide for appropriate financial contributions by ratepayers to those services and facilities
5—Amendment of section 123—Annual business plans and budgets

Section 123—after subsection (2) insert:

(2a) A council must ensure that, if relevant, an annual business plan also contains a statement—

(a) that the council intends to apply for a rate cap variation determination to increase the primary rate cap determination applying to the council for the financial year under Chapter 10 Part 1A; or

(b) that the council has made an application to ESCOSA for a rate cap variation determination but that a determination has not been made in relation to the application; or

(c) that a rate cap variation determination made by ESCOSA for the financial year applies to the council.

6—Insertion of Chapter 10 Part 1A

Chapter 10—after Part 1 insert:

Part 1A—Rate oversight

187C—Objects of Part

The objects of this Part are to ensure—

(a) that the financial contribution of ratepayers to the provision of services and infrastructure by local government to meet the present and future needs of local communities is subject to appropriate oversight; and

(b) that a council has the financial capacity to perform its duties and functions and exercise its powers.

187D—Interpretation

(1) In this Part—

base standard rate—see subsection (2);

base year means the financial year before the capped year;

capped standard rate see subsection (3);

capped year means the financial year specified in a primary rate cap determination;

ESCOSA means the Essential Services Commission established under the Essential Services Commission Act 2002;

primary rate cap means the primary rate cap (expressed as a percentage) specified by ESCOSA in a primary rate cap determination;

primary rate cap determination—see section 187E(1);

rate cap variation determination—see section 187F(1);
varied rate cap means the varied rate cap (expressed as a percentage) specified by ESCOSA in a rate cap variation determination.

(2) The base standard rate, in relation to a council, means the rate calculated in accordance with the following formula:

\[ BSR = \frac{Rb}{N} \]

Where—

BSR is the base standard rate;

\( Rb \) is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 30 June in the base year;

\( N \) is the number of rateable properties within the area of the council as at 30 June in the base year.

(3) The capped standard rate, in relation to a council, means the rate calculated in accordance with the following formula:

\[ CSR = \frac{Re}{N} \]

Where—

CSR is the capped standard rate;

\( Re \) is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 1 July in the capped year;

\( N \) is the number of rateable properties within the area of the council as at 1 July in the capped year.

187E—Primary rate cap determinations

(1) ESCOSA may, on its own initiative or at the request of the Minister, by notice in the Gazette, determine that the capped standard rate for a specified financial year must not exceed the base standard rate by more than the primary rate cap specified in the notice (a primary rate cap determination).

(2) A primary rate cap determination may apply to—

(a) councils generally; or

(b) a class of councils; or

(c) a particular council.

(3) Before making a primary rate cap determination that is to apply to councils generally or a class of councils, ESCOSA must consider the following:

(a) the basis of the primary rate cap (for example, a relevant price or cost index);
(b) whether the primary rate cap should include an efficiency or productivity component;

(c) the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);

(d) any matter that the Minister directs ESCOSA to consider;

(e) any other matter considered relevant by ESCOSA.

(4) The following provisions apply to the making of a primary rate cap determination that is to apply to a particular council:

(a) ESCOSA may only make a primary rate cap determination that is to apply to a particular council if ESCOSA considers it appropriate to do so taking into account—

(i) the council’s record of compliance with 1 or more previous primary rate cap determinations or rate cap variation determinations; or

(ii) a proposal by the council to—

(A) change the basis on which rates are assessed against land under section 148; or

(B) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155 in relation to a financial year; or

(iii) the level of other fees or charges imposed or proposed to be imposed by the council other than under Part 1; or

(iv) any other matter that ESCOSA thinks fit;

(b) before making a primary rate cap determination that is to apply to a particular council, ESCOSA must—

(i) consider the following:

(A) the matter or matters set out in subsection (4)(a)(i) to (iv) based on which ESCOSA considers it appropriate to make the determination;

(B) if ESCOSA proposes to make a primary rate cap determination that is to apply to councils generally for the relevant financial year, the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);

(C) any matter that the Minister directs ESCOSA to consider;

(D) any other matter considered relevant by ESCOSA; and
(ii) give the council a reasonable opportunity to make submissions in relation to the proposed determination.

(5) A primary rate cap determination does not have effect in relation to a capped year unless it is published in the Gazette—

(a) on or before 31 December in the financial year before the capped year; or

(b) on or before another date specified by ESCOSA by notice in the Gazette in the financial year before the capped year.

(6) A primary rate cap under a primary rate cap determination may be a positive or negative amount.

187F—Rate cap variation determinations

(1) ESCOSA may, on application by a council the subject of a primary rate cap determination applying to councils generally or a class of councils, make a determination specifying a varied rate cap (being a cap that is different from the primary rate cap applying to the council under the primary rate cap determination) for 1 or more specified financial years (up to a maximum of 5 years) (a rate cap variation determination).

(2) ESCOSA may only make a rate cap variation determination on an application under this section if satisfied that the varied rate cap is appropriate, having regard to—

(a) the matters set out in section 187G(2); and

(b) the council's record of compliance with any previous primary rate cap determination or rate cap variation determination; and

(c) whether requirements given by ESCOSA under section 29 of the Essential Services Commission Act 2002 relating to the council giving information relevant to the application (if any) have been complied with; and

(d) any matter that the Minister directs ESCOSA to consider; and

(e) any other matter determined by ESCOSA.

(3) If ESCOSA makes a rate cap variation determination under this section, ESCOSA must publish a notice in the Gazette specifying—

(a) the fact that a rate cap variation determination has been made; and

(b) the council to which the rate cap variation determination applies; and

(c) the varied rate cap applying under the rate cap variation determination (which may be the varied rate cap proposed by the council or another cap set by ESCOSA); and
(d) each financial year to which the varied rate cap applies.

(4) A varied rate cap under a rate cap variation determination may be a positive or negative amount.

187G—Rate cap variation determination applications

(1) An application by a council for a rate cap variation determination must—

(a) be made by—

(i) 31 March before the first capped year to which the application relates; or

(ii) by such other date fixed by ESCOSA by notice in the Gazette; and

(b) be made in the form and manner determined by ESCOSA; and

(c) be accompanied by the fee determined by ESCOSA, which must not exceed the reasonable costs of determining the application.

(2) The application must specify—

(a) the number of financial years (up to a maximum of 5 years) that the council proposes that it be subject to a rate cap variation determination; and

(b) the proposed varied rate cap for each specified financial year; and

(c) the reasons the council seeks a varied rate cap; and

(d) the community engagement process that has been undertaken by the council on the proposed varied rate cap; and

(e) the likely impact of the proposed varied rate cap on ratepayers, including their capacity and willingness to pay rates in accordance with the proposed varied rate cap; and

(f) whether consideration has been given to reprioritising proposed spending measures and alternative funding options and, if so, why those options are not adequate; and

(g) how the varied rate cap represents value for money for the council and its ratepayers and promotes the efficient use of council resources; and

(h) how the proposal is consistent with the council’s long term financial plan and infrastructure and asset management plan under Chapter 8 Part 1; and

(i) any other information required by ESCOSA.
(3) A council must, as soon as is reasonably practicable after making an application for a rate cap variation determination, publish a copy of the application (including any accompanying information and documents) on its website.

187H—Publication of Ministerial requests and directions

(1) If the Minister makes a request under section 187E(1), ESCOSA must publish a copy of the request on its website as soon as is reasonably practicable after its receipt.

(2) If the Minister gives—

(a) a direction under section 187E(3)(d) or (4)(b)(i)(C); or

(b) a direction under section 187F(2)(d),

ESCOSA must publish a copy of the direction on its website as soon as is reasonably practicable after its receipt.

187I—Council must notify ESCOSA of certain matters

(1) A council must not—

(a) change the basis on which rates are assessed against land under section 148; or

(b) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155,

unless the council notifies ESCOSA, in the manner and form determined by ESCOSA, of the proposal before 31 October of the year before the first financial year in which the change, rate or charge (as the case may be) is to apply.

(2) If a council notifies ESCOSA under subsection (1) of a—

(a) proposed change of a kind referred to in subsection (1)(a); or

(b) proposed rate or charge of a kind referred to in subsection (1)(b),

the council must provide ESCOSA with any information or document required by ESCOSA in relation to the change, rate or charge (as the case requires).

(3) A failure to comply with this section does not affect the validity of any of the following rates or charges recoverable under this Chapter (or any fine or interest relating to such rates or charges):

(a) a rate or charge assessed against land on a changed basis of a kind referred to in subsection (1)(a); or

(b) a separate rate, service rate or annual service charge of a kind referred to in subsection (1)(b).

187J—Compliance with rate cap determinations

(1) A council must comply with a primary rate cap determination.
(2) If a rate cap variation determination is made in respect of a council—
   (a) the rate cap variation determination applies to the council for the financial year or years specified in the determination (instead of the primary rate cap determination applying during that year or those years); and
   (b) the council must comply with the rate cap variation determination.

(3) A failure to comply with a primary rate cap determination or a rate cap variation determination does not affect the validity of any rate, charge, interest or fine recoverable under this Chapter in respect of the financial year in relation to which the failure occurred.

187K—Administration

(1) ESCOSA has such functions and powers as are necessary or expedient to give effect to this Part, including the following functions:
   (a) to monitor and review councils' compliance with this Part and, in particular, to monitor and review compliance with primary rate cap determinations and rate cap variation determinations;
   (b) to assess the effect of primary rate cap determinations and rate cap variation determinations on the provision of services and infrastructure by councils and the sustainability of the financial performance and position of councils;
   (c) to identify trends across the local government sector arising from the operation of primary rate cap determinations and rate cap variation determinations, and any other impacts arising from the operation of this Part.

(2) ESCOSA must, in relation to each financial year, give an annual report to the Minister on the compliance of councils with any primary rate cap determination and rate cap variation determination applying in that year.

(3) ESCOSA must prepare a biennial report on—
   (a) the matters referred to in subsection (1)(b) and (c); and
   (b) any other matter relating to the operation of this Part that ESCOSA considers appropriate.

(4) A report under subsection (3) must be given to the Minister within 3 months after the end of the second financial year to which the report relates.

(5) The Minister must cause a copy of a report given to the Minister under this section to be laid before both Houses of Parliament within 12 sitting days after receiving the report.
(6) ESCOSA may, as soon as is reasonably practicable after giving a report under this section to the Minister, publish a copy of the report on its website.

7—Amendment of section 273—Action on report

Section 273(1)—after paragraph (c) insert:

; or

(d) a report of ESCOSA under Chapter 10 Part 1A,

8—Amendment of section 303—Regulations

(1) Section 303(8a)—delete "additional"

(2) Section 303(8a)—delete "enactment of the Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015" and substitute:

amendment of this Act by another Act

9—Review

(1) The Minister responsible for the administration of the Local Government Act 1999 must cause a review of the operation of Chapter 10 Part 1A of that Act (as to be inserted into the Local Government Act 1999 by section 6 of this Act) to be conducted and a report on the results of the review to be prepared and submitted to the Minister.

(2) The review and report must be completed by 31 December 2023.

(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after receiving the report.
Explanatory Paper

Local Government (Rate Oversight) Amendment Bill 2018

June 2018
CONTENTS

Introduction ........................................................................................................................................ 2

Key elements of the Bill ..................................................................................................................... 2

Independent regulator ....................................................................................................................... 2

The provisions of the Bill .................................................................................................................... 3

Part 1 – Preliminary ........................................................................................................................ 3

Part 2 – Proposed amendment of Local Government Act 1999 .................................................. 3

  Clause 4—Amendment of section 3—Objects ............................................................................. 3
  Clause 5—Amendment of section 123—Annual business plans and budgets ....................... 3
  Clause 6—Insertion of Chapter 10 Part 1A ............................................................................... 3
  Clause 7—Amendment of section 273 — Action on report ..................................................... 7
  Clause 8 – Amendment of section 303 — Regulations ............................................................... 7
  Clause 9 – Review .................................................................................................................... 7
INTRODUCTION

The Local Government (Rate Oversight) Amendment Bill 2018 (the Bill) introduces a rate oversight scheme into the Local Government Act 1999 (the Act). This Explanatory Paper is intended to be read in conjunction with the Bill, to provide further details on the intent and application of the Bill’s provisions.

The Bill chiefly amends Chapter 10 of the Act to insert Part 1A—Rate oversight that provides for the establishment, operation and reporting of a system to cap annual increases in councils’ general rates.

KEY ELEMENTS OF THE BILL

The Bill provides a rate oversight framework that establishes three key elements—

1. **Primary rate cap determinations**: the establishment of a rate cap — provisions enabling a cap to be set, determining that the cap applies to council revenue recoverable from general rates, and providing for its calculation on an annual basis for all councils, classes of councils or particular councils.

2. **Variation applications**: setting out provisions that enable councils to apply for a variation of the rate cap, by demonstrating engagement with their community on a variation and that a variation is necessary within the context of the council’s operations and long term financial planning.

3. **Monitoring and reporting**: setting out provisions that enable monitoring and reporting on the rate oversight system, to ensure both compliance and understanding of the effect of rate oversight on councils.

INDEPENDENT REGULATOR

In accordance with the Government’s policy that the rate oversight system will be managed by an independent regulator, the Bill appoints the Essential Services Commission of South Australia (ESCOSA) as the body responsible for—

1. Making rate cap determinations.

2. Receiving and assessing applications from councils for variations on the rate cap.

3. Reporting on compliance and the outcomes of the system to the Minister on a regular basis.

It should be noted that while the Bill provides the statutory framework necessary for a rate oversight system, detail necessary for the operation of the system will be contained within guidance material produced by ESCOSA. This will include—

1. Guidance on compliance with the rate cap (including guidance on how councils should calculate annual rate revenue that incorporates the cap, the calculation of a council’s total annualised revenue).

2. Requirements for council applications for variations on the cap, and guidance on the assessment process for these applications.
3. Requirements for information and other material from councils to enable ESCOSA to undertake necessary monitoring and reporting.

THE PROVISIONS OF THE BILL

Part 1 – Preliminary

Part 1 of the Bill contains preliminary information about the short title of the Bill, commencement (the Act will come into operation on a day to be fixed by proclamation) and amendment provisions.

Part 2 – Proposed amendment of Local Government Act 1999

Part 2 of the Bill contains the substantive provisions to amend the Act.

Clause 4—Amendment of section 3—Objects

The Bill amends the objects of the Act, specifically section 3(f) of the Act to clarify that the objects of the Act are to encourage local government to provide appropriate services and facilities to meet the present and future needs of local communities while also ensuring that these are supported by appropriate financial contributions by ratepayers.

Clause 5—Amendment of section 123—Annual business plans and budgets

These clauses amends section 123(2) of the Act to ensure that an annual business plan and budget released by a council states that the council has applied for or has received a rate cap variation for that financial year, if this is the case.

Clause 6—Insertion of Chapter 10 Part 1A

This clause of the Bill proposes the inclusion of Part 1A to Chapter 10 of the Act — Rates and Charges. Accordingly, inserted sections 187C–187K of the Bill contain most of the detail of the rate oversight system.

187C — Objects of Part

The objects of the proposed Part 1A rate oversight clarify the purpose of the rate oversight system; namely to ensure that the financial contributions of ratepayers to the provision of services and infrastructure are subject to appropriate oversight (the cap) and also to ensure that a council has the financial capacity to perform its duties and exercise its powers (the ability of councils to apply for a variation on the cap).

187D — Interpretation

This section sets out definitions for the various terms and phrases used throughout the Bill.

Of particular note are the definitions (and formulas) of the terms ‘base standard rate’ and ‘capped standard rate’, which form the basis of the calculation of the cap each year by councils. This is explained further in the next section.
187E — Primary rate cap determination

This section stipulates that ESCOSA may, on its own initiative, or at the request of the Minister, make a ‘primary rate cap determination’ for each financial year – referred to below as the ‘the primary rate cap’.

The primary rate cap must be set by 31 December each year, or by another date set by ESCOSA in the South Australian Government Gazette (the Gazette). ESCOSA must also publish primary rate caps in the Gazette. A primary rate cap may apply to all councils, a class of councils, or a particular council.

Before determining a primary rate cap, ESCOSA must consider a range of matters. These include what the basis of the cap should be (which may be a relevant price or cost index), and whether the cap should include any form of efficiency or productivity element.

The Bill does not require ESCOSA to use a particular index—such as the Consumer Price Index (CPI) or the Local Government Price Index (LGPI)—as the basis for a primary rate cap. This is a matter of discretion for ESCOSA as the independent regulator.

Under the primary rate cap, councils’ capped standard rate for a specified financial year must not exceed the base standard rate by more than the primary rate cap specified in ESCOSA’s determination. In this context (as the formulas in section 187D sets out), the base standard rate is a nominal rate that is arrived at by dividing the total annualised revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June immediately before the financial year to be capped).

The intent of the application of the cap to the base standard rate, and the calculation of ‘total annualised revenue’ is to ensure that growth in rateable properties over the year prior to the capped year (the base year) are fully incorporated within the calculation of each year’s primary rate cap. This recognises that growth in rateable property numbers results in additional cost pressures for councils, and should ensure that growth councils do not have to apply for a variation on the rate cap for this to be recognised.

As noted above, section 187E(4) allows ESCOSA to make a primary rate cap determination that applies to a particular council. However, it is expected that ESCOSA would only set a primary rate cap for a council in particular circumstances, not as a usual practice. The Bill therefore proposes that ESCOSA may do this in response to non-compliance with the primary rate cap, in response to a council’s introduction of a service rate or charge or separate rate or use of other council fees and charges, or for any other reason that ESCOSA considers appropriate.

If ESCOSA is considering making a primary rate cap for a particular council, it must also give the council a reasonable opportunity to make submissions in relation to the proposed determination. If a council receives a primary rate cap under this section, that council may not apply for a variation of the cap (see section 187F(1)).
Explanatory Paper—Local Government (Rate Oversight) Amendment Bill 2018

187F — Rate cap variation determinations
Along with the setting of a primary rate cap, an ability for councils to apply for a variation on a primary rate cap is critical to achieving the objectives of the rate oversight system.

Section 187F therefore enables ESCOSA to receive and assess applications for a variation of a primary rate cap from councils that are subject to a primary rate cap that applies to all councils or a class of councils. Applications must be received by ESCOSA by 31 March of the year before the capped year, unless ESCOSA sets another date in the Gazette.

187G — Rate cap variation determination applications
While ESCOSA will act independently in its assessment of variation applications, the Bill proposes a number of criteria that ESCOSA must have regard to. These are set out in section 187G(2) and include matters that a council’s application must specify, such as—

- The council’s proposed varied rate cap, and what years council proposes that it applies to (this can be for a maximum period of up to five years).

- The reasons for the variation application.

- The community engagement process that the council has undertaken, to inform and engage with its community on the proposed variation. It is not intended that councils will have to demonstrate explicit community support (through polling or other measures); rather, that it must be clear that the council has made every effort to explain to its community the necessity for the variation, and that there is wide understanding of these reasons.

- The council’s views of the likely impact of the proposed variation on ratepayers, which may be informed by the community engagement process.

- How the council has considered alternatives to a variation, which may be the reprioritisation of spending, or the use of alternative funding mechanisms (including the appropriate use of debt, or of council reserves).

- How the variation represents value for money for the council and its ratepayers, and promotes the efficient use of council resources. This reflects the expectation that councils should seek to make efficiencies across their operations before seeking a variation.

- How the proposal is consistent with the council’s long term financial plan and infrastructure and asset management plan. All South Australian councils are required to have these plans in place, and they will be a critical component of an application for a variation as clear demonstrations of a council’s need for additional revenue.

Councils will also be required to publish their application for variation on their website.
187H — Ministerial requests and directions

While the Bill proposes that the rate oversight system is managed by an independent regulator (ESCOSA), the Minister can direct ESCOSA to consider a matter when ESCOSA is considering—

- A primary rate cap determination that will apply to a particular council: section 187E(4)(b)(i)(C).
- Applications for a rate cap variation determination: section 187F(2)(d).

Additionally, the Minister may request ESCOSA to determine a primary rate cap under section 187E(1).

While the Minister may request or direct ESCOSA to consider matters in these circumstances, ESCOSA will maintain its discretion as to whether to act. Section 187H also requires ESCOSA to publish copies of any Ministerial request direction on its website, to ensure the appropriate level of transparency.

187I — Council must notify ESCOSA of certain matters

Under the Act, councils have four main sources of revenue: general rates (declared under section 153 of the Act); separate rates (section 154 of the Act); service rates and charges (section 155 of the Act); and fees and charges (section 188 of the Act).

The rate oversight system proposes that a primary rate cap would apply to general rates only. This recognises that both separate rates and service rates and charges are already restrained within the Act, as they can only raise sufficient revenue to cover the cost of the relevant purpose or prescribed service.

Councils will be required to inform ESCOSA if they are planning to introduce a separate rate or a service rate or charge. ESCOSA may then consider the application of a primary rate cap for that council, if ESCOSA are of the view that this is needed to prevent an effective rate increase above the cap.

As is noted above, ESCOSA also has the ability to consider a primary rate cap for a particular council if ESCOSA is of the view that a council is utilising the application of fees and charges under section 188 of the Act unreasonably.

Additionally, councils will be required to notify ESCOSA if they plan to change their basis of rating from rating on title to rating on occupancy, or vice versa, as this may have a material impact on the calculation of the rate cap for that council.

187J — Compliance with rate cap determination

This section requires councils’ compliance with any rate cap determination made by ESCOSA. The Bill also proposes an amendment to section 273 of the Act, to enable the Minister to take action on a report made by ESCOSA under this Chapter 10 Part 1A of the Act.
It is therefore anticipated that the Minister would make recommendations or directions to a council in instances of non-compliance, and, if the non-compliance is sufficiently serious, to recommend to the Governor that the council be declared defaulting.

187K — Administration

This section provides ESCOSA with powers to perform the functions that ESCOSA will be responsible for in the rate oversight system. Additionally, ESCOSA will be required to—

- Monitor and review councils’ compliance with the system; and make annual reports to the Minister on this compliance.

- Assess the effect of rate capping (both the primary rate cap and variations) on councils, and identify any trends that may arise from the application of the rate oversight system across local government. ESCOSA will make a report on these matters to the Minister every two years.

Reports received by the Minister from ESCOSA must be laid before the Houses of Parliament, and may also be published on ESCOSA’s website.

Clause 7—Amendment of section 273 — Action on report

As noted in the discussion on section 187J, this clause amends section 273 of the Act to include ESCOSA as a body that can make reports that may result in Ministerial action towards a council.

Clause 8 – Amendment of section 303 — Regulations

This amends the Act to enable regulations to be made that may be necessary to deal with saving or transitional matters related to this Bill.

Clause 9 – Review

This clause requires the Minister responsible for the Local Government Act to review the legislation that establishes the rate oversight system before 31 December 2023 (expected to be after five years of the operation of the legislation).
Rate Oversight Bill

Analysis of Bill and System
Rate Oversight Bill

Legislation construction:

1. Amends Chapter 10 of the Local Government Act
2. Establishes an independent regulator
3. Establishes the capping and calculation method
4. Creates a system to seek variation to the cap
5. Introduces new monitoring and reporting requirements
Rate Oversight Bill

**Independent Regulator**
- Will be ESCOSA
- Role is to:

1. Set the rate cap (called the primary rate cap determination) by December each year to apply to the following rating year
2. Receive and assess applications from Councils for variations to the rate cap which need to be made by March prior to the following rating year
3. Report on compliance and outcomes to the Minister

- Requires guidance material to be generated by ESCOSA on calculation of the rate cap, making applications for variation, provision of information and materials
- Must consider relevant indexes and if a productivity/efficiency element should be applied

**Issues foreseen at this stage** – independent regulator: unknown guidelines and regulations, resourcing of ESCOSA who pays for it
Rate Oversight Bill

The Rate Cap

- Can apply to all, a class of or a single Council
- Applies to only general rates, not service charges/rates, separate rate, fees and charges
- Rates for the relevant year cannot exceed the “capped standard rate”.
- Calculation:

**Step 1 Establish the “base standard rate”**

Total rate revenue (for the current year) divided by number of rateable assessments on 30 June
**Rate Oversight Bill**

**Step 2 Establish the “capped standard rate”**

Base standard rate (or totally annualised rate revenue) multiplied by the rate cap for 1 July (the following rating year)

**Step 3 Establish the maximum rate revenue**

Multiply the base standard rate by rate cap and then by the number of rateable assessments (the Bill describes this slightly differently but achieves the same result)

**Step 4 Determine differential rates to raise the maximum rate revenue**

No change from current processes

See spreadsheet for some scenarios.
Issues foreseen at this stage – rate cap:

1. Growth only includes additional properties no allowance for change of land uses/development of land to high and better use (and demands that can place on resourcing/cost)
2. Budgeting timeframes are going to need to change as budgets need to be practically complete at least 6 weeks earlier
3. Staff resourcing to achieve 2
Rate Oversight Bill

Variation Process

- Need to be made by 31 March prior to the effective rate year
- Can be for up to 5 years
- Process will be determined by ESCOSA guidelines (have been assured it will be a simple process unlike what has been seen in eastern states) but will include:
  - Amount
  - Community engagement
  - Impact on ratepayers
  - Consideration given to re-prioritisation/alternative funding
  - How the cap represents value for money
  - How it is consistent with the Long Term Financial Plan.
- ESCOSA will assess
- Application fee applicable – recovery of cost of assessment
Rate Oversight Bill

Issues foreseen at this stage – variation process:

1. Budgeting timeframes are going to need to change as budgets need to be practically complete at least 6 weeks earlier if a deadline to make an application by 31 March will be made – practically it is earlier than this as community engagement must occur. It is likely that variations may need to be thought of 12 months prior not in the construction of the relevant years budget, this will probably require a rolling 2 year budget process
2. Staff resourcing to achieve 1
3. Unknown fee and the required process documentation levels
Rate Oversight Bill

Other Matters

• Minister can direct ESCOSA to consider certain issues; a rate cap generally, a rate cap for a particular Council, applications for a rate cap variation
• Council must notify ESCOSA if:
  • It proposes to introduce a separate rate or service charge or rate
  • The basis of rating (rating on title to rating on occupancy) – this is extremely unlikely to occur for Barossa
• Must comply with the rate cap or Minister can take action under new provisions in Section 273 (recommend, direct or dissolve Council)
• ESCOSA must report to Minister compliance and effects

Issues foreseen at this stage – other matters:

Nil
### Rate Cap - Rough Modelling for Council Workshop - Subject to Further Analysis

**Scenario 1 - CPI Only**

<table>
<thead>
<tr>
<th>Base Year</th>
<th>2018/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Rate Income</td>
<td>25,624,173</td>
</tr>
<tr>
<td>Average Growth (rateable properties)</td>
<td>0.70%</td>
</tr>
<tr>
<td>Rateable Properties</td>
<td>12,744</td>
</tr>
<tr>
<td>Base Standard Rate</td>
<td>$ 2,010.69</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>LTFP - Rates</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
</tr>
<tr>
<td>LTFP - Growth</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
</tr>
</tbody>
</table>

| General Rates Revenue Forecast | 26,521,019 | 27,449,255 | 28,409,979 | 29,404,328 | 30,433,479 | 31,498,651 | 32,601,104 | 33,742,143 | 34,923,118 | 36,145,427 |
| Rateable Properties | 12,744 | 12,923 | 13,014 | 13,105 | 13,196 | 13,289 | 13,382 | 13,475 | 13,570 | 13,665 |
| Base Standard Rate | 2,011 | 2,057 | 2,104 | 2,153 | 2,202 | 2,253 | 2,305 | 2,358 | 2,412 | 2,467 |
| Rate Cap (CPI) | 2.30% | 2.30% | 2.30% | 2.30% | 2.30% | 2.30% | 2.30% | 2.30% | 2.30% | 2.30% |
| Growth on rateable properties | 0.70% | 0.70% | 0.70% | 0.70% | 0.70% | 0.70% | 0.70% | 0.70% | 0.70% | 0.70% |
| Capped Standard Rate | 2,057 | 2,104 | 2,153 | 2,202 | 2,253 | 2,305 | 2,358 | 2,412 | 2,467 | 2,524 |
| Rateable Properties | 12,833 | 12,923 | 13,014 | 13,105 | 13,196 | 13,289 | 13,382 | 13,475 | 13,570 | 13,665 |

| General Rates Revenue Capped | 26,397,024 | 27,193,184 | 28,013,358 | 28,858,269 | 29,728,663 | 30,625,309 | 31,548,999 | 32,500,549 | 33,480,798 | 34,490,612 |
| Capped % Increase | 2.9% | 2.5% | 2.0% | 1.6% | 1.1% | 0.6% | 0.2% | -0.3% | -0.8% | -1.3% |

| Annual Change | -123,995 | -256,070 | -396,621 | -546,059 | -704,816 | -873,342 | -1,052,105 | -1,241,594 | -1,442,320 | -1,654,815 |

| What if it was a hard cap on revenue raised | 26,213,529 | 26,816,440 | 27,433,218 | 28,064,182 | 28,709,658 | 29,369,981 | 30,045,490 | 30,736,536 | 31,443,477 | 32,166,677 |
### Savings Required - Flat Rate

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
</table>
| Year 1 | 740,250  
740,250  
740,250  
740,250  
740,250  
740,250  
740,250  
740,250  
740,250  
740,250  |
| Year 2 | 758,756  
758,756  
758,756  
758,756  
758,756  
758,756  
758,756  
758,756  
758,756  
758,756  |
| Year 3 | 777,725  
777,725  
777,725  
777,725  
777,725  
777,725  
777,725  
777,725  
777,725  
777,725  |
| Year 4 | 797,168  
797,168  
797,168  
797,168  
797,168  
797,168  
797,168  
797,168  
797,168  
797,168  |
| Year 5 | 817,097  
817,097  
817,097  
817,097  
817,097  
817,097  
817,097  
817,097  
817,097  
817,097  |
| Year 6 | 837,525  
837,525  
837,525  
837,525  
837,525  
837,525  
837,525  
837,525  
837,525  
837,525  |
| Year 7 | 858,463  
858,463  
858,463  
858,463  
858,463  
858,463  
858,463  
858,463  
858,463  
858,463  |
| Year 8 | 879,925  
879,925  
879,925  
879,925  
879,925  
879,925  
879,925  
879,925  
879,925  
879,925  |
| Year 9 | 901,923  
901,923  
901,923  
901,923  
901,923  
901,923  
901,923  
901,923  
901,923  
901,923  |
| Year 10 | 924,471  |

### Total

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
</table>
| 740,250  
1,499,006  
2,276,731  
3,073,900  
3,890,997  
4,728,522  
5,586,985  
6,466,910  
7,368,833  
8,293,303  |

### Net

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
</table>
| 616,255  
1,118,940  
1,500,045  
1,751,154  
1,863,435  
1,827,618  
1,633,977  
1,272,307  
731,910  
1,566  |

### Savings Required - Annual Requirement

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
</table>
| Year 1 | 124,000  
253,000  
387,500  
526,500  
671,500  
823,000  
979,500  
1,142,500  
1,312,500  |
| Year 2 | 127,100  
259,325  
397,188  
539,663  
688,288  
843,575  
1,003,988  
1,171,063  |
| Year 3 | 130,278  
265,808  
407,117  
553,154  
705,495  
864,664  
1,029,087  
1,171,063  |
| Year 4 | 133,534  
272,453  
417,295  
566,983  
723,132  
886,281  
1,029,087  
1,200,339  |
| Year 5 | 136,873  
279,265  
427,727  
581,157  
741,210  |
| Year 6 | 140,295  
286,246  
438,421  
595,686  |
| Year 7 | 143,802  
293,402  
449,381  |
| Year 8 | 147,397  
300,737  
460,616  |
| Year 9 | 151,082  
308,256  
561,579  |
| Year 10 | 154,859  |

### Total

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
</table>
| 124,000  
380,100  
777,103  
1,323,030  
2,027,606  
2,901,296  
3,953,328  
5,194,662  
6,637,028  
8,293,303  |

### Net

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
</table>
| 5  
34  
416  
285  
44  
392  
320  
59  
106  
217  |
# Rate Cap - Rough Modelling for Council Workshop - Subject to Further Analysis

<table>
<thead>
<tr>
<th>Base Year</th>
<th>2018/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Rate Income</td>
<td>25,624,173</td>
</tr>
<tr>
<td>Average Growth (rateable properties)</td>
<td>0.70%</td>
</tr>
<tr>
<td>Rateable Properties</td>
<td>12,744</td>
</tr>
<tr>
<td>Base Standard Rate</td>
<td>$ 2,010.69</td>
</tr>
</tbody>
</table>

## Scenario 2 - Mid Point - CPI and LGPI

### Base Year 2018/19

- **General Rate Income**: 25,624,173
- **Average Growth (rateable properties)**: 0.70%
- **Rateable Properties**: 12,744
- **Base Standard Rate**: $ 2,010.69

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>LTFP - Rates</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
<td>2.5%</td>
</tr>
<tr>
<td>LTFP - Growth</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
</tr>
</tbody>
</table>

### General Rates Revenue Forecast

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Rateable Properties</td>
<td>12,744</td>
<td>12,923</td>
<td>13,014</td>
<td>13,105</td>
<td>13,196</td>
<td>13,289</td>
<td>13,382</td>
<td>13,475</td>
<td>13,570</td>
<td>13,665</td>
</tr>
<tr>
<td>Base Standard Rate</td>
<td>2,011</td>
<td>2,066</td>
<td>2,123</td>
<td>2,181</td>
<td>2,241</td>
<td>2,303</td>
<td>2,366</td>
<td>2,431</td>
<td>2,498</td>
<td>2,567</td>
</tr>
<tr>
<td>Rate Cap (CPI)</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
<td>2.75%</td>
</tr>
<tr>
<td>Growth on rateable properties</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
<td>0.70%</td>
</tr>
<tr>
<td>Capped Standard Rate</td>
<td>2,066</td>
<td>2,123</td>
<td>2,181</td>
<td>2,241</td>
<td>2,303</td>
<td>2,366</td>
<td>2,431</td>
<td>2,498</td>
<td>2,567</td>
<td>2,637</td>
</tr>
<tr>
<td>Rateable Properties</td>
<td>12,833</td>
<td>12,923</td>
<td>13,014</td>
<td>13,105</td>
<td>13,196</td>
<td>13,289</td>
<td>13,382</td>
<td>13,475</td>
<td>13,570</td>
<td>13,665</td>
</tr>
</tbody>
</table>

### General Rates Revenue Capped

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Capped % Increase</td>
<td>3.4%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
<td>3.3%</td>
</tr>
<tr>
<td>What if it was a hard cap on revenue raised</td>
<td>26,328,838</td>
<td>27,052,881</td>
<td>27,796,835</td>
<td>28,561,248</td>
<td>29,346,682</td>
<td>30,153,716</td>
<td>30,982,943</td>
<td>31,834,974</td>
<td>32,710,436</td>
<td>33,609,973</td>
</tr>
<tr>
<td>Change</td>
<td>-192,181</td>
<td>-396,374</td>
<td>-613,144</td>
<td>-843,080</td>
<td>-1,086,797</td>
<td>-1,344,935</td>
<td>-1,618,161</td>
<td>-1,907,168</td>
<td>-2,212,682</td>
<td>-2,535,454</td>
</tr>
</tbody>
</table>
**Savings Required - Flat Rate**

| Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   | Year  | Flat Rate   |
|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------------|
|       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |
| Year  |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |       |             |
| 1     | 47,750      | 2     | 48,944      | 3     | 50,167      | 4     | 51,422      | 5     | 52,707      | 6     | 54,025      | 7     | 55,375      | 8     | 56,760      | 9     | 58,179      | 10    | 59,633      |
| 2     | 47,750      | 4     | 48,944      | 5     | 50,167      | 6     | 51,422      | 7     | 52,707      | 8     | 54,025      | 9     | 55,375      | 10    | 56,760      | 11    | 58,179      |
| 3     | 47,750      | 6     | 48,944      | 7     | 50,167      | 8     | 51,422      | 9     | 52,707      | 10    | 54,025      | 11    | 55,375      | 12    | 56,760      | 13    | 58,179      |
| 4     | 47,750      | 8     | 48,944      | 9     | 50,167      | 10    | 51,422      | 11    | 52,707      | 12    | 54,025      | 13    | 55,375      | 14    | 56,760      | 15    | 58,179      |
| 5     | 47,750      | 10    | 48,944      | 11    | 50,167      | 12    | 51,422      | 13    | 52,707      | 14    | 54,025      | 15    | 55,375      | 16    | 56,760      | 17    | 58,179      |
| 6     | 47,750      | 12    | 48,944      | 13    | 50,167      | 14    | 51,422      | 15    | 52,707      | 16    | 54,025      | 17    | 55,375      | 18    | 56,760      | 19    | 58,179      |
| 7     | 47,750      | 14    | 48,944      | 15    | 50,167      | 16    | 51,422      | 17    | 52,707      | 18    | 54,025      | 19    | 55,375      | 20    | 56,760      | 21    | 58,179      |
| 8     | 47,750      | 16    | 48,944      | 17    | 50,167      | 18    | 51,422      | 19    | 52,707      | 20    | 54,025      | 21    | 55,375      | 22    | 56,760      | 23    | 58,179      |
| 10    | 47,750      | 20    | 48,944      | 21    | 50,167      | 22    | 51,422      | 23    | 52,707      | 24    | 54,025      | 25    | 55,375      | 26    | 56,760      | 27    | 58,179      |

**Total**

<table>
<thead>
<tr>
<th>Flat Rate</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>47,750</td>
<td>96,694</td>
<td>146,861</td>
<td>198,283</td>
<td>250,990</td>
<td>305,014</td>
<td>360,390</td>
<td>417,150</td>
<td>475,328</td>
<td>534,961</td>
<td></td>
</tr>
</tbody>
</table>

**Net**

<table>
<thead>
<tr>
<th>Flat Rate</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>39,871</td>
<td>72,506</td>
<td>97,359</td>
<td>113,852</td>
<td>121,377</td>
<td>119,293</td>
<td>106,928</td>
<td>83,573</td>
<td>48,481</td>
<td>869</td>
<td></td>
</tr>
</tbody>
</table>

**Savings Required - Annual Rate**

<table>
<thead>
<tr>
<th>Year 1</th>
<th>8,000</th>
<th>8,200</th>
<th>8,405</th>
<th>8,615</th>
<th>8,831</th>
<th>9,051</th>
<th>9,278</th>
<th>9,509</th>
<th>9,747</th>
<th>9,991</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 2</td>
<td>16,000</td>
<td>16,400</td>
<td>16,810</td>
<td>17,230</td>
<td>17,661</td>
<td>18,103</td>
<td>18,555</td>
<td>19,019</td>
<td>19,494</td>
<td></td>
</tr>
<tr>
<td>Year 3</td>
<td>25,000</td>
<td>25,625</td>
<td>26,266</td>
<td>26,922</td>
<td>27,595</td>
<td>28,285</td>
<td>28,929</td>
<td>29,717</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 4</td>
<td>33,500</td>
<td>34,338</td>
<td>35,196</td>
<td>36,076</td>
<td>36,978</td>
<td>37,902</td>
<td>38,850</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 5</td>
<td>43,000</td>
<td>44,075</td>
<td>45,177</td>
<td>46,306</td>
<td>47,464</td>
<td>48,651</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 6</td>
<td>53,000</td>
<td>54,325</td>
<td>55,683</td>
<td>57,075</td>
<td>58,502</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 7</td>
<td>63,500</td>
<td>65,088</td>
<td>66,715</td>
<td>68,383</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 8</td>
<td>73,500</td>
<td>75,338</td>
<td>77,221</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 9</td>
<td>85,000</td>
<td>87,125</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year 10</td>
<td>96,500</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total**

<table>
<thead>
<tr>
<th>Annual Rate</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>8,000</td>
<td>24,200</td>
<td>49,805</td>
<td>84,550</td>
<td>129,664</td>
<td>185,905</td>
<td>254,053</td>
<td>333,904</td>
<td>427,252</td>
<td>534,433</td>
<td></td>
</tr>
</tbody>
</table>

**Net**

<table>
<thead>
<tr>
<th>Annual Rate</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
<tbody>
<tr>
<td>121</td>
<td>13</td>
<td>303</td>
<td>120</td>
<td>51</td>
<td>185</td>
<td>592</td>
<td>328</td>
<td>405</td>
<td>341</td>
<td></td>
</tr>
</tbody>
</table>

451
**Base Year**
2018/19

**General Rate Income**
25,624,173

**Average Growth (rateable properties)**
0.70%

**Rateable Properties**
12,744

<table>
<thead>
<tr>
<th>Base Standard Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 2,010.69</td>
</tr>
</tbody>
</table>

### Scenario 3 - LGPI

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>LTFP - Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LTFP - Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0%</td>
</tr>
</tbody>
</table>

### General Rates Revenue Forecast

<table>
<thead>
<tr>
<th>Rateable Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>26,521,019</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Base Standard Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,011</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rate Cap (CPI)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.20%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Growth on rateable properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.70%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Capped Standard Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,075</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rateable Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>26,629,256</td>
</tr>
</tbody>
</table>

### General Rates Revenue Capped

<table>
<thead>
<tr>
<th>Capped % Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.8%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Annual Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>108,237</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cumulative Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>108,237</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What if it was a hard cap on revenue raised</th>
</tr>
</thead>
<tbody>
<tr>
<td>26,444,147</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>-76,873</td>
</tr>
</tbody>
</table>
Notice of Meeting

Notice is hereby given that a LGA Special General Meeting will be held on

Friday 13 July 2018 at 12.30pm

In the Adelaide Town Hall
128 King William Street, Adelaide

Matt Pinnegar
Chief Executive Officer

5 July 2018
# Agenda

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Open &amp; Welcome</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Apologies</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Notice &amp; Arrangements</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Discussion Reports from the LGA Board</td>
<td>3</td>
</tr>
<tr>
<td>4.1</td>
<td>Local Government (Rate Oversight) Amendment Bill 2018</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Next Meeting</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The LGA Annual General Meeting will be held on Friday 26 October 2018 at Adelaide Entertainment Centre, 98 Port Road Hindmarsh.</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Close</td>
<td></td>
</tr>
</tbody>
</table>
4.1 Local Government (Rate Oversight) Amendment Bill 2018

Discussion Reports from the LGA Board

From: Matt Pinnegar, Chief Executive Officer
Key Initiative: K.I 1 Leadership and advocacy
Strategy: 1B Contribute to state-wide and local policy
Meeting: Special General Meeting 13 July 2018
ECM: 662513
Attachment: 661596, 659207, 662329

Recommendation

That the Special General Meeting

1. notes the report;

2. notes the policy position unanimously adopted by LGA Members at the 2016 Ordinary General Meeting that decisions concerning council rates are better informed, and the impacts better understood, when made by the respective councils in consultation with their communities;

3. requests that all South Australian councils carefully review the Local Government (Rate Oversight) Amendment Bill 2018 and advise the Local Government Association by Friday 3 August 2018 of the council’s endorsed position based on the following options:
   a. Council supports the Local Government (Rate Oversight) Amendment Bill 2018; or
   b. Council opposes the Local Government (Rate Oversight) Amendment Bill 2018.

4. supports the LGA using best endeavours to secure the best possible outcome for local government and the communities they serve and requests that councils provide to the LGA a list of the priority issues, amendments and concessions they would seek to address in the LGA’s discussions with political parties about this rate capping legislation;

5. notes that the Local Government Association Board will hold a special meeting to consider the endorsed positions of member councils; and

6. notes that the LGA Board will consider the matter on the basis of both a ‘one vote, one value’ counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings). The Board will also use identified criteria to inform and resolve a position.

Discussion

The state government introduced the Local Government (Rates Oversight) Amendment Bill 2018 in the House of Assembly on 20 June 2018 following a Liberal Party election commitment to introduce rate capping legislation in the Parliament within their first 100 days of government.
Rate capping became a policy of the Liberal Party (SA Branch) in 2014. The LGA has undertaken extensive research on council rate capping policies and their impacts in other jurisdictions. On the basis of the evidence that rate capping results in negative impacts on communities, a majority of LGA member councils have consistently voted to oppose the introduction of rate capping in South Australia.

As a result of this sector-wide policy position, the LGA has undertaken a range of advocacy, policy and reform activities to highlight the problems with rate capping while developing alternative reforms that will deliver benefits and value for communities. These activities are summarised within this report.

This report also provides analysis of the Local Government (Rates Oversight) Amendment Bill 2018 and identifies some of the key issues that councils are encouraged to consider in developing a position on this proposed legislation.

It is not intended that councils will make a decision at this Special General Meeting about their position on the proposed legislation. Rather, the intent of this meeting is to discuss a suite of options that can be formally considered by members at their council meetings to make an informed decision about whether to accept or reject this rate capping legislation.

**Background**

The following commentary provides an overview of key events and issues in recent years.

- Rate capping was first proposed by the Liberal Party prior to the 2014 State Election. On the basis of a long standing existing LGA policy that ‘State Governments must not interfere with the autonomy of Local Government by imposing limits on rating’, the LGA publicly opposed this policy and has been consistent in opposing rate capping.
- In May 2015, there was a Parliament of South Australia Economic and Finance Committee Inquiry into Rate Capping. The LGA, and a number of councils, made submissions and gave evidence to the inquiry highlighting the negative impacts that rate capping has had on communities and councils interstate.
- The South Australian Economic and Finance Committee handed down its final report in July 2016 and its recommendation was that councils should continue to set rates after full consultation with their communities and that rate capping should not be introduced in South Australia. The Liberal Party members of the Committee handed down a minority report in support of their pre-election commitment to introduce rate capping.
- The former Shadow Minister for Local Government, Steven Griffiths MP introduced a Private Members Bill into the Parliament in March 2016 for a rate capping system in South Australia. The Bill was defeated in the House of Assembly after being opposed by the Labor Government on the basis that rate capping is poor public policy and the Bill lacked merit.
- In 2017, the Liberal Party again tried to introduce a rate capping scheme by proposing amendments to the Local Government (Boundary Adjustment) Amendment Bill. The proposed amendments were not allowed to be introduced on the basis that they did not relate to the primary subject of the Bill.
- The Liberal Party formed a majority government following the March 2018 State Election and has followed through on their commitment to introduce rate capping legislation in the Parliament within their first 100 days of Government.
- Legislation that is not supported by the Opposition will require the support of 3 out of 5 crossbench members in the Legislative Council. Labor, SA-BEST and the Greens took an anti-rate capping policy to the 2018 state election.
LGA Advocacy

With support from the majority of members, the LGA launched a three-phase, sector-wide campaign in December 2016 to raise awareness of the services provided by councils, how they contribute to the everyday life of South Australians, and the risks to local services and local decision making from rate capping. This campaign followed the unanimous vote of the LGA members present at the Ordinary General Meeting held in April 2016 to oppose rate capping and a formal resolution by some 50 councils to support an LGA-led public campaign against rate capping.

Policy and Reform

As reported to members at the Ordinary General Meeting in November, the LGA has undertaken extensive research to provide an evidence base to policy positions and reform options relating to rate capping. This work has informed the development of advocacy through submissions, correspondence and media. The numerous actions undertaken by the LGA are summarised as follows:

- LGA submission to the South Australian Parliament’s Economic and Finance Committee Inquiry into Rate Capping (2015);
- Collecting evidence into the impact of rate capping in New South Wales and Victoria, including reports of the Parliament of Victoria’s Environment and Planning Committee Inquiry into the Rate Capping Policy;
- Research and third-party reports such as the Empirical Assessment of the Impact of Rate-Pegging on South Australian Local Government (Dollery) report. This report found that SA local government (without rate-capping) has performed much better than NSW (with rate-capping) and concluded that there is no practical basis for introducing rate-capping into SA local government;
- A comparative study of fees and charges applied by councils in Victoria and New South Wales with those applied by South Australian councils;
- A 10-year data study of council rates in South Australia. This data shows that while on average the increase in council rates was higher than CPI or LGPI, the average rate per property was well below price index trends prior to 2010. This suggests that some councils were conservatively rating between 2005 and 2010;
- Scoping, consulting on and promoting a local government reform package as part of the LGA’s state election campaign, to provide a sensible alternative to rate capping;
- Analysis of the SA Liberal Party’s rate capping policy and failed 2016 Bill to amend the Local Government Act 1999, including third party analysis by local government academic, Dr Joseph Drew from the University of Technology Sydney;
- Creation of a rate capping information page on the LGA website to provide a one-stop-shop for information relating to policy;
- Presentation by Municipal Association of Victoria (MAV) Vice President Cr David Clark at the 2017 LGA Conference on rate capping in Victoria and its impact on councils;
- Panel session at the 2017 LGA Conference with party leaders and cross-bench members all confirming their opposition to rate capping;
- Multiple briefings to all political parties on the negative impacts of rate capping in communities;
- Correspondence to party leaders and candidates in the 2018 State Election on rate capping and cost shifting, including an informative and evidence-based rate capping information pack;
• Correspondence to all political parties seeking commitments on the future of discretionary council services under a future rate capping regime. These letters also highlight the impact of cost shifting on councils and rate payers;
• Correspondence to the Federal government to highlight the additional pressure that state government imposed rate capping policies place on federal resources;
• A motion developed with the City of Maribyrnong (Victoria) to condemn rate capping policies passed by the ALGA National General Assembly including a photo opportunity with councils from around Australia uniting to oppose council rate capping with the ‘don’t cap our communities’ message;
• Briefing papers on local government rate setting provided to every electorate office in South Australia in 2017 with the offer for electorate staff to meet with LGA staff for further information; and
• Correspondence, meetings and discussions with key stakeholder groups that would be impacted by the introduction of rate capping in South Australia.

South Australia Economic and Finance Committee Inquiry

As outlined previously in this report, the Parliament of South Australia’s Economic and Finance Committee initiated an inquiry into Local Government Rate Capping policies in 2015. Submissions were made by 11 South Australian councils and the Local Government Association. A copy of the LGA’s submission can be downloaded here.

Local Government Submissions

Some of the key issues raised by local government in submissions and evidence to the Inquiry included the following:

Local democracy means local decision making

• Council members are elected by the community to make local decisions, and the community holds them to account through the democratic council elections process.
• Setting rates in consultation with the community is the most important local decision made by councils each year.
• Councils work with their communities to strike a balance between expenditure, revenue and service standards.
• Any externally imposed rate cap will reduce a Council’s capacity to get this balance right.
• Handing decision making to an un-elected state-wide regulator diminishes local democracy and local decision making.

Rate capping risks declining service standards and intergenerational cost shifting

• Councils raise sufficient revenue to pay for the services and facilities expected by (and used by) the current generation; and comply with State and Federal Government legislation, policy and other requirements.
• Without access to sufficient revenue to meet community needs and preferences for services, councils would have to either:
  o Reduce or cut funding for community services, including maintenance of infrastructure; e.g. lower-quality roads; and/or
  o defer part-payment to future generations;
• Some pressures are totally outside councils’ control. Legislation continually imposes either greater costs on councils, and/or restrains councils’ power to charge fees to effect cost recovery for mandated legislated activities.
Rate capping increases red tape and does not improve cost of living

- In NSW (and now Victoria also) rate capping comes at a significant cost to councils and involves complexity, costs and constraints at both council and State level to administer.
- The Independent Local Government Review Panel (NSW) reported that as a result of rate capping the financial sustainability of many Councils and their capacity to deliver community services had declined, and a significant number were near crisis point.
- In an environment of increasing cost pressures and community demand, councils interstate have increased rate-cap exempt fees and charges to cope with the impacts of the rate cap. This does not improve the cost of living for communities.

Final report

The Committee handed down its final report in July 2016, which included the following four (4) recommendations:

1. Local Councils retain full authority to set their own rates and that no rate cap be introduced;
2. Local Councils continue to set rates after full consultation with their communities;
3. Councils be subject to a thorough auditing process under the auspices of the Auditor-General, consistent with section 36 of the Public Finance and Audit Act 1987; and
4. Councils be required to publish, on an annual basis, these audits.

Appended to the report was a contrasting minority report authored by David Speirs MP, Stephan Knoll MP, and Vincent Tarzia MP. The minority report featured only a single recommendation:

1. That a local government rate capping regime be introduced in South Australia to reduce cost pressures on households and property owners.

The minority report dismissed the evidence of numerous witnesses about the negative effect of rate-capping in New South Wales, and the financial sustainability of local government in South Australia.

In supporting their case, the minority report assigned more contemporary weight to three reports:

- the (2005) report of South Australia’s Financial Sustainability Review Board (FSRB) “Rising to the Challenge”

These reports all pre-dated financial sustainability reforms introduced in South Australia in 2006-07, and subsequently in other States, to address what was, at the time, the relatively inconsistent financial sustainability of local government.

Both the Financial Sustainability Review Board and Price Waterhouse Coopers reports effectively laid the groundwork for what became a significant reform and enhancement of local government financial and asset management across Australia.
Further Research- Impacts in Victoria and NSW

Since the 2015 Economic and Finance Committee submission was made, the LGA has continued to research the impacts of rate capping in Victoria and NSW to understand what a rate capping policy would mean for South Australian communities.

A summary of this research is attached to this report (ECM 661596), and includes information regarding:

- the caps that have been applied interstate and how they are calculated
- the cost of administering rate capping interstate
- services and programs that have been cut or reduced by Victorian councils as a result of rate capping
- considerations of the Parliament of Victoria’s Inquiry into Rate Capping Policy
- the 2017 report by Professor Brian Dollery, ‘An Empirical Assessment of the Impact of Rate-Pegging on South Australian Local Government’, which concluded that:
  1. There is no evidence to suggest that rate-capping will increase efficiency at councils
  2. Rate-capping leads to a decline in financial sustainability of councils
  3. SA councils perform better than NSW local government on three key issues:
     - Reliance on rate revenue as income
     - Financial sustainability
     - Efficiency

This research has been used by the LGA to inform discussions with political parties and stakeholders about the lack of public policy merit and potential risks of rate capping being introduced in South Australia.

Local Government Reform- Alternative Options

While the LGA’s policy position has consistently been to oppose rate capping, this should not be mistaken as opposition to reform in local government. The LGA has worked with member councils to identify opportunities to address community expectations about strengthening and enhancing transparency, accountability and engagement.

The LGA advocated during the state election campaign for sensible local government reforms that will have a positive impact on communities. These reforms include:

- Implementing a state-wide benchmarking program
- Ensuring high standards from elected members through a stronger code of conduct
- Giving broader responsibilities to more independent, skills-based audit committees
- Implementing measures to ensure that council’s external audits are undertaken in a consistent manner and to a consistent standard
- Introducing a revenue policy to build community awareness of how council will raise the revenue required to fund community services and facilities
- Implementing a best practice service review process for councils to regularly review the costs and standards of the services provided to communities
- Implementing a sector-wide industrial relations framework to reduce duplicated costs and effort
- Supporting new processes for considering councils boundary changes and reviewing how representation reviews are undertaken
- Changes to local government elections, including a move towards electronic voting.
A copy of the LGA’s local government reform agenda is provided as an attachment to this report (ECM 659207).

Analysis of the Bill

The LGA’s preliminary analysis of the Bill is attached to this report (ECM 662329). This analysis provides an outline of the key elements of the Bill, as well as detailed commentary on potential issues and areas where further detail is required from the Government. The LGA appreciates that member councils are also carefully looking at the Bill and we will update our analysis further as more details and issues emerge.

Key elements of the Bill include:

- The Essential Services Commission of South Australia (ESCOSA) will be responsible for making rate cap determinations, assessing applications from councils for variations to the rate cap and reporting on the outcomes of the system.
- The details of how the rate cap will be determined will be subject to ESCOSA guidelines that are yet to be developed. The Bill gives ESCOSA flexibility to determine a formula that may, or may not, include a particular index (CPI, LGPI) and whether the cap will include any efficiency or productivity component.
- The cap will be applied to a ‘base standard rate’, which is a nominal rate that is arrived at by dividing the total annualized general rate revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June).
- While this model intends to account for growth in the number of rateable properties over the course of a year, some councils have indicated that this will require a closer look to ensure that growth in different types of land use are properly accounted for relevant to their council areas.
- A council may apply to ESCOSA for a variation from the rate cap for a maximum period of up to 5 years. In applying for a variation, councils will need to provide the reasons for the variation application, evidence of community consultation, an assessment of the likely impact on ratepayers.
- Councils will be expected to make efficiencies across their operations and undertake service reviews before applying for a rate cap and will need to demonstrate they have considered funding priorities and alternative sources of revenue.
- Further details of the variation process will be provided through ESCOSA guidelines that are yet to be developed.

Parliamentary Process

The Local Government (Rate Oversight) Amendment Bill has been introduced in the House of Assembly by the Minister for Local Government, Hon Stephan Knoll MP.

The Government holds the majority in the House of Assembly (lower house), so it is likely the Bill will progress to the Legislative Council (upper house) despite independent MPs in the lower house - Frances Bedford MP, Geoff Brock MP and Troy Bell MP - all publicly stating that they will vote against the legislation.

However, the Bill must pass in both Houses of Parliament to become law and the Government does not hold a majority in the Legislative Council.

If the Labor Party honours its pre-election commitment to oppose rate capping, the government must secure support from 3 out of 5 crossbench members in order for the Bill to pass. The crossbench currently comprises 2 members from SA-BEST, 2 members from the Greens, and 1 member from Advance SA.
SA-BEST and Greens are both on record post-election opposing rate capping based on the detrimental impacts it has had interstate and its lack of policy merit. Therefore, the option of successfully opposing rate capping in the upper house remains available if this is ultimately the decision of the membership.

**Council Decision Making**

As outlined in the recommendation, all councils are requested to carefully review the Local Government (Rate Oversight) Amendment Bill 2018 and advise the LGA of their position by Friday 3 August 2018.

The LGA will provide councils with a model council report and proposed resolutions around the options of supporting or opposing the Bill. Councils will also be asked to clearly specify the priority amendments and concessions they would ask the LGA to use best endeavours to achieve in any negotiations with political parties about the legislation.

In seeking any amendments or concessions, councils must bear in mind that they will be subject to negotiations through the parliamentary process and that ultimately the Parliament will make the decision about whether the legislation is passed, and in what form.

Councils should also bear in mind that the State Government is yet to commit to any relief from the pressures of cost shifting, with significant rises to the Solid Waste Levy going ahead in 2018/19 despite strong advocacy from the LGA and councils.

Advice from councils about their endorsed position is requested by Friday 3 August to enable the LGA Board to finalise a position and advise political parties of the sector’s response in preparation for the spring session of Parliament.

**LGA Board Decision Making Process**

Following the receipt of responses from councils by 3 August, a special meeting of the LGA Board will be called to consider the endorsed positions of member councils. As rate capping would impact on councils differently depending on size, services, budget and rate base; the LGA Board will consider the endorsed positions of member councils on the basis of both a ‘one vote, one value’ counting method and a weighted voting method (using the same weighting system applied at LGA General Meetings). The Board will also use the following criteria to inform and resolve a position:

- A merits-based assessment of the proposed legislation;
- The best interests of the communities of South Australia and their confidence in the local government sector;
- Current LGA policy positions and whether there is a mandate from members for an amended policy to be adopted;
- Potential impacts on the long-term financial sustainability of the local government sector, and how any negative impacts could be mitigated;
- Potential amendments and concessions that are in the best interest of councils and the community they serve;
- Positions of political parties in the Legislative Council and the impact this would have on the outcomes that can feasibly be achieved through the parliamentary process; and
- The number of responses received and the number of councils that did not participate in the voting process.
Financial and Resource Implications

Advocacy on key issues for the sector, such as rate capping, cost shifting and progressing positive local government reforms has been anticipated in the LGA’s 2018/19 Annual Business Plan and Budget and resources are available to progress this work.
Impact of rate capping on South Australian councils – evidence from Victoria and NSW

Increases in South Australian council rates

- In 2016-17 (the last full year), the percentage increase in general rate revenue for across all councils in South Australia was 3.68 percent\(^1\).
- The percentage increase in the average rate per property was 2.9 percent.
- This includes upwards pressure from the Consumer Price Index (CPI) of 1.5% and the Local Government Price Index (LGPI) of 1.8% in 2016-17.
- The revenue from general rates also accounts for mandatory and discretionary rebates, write offs and remissions.

Rate-capping is an externally imposed maximum percentage council rates revenue may increase from one financial year to the next. In this form, it has been in place since 1977 in New South Wales and was re-introduced in Victoria in 2016.

The LGA SA has carefully studied the impacts of rate capping in New South Wales and Victoria and the evidence is clear:

1. **Rate capping undermines local democracy, centralises decision making about council rate revenue and shifts accountability from community representatives to an unelected bureaucracy.**

   Should rate capping be introduced, it would impose an extra layer of bureaucracy and two extra decision makers – the Essential Services Commission of SA (ESCOSA) and the Minister for Local Government on top of what is already a legislative requirement for councils to consult with their communities. However, unlike Councils, neither ESCOSA nor the Minister would be directly accountable to the affected ratepayers.

   The role of councils to work with communities to develop an annual business plan and budget would be duplicated at the state level, where a rate cap will be determined with no community input.

   In Victoria, each year the Essential Services Commission provides advice to the Minister for Local Government on what the average rate cap should be. Each year, the Minister has ignored this advice and set the rate cap lower than the recommendation, equal to CPI as per an election commitment.

2. **Rate capping limits councils’ ability to provide local services – putting discretionary services at risk**

   Rate-capping interstate has resulted in more red tape and bureaucracy and has increased administration costs for councils and state government, diverting funds away from core services.

   The level of council services currently provided would be less likely to be offered if rate-capping was introduced.

   Many of the services councils provide are discretionary. They are provided at the request of the community and require income, through rates, fees, charges and grants to deliver.

---

\(^1\) This includes residential and business rates. The methodology is General Rates (Gross) plus Penalties for late payment minus Discretionary Rebates, Remissions and Write-Offs minus Mandatory Rebates as provided from Councils to the Commission. Note this data includes growth in rateable properties and excludes other rates/service charges (ie NRM Levy, Waste Collection, Water Supply, CWMS, Separate & Special, Electricity Supply).
For example, there is no legal requirement for councils to have a library, provide recreation and sporting facilities, maintain the local jetty, parks, gardens, open spaces or public toilets. They don’t have to plant or maintain street trees, or facilitate community events and festivals. These services delivery great benefits to the community, but would be at risk under rate capping if councils are unable to generate the revenue required to maintain them.

3. **Rate capping leads to higher user pays fees, charges and fines**

Rate-capping decreases rates revenue to councils, but serves to increase revenue from other sources, such as fees and charges. It is often the case that councils do not set the level of fees and charges on services (these are usually prescribed in State legislation and set below cost), there are examples of councils increasing fees and charges in user pays services such as parking and additional waste collections.

4. **Rate capping creates infrastructure backlogs**

Rate-capping shifts costs to future generations as many councils will not be able to raise the revenue required for the maintenance and renewal of assets forecast in long term management plans.

5. **Rate-capping does not make councils more efficient or financially sustainable – in fact council debt increases as councils struggle to meet community expectations**

Rate capping does nothing to address the shifting of costs and responsibilities between state and local government and the pressure this creates on local government rates.

**Rate capping in Victoria**

Council rates are capped according to the cap that is set each year by the Minister for Local Government. This cap limits the maximum amount that councils may increase rates in a year unless councils seek approval from the commission for a higher cap.

The Essential Services Commission undertakes a role to

- provide advice to the Minister for Local Government on what the average rate cap should be;
- consider, approve or reject applications from councils for exemptions to the rate cap; and
- monitor council compliance with the cap

**Levels of rate cap in Victoria**

2016/17

- ESC recommendation – 2.8%
- Ministerial cap applied – 2.5% at Consumer Price Index
- Exemptions – 9 applications, of which 6 approved. Note one council put the cost of preparing and submitting their application for a rate cap variation at $250,000. Another spent over $10,000 putting together an application, by contrast their population is only 6822.

2017-18

- ESC recommendation – 2.15%
- Ministerial cap applied – 2% at CPI
- Exemptions – 5 applications, of which 4 were approved

2018-19

- ESC recommendation – 2.35% (based on CPI and Wage Price Index forecasts)
Ministerial cap applied – 2.25% at CPI
Exemptions – 1 application, outcome yet to be determined by ESC

Cost to ESC to administer rate cap system
- 2014-15 = $0.83 million
- 2015-16 = $2.53 million
- 2016-17 = $2.94 million

Impact of rate capping on Victorian councils

In 2017 many Victorian councils have begun cutting services to their communities, or putting off costs to future generations, in response to the new rate-capping regime in Victoria.

In the first year of rate-capping (2016/17), some councils have managed to make efficiencies and find savings, including by re-negotiating enterprise bargaining agreements, a hiring freeze, but not all have been able to do so. Those that have managed the impact in the first year may be unable to do the same, year after year.

The table in Appendix A outlines the examples of reduction in spending and future measures identified by councils in Victoria in 2017, as submitted to the Parliament of Victoria’s Inquiry into the Rate Capping Policy.

Summary of issues considered in the fourth report from Parliament of Victoria’s Inquiry into Rate Capping Policy

Quote (from Chair’s forward, page vii)
“The process remains cumbersome and costly for councils and the variation process is unwieldy….There are a number of emerging issues impacting on the sustainability of rural and regional councils that the Committee will follow in the next six months. These include waste levies and the impact of changes to valuation policy.”

Note; the Committee will produce one final report by 30 September 2018.

Comment on setting of rate cap

The Minister set a rate cap for the 2017-18 financial year of 2 per cent. This cap is not in line with the advice provided by the Essential Services Commission (ESC) which recommended 2.15 per cent utilising both Consumer Price Index (CPI) and the Wage Price Index (WPI). The Minister set the rate at 2 per cent to fulfil an election commitment to keep rate rises in line with the forecast CPI.

Note that under the SA proposal ESCOSA would set the final cap, not the Minister

Evidence received to the Inquiry regarding impacts of first year (2016-17) of rate capping.

The Municipal Association of Victoria (MAV) consulted with councils to determine the impacts of the first year of rate capping. During this consultation it was indicated that “some councils were beginning to experience financial pressure as a result of rate capping and that some councils were considering a reduction in the services they provide” (page 15).

The Inquiry also heard that some small rural and regional councils and some growing interface councils were experiencing financial challenges that were heightened by the rate capping policy” (page 15).

As a result of rate capping, some councils in Victoria were beginning to consider service reduction in:
- road maintenance and construction
- the school crossings program
- the State Emergency Service (SES)
- home and community care
- maternal and child health, and
- roadside weeds and pests.

Note that there are some differences in the services provided by councils in Victoria and South Australia.

MAV advised that already there are emerging risks to the financial sustainability of small rural and regional councils. The Auditor General has reiterated these concerns stating in the Local Government: 2015-16 Audit Snapshot report that:

Overall, small shire councils are facing additional pressures due to smaller year-on-year revenue increases, and steady increases in expenditure. This has a direct impact on the level of funds these councils have available for capital infrastructure that councils are able to offer to their communities.

The Auditor General specifically noted that some councils under financial pressure were postponing renewal and maintenance of existing infrastructure assets.

The ESC echoed these concerns and acknowledged the risks to financial sustainability faced by small rural and regional councils. They further acknowledged that metropolitan councils have a greater flexibility in finding alternative sources of revenue in comparison. Rural councils are also subject to huge infrastructure such as large road networks that need to be maintained. These issues are further exacerbated by the fact that these councils have “a rate base that is either small or shrinking” (page 17).

Inquiry comments regarding Road Maintenance

Councils in Victoria are responsible for approximately 85 per cent of Victoria’s roads. The poor quality and shortfall in maintenance of state owned roads has resulted in higher traffic use of local roads which is resulting in their rapid deterioration. In the May state budget, $75 million was announced for restoration and road surface replacement of VicRoads. It is hoped that “this will go some way to reducing the amount of traffic diverted to municipal roads” (page 20).

While the Committee notes recent increases in roads to recovery funding from the Commonwealth as well as re-indexation of Commonwealth financial assistance grants, they are aware that the long-term effect or rate-capping on Victoria’s municipal roads is yet to be seen. The experience from New South Wales has “produced the unintended consequence of councils not having the ability to maintain the local government road network” (page 20).
Rate pegging (capping) in New South Wales

The Independent Pricing and Regulatory Tribunal (IPART) sets the maximum amount NSW councils can collect in general revenue through an annual 'rate peg' and considers council requests to set higher charges with special variations.

Rates are pegged giving consideration to a Local Government Cost Index (calculated annually), which measures price changes over the previous year for the goods and labour an average council will use. However, IPART also have regard for productivity changes.

2018-19

- Rate peg set at 2.3%
- IPART calculated the rate peg for 2018-19 by taking the increase in the LGCI for the year to September 2017 of 2.3%, and setting the productivity factor to 0.0%.
- Exemptions; 13 council applications considered for special variation and three minimum rate applications. To date 13 applications have been approved, with other determinations pending.

2017-18

- IPART pegged rates at 1.5% for 2017/18. This was calculated taking the increase in the LGCI for the year to September 2016 of 1.47% and deducting a productivity factor of 0.001%. This results in a figure of 1.47%, which was rounded to 1.5%.
- Exemptions; 8 council applications considered for special variations:
  - 4 – approved in full ranging between 5.39% and 7.5%
  - 2 – approved in part at 4.9% and 13.2%
  - 2 – not approved

Impact of Rate Capping on NSW councils

In September 2017, a report from University of New England Professor Brian Dollery confirmed that almost four decades of rate capping has failed NSW councils and their communities.

Overview

The “An Empirical Assessment of the Impact of Rate-Pegging on South Australian Local Government” report presented a comparative analysis between SA and NSW local government to determine whether almost four decades of municipal tax limits in NSW had produced any measurable differences in equity, sustainability or efficiency relative to SA.

Professor Dollery’s study is a comparative analysis between NSW and South Australian councils looking at whether rate capping in NSW has produced measurable differences in equity, sustainability or efficiency relative to South Australia.

This research showed that there is no evidence in NSW of rate capping improving efficiency in local government. It shows that rate capping leads to a decline in the financial sustainability of councils, and particularly smaller councils.

NSW councils with capped rates have higher levels of debt and larger infrastructure backlogs than those in SA (without rate-capping) and also have higher fees and charges that they pass on to their communities.
Key findings of the report

1. It is difficult to determine an effective limit on rate rises

   “since rate-pegging targets the ‘tax-price’ of a basket of local public services, many of which possess the properties of public goods or quasi-public goods, which are mostly unpriced, it is hard to determine the optimal rate increases limit in practice.” Page 4.

2. There are 4 broad areas of criticism of rate-pegging

   According to the regulatory agency Independent Pricing and Regulation Tribunal (IPART)
   
   (a) Rate-capping has generated severe local infrastructure backlogs in NSW local government.
   (b) Rate-pegging has induced local authorities levy ‘higher user pays charges’ to recover revenue foregone.
   (c) Rate-capping has restricted councils’ ability to provide local services.
   (d) Rate-pegging has contravened ‘local democracy’.” Page 5.

3. Councils do not seek special variation to rate-pegging due to political pressure of community expectations

   “The NSW Local Government and Shires Association states, “Rate-capping has shaped ‘public expectations about maximum rate increases, placing political pressure on councils to stay within the limit and not seek special variations’.” Page 5.

Evidence comparing NSW (with rate-pegging) to Victorian councils (prior to rate capping) has found that:

4. Rate-capping decreases rates revenue to councils, but serves to increase revenue from other sources, such as fees and charges.

   “Limitations on property taxes can cause councils to increase income from revenue sources other than rates.” Page 8

5. Rate-capping impacts more on smaller councils

   “the effects of rate-pegging depend on the characteristics of local councils. For example, Brown (2000) established that in the Colorado local government system the impact of these limitations were contingent on council size and were more marked in small councils.” Page 8

6. Councils with capped rates have higher levels of debt and larger infrastructure backlogs than those without rate-capping

   “NSW had much higher levels of council debt per household. They also examined the average infrastructure renewal ratio in NSW and Victoria as a measure of the infrastructure backlog and established that NSW had by far a much larger backlog.” Page 9
7. Rate revenue represents large revenue for councils, but a small proportion of local resident income.

“For the typical council rate revenue often exceeds 50% of total revenue, and can be as high as 96% of total revenue, yet for a typical resident rate revenue effort represents only between 3% and 8% of income.” Page 12

8. Revenue from rates is just as important to SA councils as NSW councils

“It is evident that revenue effort and relative importance of rates are fairly similar in the NSW and SA local government systems.” Page 12

9. Despite rate-pegging in NSW, councils in NSW have significantly more debt than SA councils

10. Rate-capping is an ineffective tool to reduce council debt and may lead to increased debt

“At the least, this result suggests that rate-capping is ineffective as a means of reducing municipal debt and it may possibly be a contributing factor to the relatively higher debt held by NSW councils.” Page 14

11. Rate-capping does not make councils become more efficient.

“In each of the four years under analysis the efficiency of NSW councils was well below that of their SA counterparts. While the expenditure per capita of NSW councils fell between 2013 and 2016 - indicating an increase in efficiency for these municipalities on average - this trend was also evident in SA local government. Moreover, average expenditure per household was appreciably higher in NSW. It follows that rate-capping has not been successful in creating superior performance in terms of the efficiency of NSW councils as measured by average expenditure per household.” Page 15

Conclusions of NSW experience relevant to rate capping in South Australia

1. There is no evidence to suggest that rate-capping will increase efficiency at councils
2. Rate-capping leads to a decline in financial sustainability of councils
3. SA councils perform better than NSW local government, notwithstanding rate-pegging in NSW on three key issues:
   - Reliance on rate revenue as income
   - Financial sustainability
   - Efficiency
Appendix A

Impact of rate capping in Victoria in 2017 – overview

Among the serious consequences experienced in the first year of rate capping, is a reported deterioration in optimal infrastructure maintenance (and hence reduced service levels) at:

- Baw Baw
- Buloke
- Golden Plains
- Kingston
- Towong
- West Wimmera

A host of other Councils have deferred or cancelled new capital works or previously-planned infrastructure improvements. These councils include:

- Frankston,
- Gannawarra,
- Hobson’s Bay
- Manningham
- Maroondah
- Mildura
- Moira
- Nillumbik
- South Gippsland
- West Wimmera
- Whittlesea
- Wodonga
- Yarra

Cuts to services include:

- Bass: Visitor information
- Brimbank: Community events and tree planting
- Central Goldfields: Reduced expenditure in areas of assistance to community organisations, events and activities
- Corangamite: Reduced contribution to the local SES
- Manningham: aged care services
- Mitchell: reduced operating hours for customer service/library and pool facilities, removal of community, tourism and environmental grants program
- Monash: community grants frozen
- Moyne: reduction in maternal & child health hours; closure or decrease in operating hours of waste transfer stations
- Northern Grampians: No longer subsidising children’s crossings, no direct provision of visitor information in Halls Gap, Stawell and St Arnaud
- Swan Hill: Phased reduction in council funded Home care for the aged
- Towong: End of mobile library, council kindergartens, cuts to hours of maternal and child health, swimming pool hours, toilet cleaning, end to SES contributions, school crossing supervisors
- West Wimmera: closed a public hall and likely to divest more
- Yarriambiack: closure of a council office

Some Councils have increased (or intend to increase) fees and charges to make up for a shortfall in revenue. These Councils include:

- Central Goldfields
- Moreland
- Port Phillip
- Queenscliff (waste services now a separate charge)

<table>
<thead>
<tr>
<th>Council</th>
<th>Reduction in spending examples</th>
<th>Future measures to reduce spending</th>
</tr>
</thead>
</table>
| Alpine    | • Organisational restructure and simplifications of processes  
• Relinquish HACC to state government  
• Demand reduction (utilities and materials)  
• Review of memberships and subscriptions                                                                                                                | • Council directed the CEO to save $600,000 in employee costs by negotiating a three year wage freeze for staff to demonstrate restraint.  
• Market test a savings of $2,000,000 by outsourcing or restricting major parts of the organisation.  
• Dissolved the High Country Library Corporation and brought it in house  
• Demand reduction                                                                                                                                                                |
| Ararat    | • No conscious decisions have been made to reduce services that will directly affect service delivery to the public.                                                                                                               | • Service reviews to be undertaken but no decisions have been made as the council elections were in October 2016. However, by 2019/20 there will be a $6.828 million deficit from, what is currently, a balanced budget. |
| Ballarat  | • No answer                                                                                                                                                                                                                       | • No answer                                                                                                                                                                                                                      |
| Banyule   | • Minimal opportunity to reduce staff  
• Strategic property sales  
• Efficiencies through lighting, water and solar installations  
• Renegotiation of tenders for water, property insurance and library contributions  
• Increase building permit fee income                                                                                       | • Consolidating staff into one headquarter which will improve efficiencies.                                                                                                                                                        |
| Bass      | • Reduced staff and outsourcing municipal valuations.  
• Restructure local laws and emergency management                                                                                                                      | • Undertake service review  
• Reduce the visitor information services  
• Reduce fleet vehicles  
• Reduce staff and senior management  
• Delay major projects including shared pathways                                                                                                              |
| Baw Baw   | • Organisational restructure and reduction of 18.8 FTEs                                                                                                               | • The rate cap will place restrictions on future capital works programs including reducing the current infrastructure backlog.                                                                                                  |
| Bayside   | • Service reviews but there is no deferral or cancelation of infrastructure                                                                                               | • They will need to find $2 million in recurrent savings to ensure ongoing financial sustainability. Councils’ capacity to identify these savings without impacting |

472
<table>
<thead>
<tr>
<th>LGA</th>
<th>Changes and Measures</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benalla</td>
<td>Nine positions made redundant and new EBA reduced from 3.8 to 2% increase</td>
<td>Organisational review</td>
</tr>
<tr>
<td></td>
<td>• Organisational review</td>
<td></td>
</tr>
<tr>
<td>Boroondara</td>
<td>Created one EBA</td>
<td>Moving to a digital environment to streamline customer experience, ensure increased accessibility and minimise red tape in the provision of council services.</td>
</tr>
<tr>
<td></td>
<td>• Paid off debt quicker to reduce interest costs</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Budget review to remove discretionary funds not directly aligned to a specific service provision</td>
<td></td>
</tr>
<tr>
<td>Brimbank</td>
<td>$24 million will need to be saved from the budget over the next four years.</td>
<td>Looking at shared services models</td>
</tr>
<tr>
<td></td>
<td>• Will manage material and environmental efficiencies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Will maintain current levels of service but reduce operational costs and reviewing the way events are provided.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Extra plants and mulch for some main road tree planting have been scrapped.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Some community events and programs were scaled back</td>
<td></td>
</tr>
<tr>
<td>Buloke</td>
<td>Reduce operating expenditure by $4 million per year but needed to still raise rates by 6% to get to a financially sustainable position.</td>
<td>Reviewing all services over three years. Will maintain and renew assets rather than creating new ones.</td>
</tr>
<tr>
<td></td>
<td>• Have reduced services to the community and a widening of the renewal gap</td>
<td></td>
</tr>
<tr>
<td>Campaspe</td>
<td>Productivity and efficiency gains through implementation of modern ICT system and improved processes.</td>
<td>Continue to improve productivity and efficiency. Review of halls and other infrastructure including aquatic centre. Looking at energy efficiencies, consolidation of the office accommodation and continuing sale of identified land assets that are surplus to requirements.</td>
</tr>
<tr>
<td>Cardinia</td>
<td>Reviewed the 12,000 lines of expenditure. Non-essential services were not given CPI increases. Supplier contracts were renegotiated. Staffing freeze was put in place and senior management roles were reduced.</td>
<td>Unknown. A lot will depend on the introduction of the Growth area’s interface fund as to what cuts will be required.</td>
</tr>
<tr>
<td>Casey</td>
<td>Review grass cutting contracts and service levels. Review of vehicle/plant trade-in periods and investment in energy efficient lamp conversion.</td>
<td>Achieved efficiency</td>
</tr>
<tr>
<td>LGA</td>
<td>Strategies</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>----------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Central Goldfields</td>
<td>- Council adopted a larger rate increase the year prior to rate capping. Made adjustments to loan repayments which in effect reduces council’s capacity to borrow and therefore reduces infrastructure works</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Council increased significantly a range of fees and charges although in all cases the new figures were within industry standards and comparable with other municipalities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Reduced expenditure in areas of assistance to community organisations, events and activities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Undertook some staff restructuring which will result in service cuts</td>
<td></td>
</tr>
<tr>
<td>Colac</td>
<td>- Business improvement initiatives such as reducing fuel consumption, savings in utility costs, streamlining postal services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Hired a business improvement coordinator to find ways to reduce costs</td>
<td></td>
</tr>
<tr>
<td>Corangamite</td>
<td>- No prep undertaken</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Must find a recurrent $500,000 to fund gap. SES contributions will reduce. Increase fees and charges</td>
<td></td>
</tr>
<tr>
<td>Darebin</td>
<td>- Council will draw down on cash reserves</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Council will draw down on cash reserves</td>
<td></td>
</tr>
<tr>
<td>East Gippsland</td>
<td>- Shared services agreement with neighbouring councils</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Installation of solar systems and changes of street lighting</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Looking at further shared services opportunities.</td>
<td></td>
</tr>
<tr>
<td>Frankston</td>
<td>- Had to cut $2.6m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Savings made through cutting employee costs by negotiating a new EB with lower increases in raises</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Reduce capital expenditure</td>
<td></td>
</tr>
<tr>
<td>Gannawarra</td>
<td>- Restructure</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Service review to identify efficiencies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Greater reliance on grant funding for capital works</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Some deferral of capital projects</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Staffing hire freeze</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Reduce staff wage increase (will be 1/3 of current increase)</td>
<td></td>
</tr>
<tr>
<td>Glen Eira</td>
<td>- None</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Business efficiencies review</td>
<td></td>
</tr>
<tr>
<td>Glenelg</td>
<td>- None</td>
<td></td>
</tr>
<tr>
<td>Golden Plains</td>
<td>- Held maintenance expenditure at 2013/14 levels</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- One year freeze on staff numbers, IT equipment replacement, fleet vehicle replacement.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Held maintenance at 2013/14 levels in dollar terms</td>
<td></td>
</tr>
<tr>
<td>Greater Bendigo</td>
<td>- None</td>
<td></td>
</tr>
<tr>
<td>Greater</td>
<td>- Reduction in EBA awarded wage increases</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- None</td>
<td></td>
</tr>
<tr>
<td>LGA</td>
<td>Efforts/Improvements</td>
<td>Other Notes</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Dandenong</td>
<td>Had received higher level forecast rates in previous years</td>
<td></td>
</tr>
<tr>
<td>Greater Geelong</td>
<td>$0.9m in operational efficiencies were identified</td>
<td>Operational improvements in road maintenance.</td>
</tr>
<tr>
<td></td>
<td>$0.9m in operational efficiencies were identified</td>
<td>Review of filling positions</td>
</tr>
<tr>
<td>Greater Shepparton</td>
<td>No changes as a result of rate capping as work was already being done.</td>
<td>Increased user fees</td>
</tr>
<tr>
<td></td>
<td>Procurement reviews – contracts for cleaning buildings</td>
<td>Increased contributions from project stakeholders</td>
</tr>
<tr>
<td></td>
<td>Internal cost reviews such as electronic agendas</td>
<td>Reduction in consultants</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lower EBA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Utilisation of borrowings for capital projects</td>
</tr>
<tr>
<td>Hepburn</td>
<td>Made efficiency savings through contracts, reduction in interest/legal fees etc</td>
<td>Procurement and service reviews</td>
</tr>
<tr>
<td></td>
<td>Service reviews</td>
<td></td>
</tr>
<tr>
<td>Hindmarsh</td>
<td>Budget was insulated from the impact of rate capping and the reduction in the Local Roads and Bridges funding removal due to an increase in roads funding through the Roads to Recovery</td>
<td>Unknown but will be undertaking review</td>
</tr>
<tr>
<td>Hobsons Bay</td>
<td>Efficiencies and cost saving program in 2014-15 resulted in $3 million in underspend</td>
<td>$13.8 million capital works will need to be deferred between 2019-2020 and 2025-26. There is significant increase in unfunded capital works in the last three years of their LTFP</td>
</tr>
<tr>
<td></td>
<td>Savings identified both of an operational and capital nature, are being quarantined in an infrastructure reserve to fund future capital works and reduce any funding shortfalls identified in council’s long term financial plan</td>
<td></td>
</tr>
<tr>
<td>Horsham</td>
<td>Hire freeze, have delayed appointments for replacement staff and tried to reduce staff numbers through natural attrition if possible. Have discontinued software contracts and some sub-contractor payments.</td>
<td>Hiring freeze. Have set maximum increase of 2% increase on all non-salary operational costs but have managed to save around 1%. Will review all fee for service charges. Seeking more sources for grant income.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hume</td>
<td>They have contained the level of staff growth</td>
<td>Pay-out interest bearing debt</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Review of organisational memberships</td>
</tr>
<tr>
<td>Indigo</td>
<td>Council consistently ensures costs only increase no greater than 2% year on year</td>
<td>Looking to either remove or reduce costs related to services affected by cost shifting</td>
</tr>
<tr>
<td>Kingston</td>
<td>Employee cost reductions</td>
<td>No “CPI” increases in any Goods and Services except for contractual obligations. $1.2M saving against</td>
</tr>
<tr>
<td></td>
<td>No CPI increases in any goods and services except for</td>
<td></td>
</tr>
<tr>
<td>LGA</td>
<td>Contractual Obligations</td>
<td>2015/16 LTFS</td>
</tr>
<tr>
<td>-------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Knox</td>
<td>Contractual Obligations: Reduce workcover premium</td>
<td>2015/16 LTFS: Labour productivity 2% equates to $1M saving</td>
</tr>
<tr>
<td>Latrobe</td>
<td>Contractual Obligations: Undertaking service delivery review</td>
<td>2015/16 LTFS: Labour productivity 2% equates to $1M saving</td>
</tr>
<tr>
<td>Loddon</td>
<td>Contractual Obligations: Organisation restructure, Lean Thinking</td>
<td>2015/16 LTFS: Labour productivity 2% equates to $1M saving</td>
</tr>
<tr>
<td>Macedon</td>
<td>Contractual Obligations: Council has restricted its growth in operational expenses to about 1% per annum and reduced its expenditure to new initiatives by about 50% over the last three years. This has enabled council to increase its contributions to infrastructure spending by 14%</td>
<td>2015/16 LTFS: Labour productivity 2% equates to $1M saving</td>
</tr>
<tr>
<td>Manningham</td>
<td>Contractual Obligations: Council has had an ongoing focus on restricting the level of growth in operating costs each year. This has been achieved through setting strong budget targets at the start of the year, collaborative tendering with adjoining councils, delayed recruitment of vacancies and reviewing (and where possible reducing) the banding level of advertised positions.</td>
<td>2015/16 LTFS: Labour productivity 2% equates to $1M saving</td>
</tr>
<tr>
<td>Mansfield</td>
<td>Contractual Obligations: Reduced wage increases, Only solution into the future is service reductions and staff layoffs. Both actions will impact significantly in Mansfield and other rural communities</td>
<td>2015/16 LTFS: Labour productivity 2% equates to $1M saving</td>
</tr>
<tr>
<td>LGA</td>
<td>Measures</td>
<td>Outcome/Remarks</td>
</tr>
<tr>
<td>-----------</td>
<td>--------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Maribyrnong</td>
<td>• Service level reviews</td>
<td>• Hiring freeze</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Infrastructure renewal levy of 2% of rates was removed</td>
</tr>
<tr>
<td>Maroondah</td>
<td>• Undertook a review</td>
<td>• Reducing drainage infrastructure planned for future years</td>
</tr>
<tr>
<td>Melbourne</td>
<td>• Long term financial planning and reviews process</td>
<td>• Council sets an efficiency target of approximately 1% of operating costs annually compounding</td>
</tr>
<tr>
<td>Melton</td>
<td>• Exit Disability Respite Service and Early Intervention Program</td>
<td>• Council has focussed on non-rate income generation</td>
</tr>
<tr>
<td>Mildura</td>
<td>• Have been undertaking a sustainability review since 2012 and have systematically reviewed council services</td>
<td>• Not refilling jobs when people leave. Procurement contracts have been renegotiated. Plant and fleet items have had their replacement life extended if suitable. Changes to project management to better incorporate whole of life costs. A number of projects proposed for 2016/17 including drainage spur line expansion, sporting ground lighting upgrades and reserve car park renewals were not approved.</td>
</tr>
<tr>
<td>Mitchell</td>
<td>• Was already in a process of identifying savings. Service reviews with potential for fee increases. Vacancies were left unfilled to undertake staff restructure.</td>
<td>• To be achieved by way of reduced operating hours for customer service/library and pool facilities, removal of community, tourism and environmental grants program for 2016/17, a reduction in strategic planning, external condition audits, and other minor reductions.</td>
</tr>
<tr>
<td>Moira</td>
<td>• Some road projects deferred</td>
<td>• Contain wage growth through new EBA, defer road projects, no increase in any budget items.</td>
</tr>
<tr>
<td>Monash</td>
<td>• Service and efficiency reviews for three years. They withdrew from Aged Residential Care (not rate cap related). Community grants frozen. Review of contracts. Catering budgets reduced. Freeze on staffing levels.</td>
<td>• Reviewing legal services; streamlining payroll systems; audit of mobile phone usage; community grants frozen; review consultancy use.</td>
</tr>
<tr>
<td>Moonee</td>
<td>• No reductions used</td>
<td>• No new initiatives.</td>
</tr>
<tr>
<td>Moorabool</td>
<td>• Service reviews, service planning, business excellence program, implementing stringent budget controls.</td>
<td>• Service reviews, service planning, business excellence program, implementing stringent budget controls.</td>
</tr>
<tr>
<td>Moreland</td>
<td>• Focusing on cost reduction and increasing revenue in the short-medium term.</td>
<td>• Service and efficiency review</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Continued review of all fees and charges with view to</td>
</tr>
<tr>
<td>Location</td>
<td>Actions</td>
<td></td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Mornington Peninsula</td>
<td>• Council restructure in the lead up to this year. Now developing a long term financial plan to analyse the impact of rate capping on services and develop a strategy to minimise its impact.</td>
<td></td>
</tr>
<tr>
<td>Mount Alexander</td>
<td>• Reduction in insurance premiums, number of photocopiers, electricity savings and full review of the Aged and Disability Services. No CPI increases for projects. Any increases must be found in operational budgets.</td>
<td></td>
</tr>
<tr>
<td>Moyne</td>
<td>• Service review</td>
<td></td>
</tr>
<tr>
<td>Murrindindi</td>
<td>• Service review continuation which has been occurring for four years.</td>
<td></td>
</tr>
<tr>
<td>Nillumbik</td>
<td>• Council has made significant changes to prioritising of projects which has resulted in delaying works to future financial years. Delayed replacement of staff vacancies.</td>
<td></td>
</tr>
<tr>
<td>Northern Grampians</td>
<td>• Cessation of the provision of children's services in Stawell.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Withdrawing from subsidising children's crossings in the Shire.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Operational savings across the organisation including IT costs, publications, reductions in materials. Savings from collaborative procurement and tender processes. Projects previously planned for 2015-16 and 2016-17 were re-scheduled to future financial years. Council borrowings for capital projects have been reduced to zero for future years in the long term financial plan.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Reduced operating hours St Arnaud Customer Service Centre.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Realisation of savings from solar panel installation on many Council buildings.</td>
<td></td>
</tr>
</tbody>
</table>
- Cessation of the direct provision of visitor information services in Halls Gap, Stawell and St Arnaud.
- Shared Services for GIS, EHO, Engineering.
- Moved to Activity Based Working, reducing office space and rental costs.
- Reformed rostering to reduce wage costs in Leisure Services.
- Renegotiate and rationalise photocopiers to save significant cost.
- Moved to reduce paper based offices through the use of electronic document processes and software.
- Mercury Vapour streets lights changed to LED.
- Hand the responsibility for Standpipes in St Arnaud back to GWM Water.
- 11. Ongoing building rationalisation, dispersal or demolition.

### Port Phillip
- Operating efficiencies of $1.35m through competitive tendering, decommissioning unused or superseded technology, reviewing costs, minor reorganisation of staff and efficiencies review.

### Pyrenees
- Savings have been found through service review efficiencies, improved procurement practices, shared services and a continuous improvement program.

- Further shared services planned, ie further health, planning and building.
- Continued building rationalisation, dispersal or demolition.

- Competitive tendering, reduction in IT contracts, removal of management positions.
- Should rates capping continue the cumulative rates cap challenge over the period of 2016/17 to 2019/20 at $6.8 million. To meet and close the rates gap over the remaining years of the Strategic Resource Plan, savings will be achieved by identifying:
  - efficiencies identified through improvements in processes, procurement and project planning and delivery user fees and charges that reflect the benefit that individual community members receive
  - service delivery review

- Rate cap and freezing of FAGS has been absorbed by council through operation savings and capital reprioritising.
- Savings have been achieved in management of council fleet, reduction in staff and consultant costs, utilisation and efficiency of plant, shared services, improved procurement processes.
<table>
<thead>
<tr>
<th>LGA</th>
<th>Actions</th>
</tr>
</thead>
</table>
| Queenscliff     | • Reprioritise operational project initiatives and identified other operation efficiencies   
|                 | • Full cost recovery on waste management through separating the waste management charges from general rates  
|                 | • Renegotiate the EBA under rate capping regime                                                                                                                                                         |
| South Gippsland | • Council’s Safer intersections program has been deferred indefinitely. Bridge replacement has been deferred in favour of undertaking major maintenance to extend bridge lives. The paths and trails program has also been deferred indefinitely.  
|                 | • Due to increase in Roads to Recovery grant funding no additional work has been deferred. However, assuming that funding is reduced there will be impacts on work due to rate capping. |
| Southern Grampians | • Service review.  
|                 | • New revenue sources to be identified where possible.  
|                 | • Salaries and wages to be maintained in line with average weekly earnings.  
|                 | • Contractors limited  
|                 | • Service review                                                                                                                                                                                         |
| Stonnington     | • Reduce one general manager position  
|                 | • Borrowings will increase to part-finance the capital works program, thereby increasing debt for future ratepayers.                                                                                      |
| Strathbogie    | • Resources of depots to save operating and wage costs  
|                 | • Resources of corporate services to save wage costs                                                                                                                                                     |
| Surf Coast      | • Business improvement program including service reviews, investigating opportunities for business efficiency.  
|                 | • Continue the business improvement program. Focus on longer term financial planning to better understand future challenges.                                                                               |
| Swan Hill       | • Phased reduction in council funded Home care, energy efficiency measures, non-replacement of some staff positions.  
|                 | • Phased reduction in council funded Home care, energy efficiency measures, non-replacement of some staff positions.  
|                 | • Utilise MAV Local Government Funding Vehicle to obtain lower interest rates  
|                 | • Utilise MAV Local Government Funding Vehicle to obtain lower interest rates  
|                 | • Staged redevelopment of Pioneer Settlement to increase revenue from tourist facility                                                                                                                                 |
| Towong          | • Swimming pool season reduced by one week  
<p>|                 | • SES contribution ceased                                                                                                                                                                                |</p>
<table>
<thead>
<tr>
<th>Location</th>
<th>Impacts</th>
<th>Strategies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wangaratta</td>
<td>Roads maintenance workforce reduced</td>
<td>Voluntary redundancy and restructure to reduce FTE and labour costs across council</td>
</tr>
<tr>
<td></td>
<td>Mobile library services discontinued</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Health Alliance partnership position terminated</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Library and council office hours reduced</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public toilet cleaning suspended on weekends</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Change telecommunications provider</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduction in fleet</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Street lights changed to LED</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maternal and Child Health ceased contribution reducing hours from 3280 to 2193 per year</td>
<td></td>
</tr>
<tr>
<td></td>
<td>School Crossing supervisors contribution ceased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceased Kindergartens</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Swimming pools reduced hours</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Eskdale community pool contributions ceased which means it will likely close</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State-wide community satisfaction survey participation ceased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>School leaver scholarship ceased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduced youth workshops</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceased Seniors events</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceased memberships with Timber Towns and Murray Darling Association</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduction in staff training</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maternal and Child Health ceased contribution reducing hours from 3280 to 2193 per year</td>
<td></td>
</tr>
<tr>
<td></td>
<td>School Crossing supervisors contribution ceased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceased Kindergartens</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Swimming pools reduced hours</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Eskdale community pool contributions ceased which means it will likely close</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State-wide community satisfaction survey participation ceased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>School leaver scholarship ceased</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduced youth workshops</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceased Seniors events</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ceased memberships with Timber Towns and Murray Darling Association</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reduction in staff training</td>
<td></td>
</tr>
<tr>
<td>Warrnambool</td>
<td>Not answered</td>
<td>Voluntary redundancy and restructure to reduce FTE and labour costs across council</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wellington</td>
<td>Implemented improvements in ICT, business systems software and processes</td>
<td>Continue to review ICT</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shared ICT services with other councils</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Negotiate EBA to reduce annual wage increases</td>
</tr>
<tr>
<td>West Wimmera</td>
<td>Reduced EBA from 4.5% to 2.7%. Deferral of non-essential capital works while long term capital plans are developed. Council has closed one public hall and is likely to divest more where the service can be provided by another facility within 50km</td>
<td>Has budgeted to reduce expenditure on roads by $0.65m and bridges by $0.4m in 2016/17.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reviewing service levels</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reviewed administrative costs and reduced stationary and printing costs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Council is reluctant to undertake borrowings as it is already in an operating deficit position and not in a growth area. This would mean that borrowings would exacerbate council’s operating deficit and place pressure on council cash reserves.</td>
</tr>
<tr>
<td>Whitehorse</td>
<td>Nothing</td>
<td>Has priorities infrastructure renewal and maintenance expenditure</td>
</tr>
<tr>
<td>Whittlesea</td>
<td>Removed $1m from budget (no information is provided)</td>
<td>Reduced budget allocation for new initiatives/projects</td>
</tr>
<tr>
<td>LGA</td>
<td>Initiatives</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td></td>
</tr>
</tbody>
</table>
| **Wodonga** | • Internal restructure  
  • Service reviews  
  • Reduced contractor costs through negotiation and efficiencies  
  • Service reviews  
  • Put in application for rate variation but if unsuccessful they will defer capital works projects |
| **Wyndham** | • Continuous improvement through process reviews and improving operations  
  • Implementation of e-services and apps to improve customer experience, access to information  
  • Productivity and efficiency gains of around $1.4m.  
  • Reduction in new staff and a reduction in insurance premiums  
  • Restructure |
| **Yarra** | • Deferred infrastructure  
  • Brunswick street bike path  
  • Brunswick street drainage project  
  • Cecil street drainage project  
  • Saved employee expenses (doesn’t say how)  
  • Materials and services (doesn’t say how) |
| **Yarra Ranges** | • Efficiency reviews  
  • FTE savings, restructures and EBA negotiation savings  
  • Regional collaboration  
  • Surplus asset disposal  
  • Initiatives continued |
| **Yarriambiack** | • Reduction in duplication  
  • Council closed a council office and leased the premises to the community for $1 per annum. |
Delivering the LGA 2018 State Election Agenda:
Local Government Reform
February 2018
Delivering the LGA 2018 State Election Agenda: Local Government Reform

Introduction

The Local Government Association’s 2018 State Election agenda—South Australia. Uncapped Potential—identifies local government reform as a priority for the next state government. This document outlines a plan for sensible change that state and local government can work together to start delivering in the first 100 days of government and beyond.

The local government sector is ready for change and is preparing to build on our history of driving our own reform agenda.

The comprehensive Local Government Financial Sustainability Program, which commenced in 2005, encompassed legislative and practice reform that has resulted in over a decade of sustained improvement in local government finances and asset management.

The ‘Council of the Future’ report released by the Local Excellence Expert Panel in December 2013 has provided a further road map for structural and practice reform in local government to address the challenges facing South Australia over coming decades, including further globalisation, population trends, emerging technologies, climate change, and communities expecting to be more effectively engaged in decision making.

Since the report’s release, the LGA has consulted extensively with member councils and has pursued, supported and achieved initiatives such as a State/Local Government Infrastructure Partnership to bring forward investment in public assets, streamlining of local boundary reform processes to improve the independence and transparency of decision making, regionalisation and shared services projects to integrate planning across councils and drive efficiencies, new planning and development legislation to include the option of regionalised planning functions, considered the role of the Auditor General in auditing councils, commenced a council benchmarking program, provided resources to encourage deliberative engagement methods, produced a public lighting business case to reduce costs to councils, developed a new Code of Conduct proposal and carried out an LGA governance review and a review of the LGA Schemes.

The next chapter of local government reform will concentrate on the many things the sector can achieve through continuous improvement programs that strive to meet an always evolving community standards and understanding of best practice.

There are a number of areas of local government operations that can be strengthened without the need for legislative intervention. A prescriptive, legislated approach to reform can often tie the sector to a ‘one size fits all’ outcome that doesn’t suit the circumstances of every council and community, creates additional red tape, quickly becomes outdated and doesn’t deliver value for money.

There is however a critical role for the state parliament to ensure that the legal framework within which local government operates remains contemporary and empowers councils with the regulatory tools and resources needed to successfully serve communities.

The Local Government Association and member councils look forward to working with all members of the next state parliament to deliver sensible local government reforms that will benefit South Australian communities.
Local Government Today

Any sensible discussion about local government reform must begin with a thorough understanding of the current framework within which councils operate. Almost all aspects of local government are regulated by the Local Government Act 1999 or the numerous other State Acts that reference councils.

A high degree of oversight, transparency and accountability is to be expected as councils are responsible for $22 billion worth of public assets and infrastructure and have a combined annual budget of $2 billion to provide local services and facilities that are part of everyday life. This is an enormous responsibility- and not one that can be taken lightly.

The current local government framework requires each council to have an audit committee, appoint an external auditor and adopt procedures for decisions to be reviewed. It also allows for investigations by the State Ombudsman, Independent Commissioner against Corruption (ICAC) and the Auditor General. In extreme cases the Minister can exercise powers to dismiss a council and appoint an administrator.

Recommendations from the State Ombudsman, ICAC or the Auditor General are often the catalyst for legislative change. Parliamentary Committees can also undertake inquiries into local government matters and make recommendations for legislative and operational reform.

Ultimately, councils are accountable to the communities they serve. Council elections are held once every four years and approximately 30% of eligible voters participate in the postal voting process, which is consistent with voter turnout for voluntary elections in other states. Once elected, council members must undertake mandatory training and uphold standards of behaviour that are outlined in a Code of Conduct. A Register of Interests, a Gifts Register and an Allowances and Benefits Register must be maintained by each council.

As the sphere of government that is closest to communities, there is a high degree of public interest in local government. Communities are seeking more information about how their council is operating and how their rates dollars are being spent.

The Local Government Act 1999 provides a detailed list of the documents that must be made publicly available by councils. This includes registers and returns, codes, meeting papers and numerous policy and administrative documents.

Every council is required to adopt Strategic Management Plans (SMPs) to outline the council’s objectives for a period of at least four years. SMPs must include a Long Term Financial Plan and Infrastructure and Asset Management Plan, each covering a period of at least 10 years.

The council’s long term objectives are required to be summarised each year in an Annual Business Plan, which must outline the measures that will be used to assess performance against those objectives throughout the financial year. There are a number of factors that must be considered by a council in setting an annual plan, budget and rates structure, including the impact on the community.

Performance against the measures outlined in these plans are publicly reported each year through each council’s Annual Report. The material that must be included and the numerous matters that must be reported on in the Annual Report are prescribed in Schedule 4 of the Local Government Act, and in other Acts under which councils operate.

The community is invited to participate in all annual and long term planning and budgeting processes. Councils are required to adopt a policy that outlines how the community will be consulted. Representation reviews are required to be carried out at regularly (usually about every 8 years) to
determine if the community would benefit from an alteration to the council’s composition or ward structure.

Local Government Tomorrow

The Local Government Act 1999 currently sets out sound structures in relation to accountability, transparency and engagement, and provides for independent oversight to ensure that councils are meeting their compliance obligations.

However, that does not mean that things can’t be improved.

After consulting with member councils, the LGA has developed a sector-driven local government reform agenda that is focussed on these principles:

- Sustainability
- Efficiency
- Local decision making
- Sector consistency
- Simpler regulation

Ultimately change within local government needs to benefit communities and create public value for South Australia. Quick fixes and populist ‘solutions’ need to be avoided as they will end up costing communities more in the long run. That’s why rate capping and forced amalgamations will not be supported by local government.

However, we welcome the opportunity to work with all parties that want to be a part of a sensible continuous improvement program that will deliver long term benefits to communities.

We are pleased to outline our plan for sensible change.

Our Plan for Sensible Change

Sector wide benchmarking program

While there is a considerable amount of information already available to communities about what their council is doing; this information is often spread across multiple documents and platforms, can be difficult to find and is not easy to compare with other councils.

The LGA is working towards developing a more sophisticated performance measurement and reporting framework as a consistent way to promote transparency and accountability. Gathering information about councils and how they are operating is beneficial for a number of reasons, including:

- determining if councils are performing well, being fiscally responsible and are financially sustainable;
- assessing the relative efficiency of the sector and the value for money being delivered to communities;
- measuring and evaluating the outcomes that are being achieved and whether the community is satisfied with what councils are delivering; and
- identifying opportunities for continuous improvement and reform programs to strengthen the sector.
In developing a benchmarking framework, care needs to be taken to reflect that councils are as diverse as the communities they serve. Not all measures will be comparable across all councils and financial information will tell only one side of the story. It is important that this work focusses on a contained suite of meaningful performance measures that build a more complete picture of the financial and governance health of the sector and the public value of the services and programs delivered by councils.

The LGA’s State Election Agenda - South Australia. Uncapped Potential - calls for the state government to provide $3 million in 2018/19, and $1 million a year for the following 3 years, towards the establishment of a sophisticated database of performance measures to support council planning and community consultation to enable local government to continually improve. Early commitment to this funding support would allow this work to be expedited.

**Strengthening the Council Members Code of Conduct**

Communities have the right to expect high standards of behaviour from the people they elect to represent them- at all levels of government.

The local government sector has acknowledged that the current Code of Conduct system for council members is not working as it should. Local government is keen to see comprehensive reforms introduced for the Code and the LGA has worked with councils to develop a framework of new ideas to achieve meaningful change.

Local government, like all sectors, should be free of bullying and harassment, and further work needs to be done to ensure there are appropriate measures to deal with any isolated examples of serious behavioural issues.

To strengthen the Code and give communities confidence that complaints will be dealt with effectively, the following elements need to come together in a new framework:

- Local government should be trusted to set its own expectations in regards to acceptable behaviour that aligns with community expectations.
- High level matters of misconduct including examples of bullying and harassment should be referred to and dealt with by a body outside of local government. Further work needs to be done to define such a body.
- The majority of lower-level behavioural issues should be dealt with at the local government level, either by council or a local government appointed panel.
- There need to be adequate sanctions for bad behaviour. This should include financial penalties and expulsion from a meeting.
- Mayors require expanded powers to manage behaviour in their chambers to ensure that meetings are not disrupted. This is not intended to be a measure that would stifle robust and respectful debate.

While local government needs to be responsible for its own behaviour, we can't deliver effective change on our own. We will need the support of the next State Parliament to amend legislation and empower councils to quickly and effectively deal with bad behaviour when it arises.
Best practice audit committees

Each council is required to establish an Audit Committee to, among other things, review the financial statements of the council, provide advice on council’s Strategic Management Plan and Annual Business Plan and review the adequacy of council’s internal controls and financial management systems.

Since 2007, when an audit committee for each council became required, these committees have become embedded as an important part of local government’s financial and governance performance measurement framework.

Many councils have voluntarily expanded the role of their audit committee beyond what is legally required. Each audit committee must have at least one independent member and it is widely acknowledged within the sector that having more than one independent member, including an independent Chair is best practice.

The way in which many councils have established their audit committees demonstrates that a heavy-handed legislative response is not always required to achieve positive change within local government.

The LGA proposes to use a best practice approach to encourage councils to make the best use of their audit committees. A best practice model would include:

- Diversifying the skill sets and knowledge of audit committee members;
- Appointing an independent chair;
- Additional responsibilities such as reviewing draft strategic management plans, rating practices; performance monitoring, the quality of financial management, and the council’s use of public resources; and
- Empowering the chair to make public statements on the audit committee’s work and findings.

Part of the LGA’s work will be to review the availability and costs of attracting qualified and skilled members to council audit committees, particularly in country areas, and to propose solutions that assist all councils to achieve best practice standards. This might include the option of a regional or ‘shared service’ approach to establishing audit committees in regional areas.

It would need to be acknowledged that there might be barriers in some councils to fulfilling all best practice recommendations, and appropriate exemptions would need to apply.

Standardising external audits

All councils must appoint an external auditor to review and provide an opinion on the council’s financial statements and a separate opinion on the adequacy of internal controls to provide reasonable assurance that the financial transactions of the council have been conducted properly and in accordance with law.

In some other states, the external auditing of councils falls within the remit of the state’s Auditor General. The LGA has commissioned research and consulted with councils about the option of adopting this model in South Australia. We have found that while it may lead to some greater degree of consistency, the benefits would not outweigh the considerable additional costs to ratepayers.

An alternative approach to achieving greater standardisation would be allowing or requiring the Auditor-General to issue binding interpretations of auditing standards applicable to local government. This would ensure consistency between private sector auditors.
The LGA provides interpretation of accounting standards to the sector through the Model Financial Statements the use of which is mandated in Regulations. However these standards apply to local governments, not to auditors, who have their own professional standards to observe. However in some areas of practice auditors have had varying interpretations of their own standards. Therefore, further work is required by the LGA, in consultation with the SA Local Government Auditors Group and Local Government Financial Management Group to identify opportunities for further improvement, without duplicating existing measures or creating greater uncertainty.

The LGA will confirm its position on this reform option and any action that would be required by the next state government, within the state government’s first 100 days.

**Introduce a revenue policy**

Current legislation requires councils to publicly report broadly on where their revenue comes from. Each council’s annual financial statements distinguish revenue from:

- rates;
- statutory fees and charges;
- user charges;
- investments;
- grants;
- reimbursements; and
- “other”.

However, councils are not required to adopt a revenue policy describing what mix, of this suite of revenue options, it proposes to adopt for each of its services and why it has made such choices. Such a policy primarily would focus on to what extent (for any given service) the council believes it would be appropriate for the costs of that service to be borne by users of the service, or spread across the broader community.

Such a policy would create a single point of reference to enable the community to understand how a council proposes to pay for each of its services and infrastructure over a period of time, taking into account rates, grants, fees and charges and commercial activities. This would help communities and stakeholders understand the revenue mix in local government and how constraints on one revenue source create pressure for revenue to be generated in other, often less equitable, ways.

Although such a policy would require revision from time to time, it is important that this must not create yet another compliance obligation for councils, as they are already committing considerable resources to preparing all of the plans, policies and documents required by legislation. Introducing a new revenue policy should be accompanied by a review of existing requirements for other policies and reporting requirements to achieve the principle of simpler regulation.

A commitment is sought from the next government that a review will be undertaken to find opportunities to streamline and consolidate existing council obligations to prepare multiple policies and reports.

**Diversifying local government revenue**

Adopting a revenue policy will not of itself address the issues that councils face in generating the revenue required to maintain and improve standards of services and infrastructure. Local government is always under pressure to reduce reliance on rating revenue to fund community services and infrastructure. While councils must continuously review expenditure to make sure it is as efficient as possible, the settings on revenue side of the equation also need to be addressed, such as the fact that
local government in South Australia historically receive less state government grant funding per capita than local government in other states.

Additional capacity for councils to diversify revenue streams would be assisted by the following actions being undertaken as a priority:

- Conduct a comprehensive review of local government fees and charges regulated by the state government to establish modern price setting principles which promote efficiency, flexibility and fairness in service delivery;
- Review the mandatory rate rebates that councils are compelled to provide;
- Establish service level agreements for the delivery of state services by local government including agreed responsibilities, cost sharing and funding arrangements;
- Joint advocacy between state and local government for South Australia to receive a fair share of federal government funding;
- Review levels of state government grant funding provided to local government and ensure that this level is at or above the national average; and
- Reviewing the legislative settings around council participation in commercial activities, particularly when regional subsidiaries are formed, to ensure they are not unreasonably restricting opportunities for councils and communities.

**Best practice service reviews**

To build trust, communities require certainty that councils are delivering the right services at the right cost. A best practice program of services reviews with strong community engagement will assist in building community confidence and demonstrating efficiencies.

Councils already undertake regular reviews of key services to ensure they are meeting community needs, being delivered in an efficient manner and not impacting on the long-term financial sustainability of the council. Sometimes difficult and unpopular decisions need to be made about reducing or consolidating services for the sake of greater efficiency and sustainability. It is important that these decisions about the range and level of local services provided remain in the hands of councils and their communities.

While the legislative framework should set our clear expectations regarding continuous improvement and service efficiency, it should not limit the sector to one prescribed approach to, or frequency of service reviews.

It is proposed that the LGA develop a best practice guide to undertaking service reviews. Service reviews should consider service levels, unit costs, community demand, community satisfaction, alternative providers and links to financial sustainability. Standardising the approach to measuring and reporting these factors will assist councils and communities to understand the value of the financial and community value of the services delivered.

A prescriptive approach to undertaking service reviews must be avoided to ensure that efficiency gains are not eroded by additional red tape and compliance costs. There is an opportunity for the joint State-Local Government Simpler Regulation Taskforce established between the LGA and Department of Premier and Cabinet to advise on opportunities to streamline processes.
Supporting new boundary reform processes

The *Local Government (Boundary Adjustment) Amendment Act 2017* was passed by the Parliament in August 2017. While the LGA will not support any push for forced council amalgamations, we supported the passage of this legislation as it will give councils and communities that want to review their boundaries the benefit of a more transparent, rigorous and independent assessment and decision making process.

The new provisions are not scheduled to come into effect until 1 January 2019. However, there is a considerable amount of work required to develop guidelines, procedures and templates to implement these changes.

The next state government must commit adequate resources for the Local Government Grants Commission to progress this work, as a priority, in consultation with councils and communities.

Industry-wide industrial relations framework

The LGA has started looking at opportunities to streamline processes within local government through an industry-wide industrial relations framework which enables a culture of meaningful, open and respectful engagement between employees, management and unions.

Our work to date demonstrates there is an opportunity to align the sector workforce through a modernised industrial relations framework. An aligned workforce will provide individual councils with continued success and simultaneously deliver wellbeing to employees through shared values and commitments; support individual council’s strategic and business plans; secure a multi-skilled and engaged workforce; foster flexibility and continuous improvement in the local government sector; enhance productivity and significantly reduce duplicated costs and effort.

The LGA has established a working group to progress this objective and will confirm its position on industrial relations and any support required from the state government within the first 100 days of government.

Review representation reviews

The *Local Government Act 1999* requires councils to carry out “representation reviews” as scheduled by the Minister under the regulations (approximately every 8 years). During these reviews councils must consider options relating to:

- The composition of the council, including the number of council members
- Whether or not the council should be divided into wards
- The size and boundary areas of wards, if they exist

A council may also use this process to change its name, change the name of a ward or change the area of the council.

Based on advice from the Electoral Commission of South Australia (ECSA), the LGA understands that some councils have experienced difficulty obtaining the services of appropriately qualified consultants to assist them with the workload. Some councils have had to undertake multiple public consultation processes as a result of community feedback and changing options. Council members also face the challenge of having to make controversial decisions on potential changes to the composition of a council that might affect their own positions.
Most councils required assistance from ECSA to comply with the extensive technical requirements set out in section 12 of the Local Government Act in order to enable them to achieve certification by the deadline date.

Representation reviews are an important feature of local democracy. Given that ECSA has indicated that it is reviewing the efficacy of current processes and its role in supporting councils to undertake representation reviews, the LGA considers that it is timely and appropriate for a broad review to be undertaken.

The LGA is calling on the next state government to work with ECSA, the LGA and councils to review the technical and process issues and decision-making structures for representation reviews.

**Local Government Elections Reform**

Local government has participated in a lengthy review of the *Local Government (Elections) Act 1999*, which is yet to result in legislative change being achieved. The LGA and councils have made a number of submissions in relation to technical issues that need to be addressed, as well as more substantive policy matters. As a priority, the Local Government Association is calling on the next state government to introduce amendments to the Local Government Elections Act that achieve, among other things, the following policy outcomes:

- Establish a framework which would enable electronic voting to be used for future elections, should a viable and cost effective system become available;
- Create a ‘level playing field’ for disclosure of information. In other words, where existing council members are required to disclose information publicly, all candidates for election should be required to disclose the same information during the election process.
- Enable all candidates to have access to electronic copies of the voters roll; and
- Voters should be made aware of whether or not a candidate for election resides in the area of the council for which he or she is standing. This can be achieved by inclusion of ‘tick box’ to reveal whether or not the candidate resides in the area;

The LGA can supply further details of the raft of more technical matters that also need to be addressed. A delayed commencement would be required for any reforms that could not feasibly be implemented in time for the council elections in November 2018.

In relation to state elections, the LGA supports and calls for reform that would require council members seeking election to the State Parliament to stand down from their position on council with their allowance suspended throughout the election campaign period.

**Delivering Change**

Delivering this change agenda would be shared responsibility between the Parliament, state government, LGA and councils.

We believe that local government reform has been held back in recent years by the limited resources allocated to the Office of Local Government. The LGA reinforces the call made through previous budget submissions for expanded capacity within the Office of Local Government to expedite and deliver significant reforms. Consideration should also be given to the potential expansion of the role of the Local Government Grants Commission, as an independent body with a deep understanding of local government, to assist with the implementation of local government reform.
While the full implementation of this program will extend beyond the first 100 days of government, the priority actions that can be achieved with the right level of resourcing are summarised below.

**First 100 days Agenda**

In their first 100 days, the next Government of South Australia should prioritise the following actions to achieve sensible local government reform:

- Hold a joint ‘Leaders’ Summit’ with the LGA to shared understanding of the challenges and opportunities facing local government over the next four years.
- Commit resources to a sophisticated local government benchmarking framework to be delivered by local government, for communities.
- Work with the local government sector to further develop a proposal for a strengthened Code of Conduct framework and commence consultation with councils on the legislative changes required to implement change.
- Receive and consider the LGA’s position on standardising external audits.
- Maintain the State-Local Government Simpler Regulation Taskforce and task it with finding opportunities to reduce red tape associated with compliance processes and the multiple policies and reports required under the *Local Government Act 1999*.
- Conduct a comprehensive review of local government fees and charges regulated by the state government to establish a cross-government modern price setting principles which promote efficiency, flexibility and fairness in service delivery.
- Review the mandatory rate rebates that councils are compelled to provide.
- Review levels of state government grant funding provided to local government and ensure that this level is at or above the national per capita average.
- Commence a review of the legislative settings around council participation in commercial activities, particularly when regional subsidiaries are formed, to ensure they are not unreasonably restricting opportunities for councils and communities.
- Commit sufficient resources to the Local Government Grants Commission to commence preparations for the operation of new boundary reform processes.
- Receive and consider the LGA’s position on a sector-wide industrial relations framework.
- Commence a review of the ‘representation review’ processes outlined in the Local Government Act and consult with local government and ECSA on options for positive change.
- Introduce a Bill in the Parliament to amend the *Local Government (Elections) Act 1999.*
LGA of SA Analysis of the Local Government (Rate Oversight) Amendment Bill 2018

The Bill was provided to councils on 18 June 2018. The key elements of Bill were highlighted in the LGA President Newsletter, 19 June 2018, as follows:

- The Essential Services Commission of South Australia (ESCOSA) will be responsible for making rate cap determinations, assessing applications from councils for variations to the rate cap and reporting on the outcomes of the system.
- ESCOSA will determine the basis of the rate cap. For example, whether it will relate to a price or particular index (CPI, LGPI etc) and whether the cap will include any efficiency or productivity component. The details of how the rate cap will be determined will be subject to ESCOSA guidelines that are yet to be developed.
- A cap may be determined for councils generally, a class of councils or individual councils. There is no definition provided of a ‘class’ of councils.
- The cap will be applied to a ‘base standard rate’, which is a nominal rate that is arrived at by dividing the total annualized general rate revenue for a council area by the number of rateable properties in that area at the end of a base year (30 June). This model accounts for growth in the number of rateable properties over the course of a year.
- A council may apply to ESCOSA for a variation from the rate cap for a maximum period of up to 5 years. In applying for a variation, councils will need to provide the reasons for the variation application, evidence of community consultation, an assessment of the likely impact on ratepayers.
- Consistency with long term financial plans and infrastructure and asset management plans will be a critical component of an application for a variation.
- ESCOSA may charge councils a fee for assessing a variation application and applications will need to be lodged by 31 March.
- Further details of the variation process will be provided through ESCOSA guidelines that are yet to be developed.
- Separate rates and service rates and charges are excluded from the rate cap calculation, but a council must inform ESCOSA if they proposed to introduce a separate rate or service rate or charge as this will be taken into consideration when they set the primary rate cap for that council.
- ESCOSA must monitor and review councils’ compliance with the system and prepare reports on the effects of rate capping on councils and any trends that may arise as a result of the rate capping scheme.
- The Minister may take action in relation to a council under Section 273 on the basis of a report by ESCOSA. Currently this provision includes ICAC, the Auditor-General and/or the Ombudsman.
- A review of the legislation will be required before 31 December 2023 (five years from the proposed commencement).
## Summary of the provisions of the Bill as outlined in Explanatory Paper

<table>
<thead>
<tr>
<th>Clause 4—Amendment of section 3—Objects</th>
<th>LGA of SA Secretariat comments</th>
<th>Potential issues for councils/local government</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Bill amends section 3(f) of the Act to clarify that the objects of the Act are to encourage local government to provide appropriate services and facilities to meet the present and future needs of local communities while also ensuring that these are supported by appropriate financial contributions by ratepayers.</td>
<td>There is no further definition or interpretation of what ‘appropriate services’ or ‘appropriate financial contributions’ may mean. This is a subjective issue, one which SA councils currently attempt to balance through public consultation policies that set out the steps councils will take to ensure interested community members are consulted where the act requires.</td>
<td>Councils already consult extensively to seek community views through engagement on annual business plans and budgets, and strategic management plans (long term financial and asset management plans), plus other matters identified in the Act or their public consultation policy. In Section 187(G) the process may require councils to undertake additional community engagement when seeking to apply for a rate cap variation and demonstrate their willingness and capacity to pay rates in accordance with the proposed varied rate cap. This may prove to be difficult for councils to achieve, noting the existing challenges councils face in receiving responses from the community when feedback/input is sought via consultations.</td>
</tr>
</tbody>
</table>

| Clause 5—Amendment of section 123—Annual business plans and budgets | Timing will be a challenge as ESCOSA will publish rate cap by 31 December (or later if it chooses). Councils will need to submit variation requests to ESCOSA by 31 March which includes evidence of the community engagement process that has been undertaken by the council on the proposed varied rate cap. | This means that Council will need to consult on next year’s Annual Business Plan prior to 31 March. However, councils generally consult on these plans in May/June. Moving this timing will means that Councils are developing Annual Business Plan projects up to 6 months before the completion of this year’s projects. |

| Clause 6—Insertion of Chapter 10 Part 1A – Rate Oversight | There is no reference in the Bill to any provisions of an automatic review (at any level) of this chapter if there is other legislation / government policy decision that may affect these inclusions or require changes to the legislation. Such a provision would be expected for an issue that has the potential to be affected by a number of policy areas. | Councils need to consider the impact that future state legislation and other policies may have on councils' ability to perform their functions if rate capping is introduced. Any change in legislation or policy that increases costs for councils could have a greater impact in the future if councils cannot generate additional revenue to adequately fund new responsibilities. |

---

LGA of SA Analysis of the Local Government (Rate Oversight) Amendment Bill 2018 – please also refer to the State Government’s accompanying Explanatory Paper.
Summary of the provisions of the Bill as outlined in Explanatory Paper

<table>
<thead>
<tr>
<th>Sections 187C–187K of the Bill are outlined below</th>
<th>LGA of SA Secretariat comments</th>
<th>Potential issues for councils/local government</th>
</tr>
</thead>
<tbody>
<tr>
<td>187C – Objects of Part</td>
<td>As elected bodies, councils are accountable to their local communities. Having robust processes and legislative requirements for public consultation on council Annual Business Plans and Budgets means that local government already subject to community oversight and is arguably the most transparent sphere of government. The same oversight is not given to state and commonwealth budgets, as their considerations are subject to cabinet-in-confidence. The experience of rate capping systems in both NSW and Victoria is that council debt increases and they have less capacity to deliver services. This has occurred despite the availability of a rate cap variation process being available in both interstate rate capping models. Placing oversight of financial matters in the hands of ESCOSA and the State Government will ultimately diminish the local decision making of Councils. Decisions about service levels and funding priorities will be referred to an unelected body that is not accountable to ratepayers and the democratic process. It can be inferred that ‘perform its duties and exercise its powers’ is a reference to the statutory responsibilities of local government. Many of the service provided by councils are discretionary and are provided – following public consultation - to meet the needs of and enhance communities. In some circumstances services are provided by councils because there is no alternative provider within the local community, or other government funding/support has been withdrawn. Some of these services may not meet an independent ‘essential service’ or ‘value for money’ test, but they are responding to community need. Through setting a rate cap and determining variation applications, ESCOSA council have more influence than local communities about the services they will receive.</td>
<td></td>
</tr>
<tr>
<td>187D – Interpretation</td>
<td>These formulas take into account the number of rateable properties in any given year. As such, the rate capping model gives appropriate consideration to residential and business growth within the area of the council. The LGA considers the methodology for ‘revenue recoverable from general rates’ to be revenue from General Rates (Gross) plus Penalties for late payment minus Discretionary</td>
<td></td>
</tr>
</tbody>
</table>

The relevance of the Base and Capped Standard rates for councils is explained in the following sections.
<table>
<thead>
<tr>
<th>Summary of the provisions of the Bill as outlined in Explanatory Paper</th>
<th>LGA of SA Secretariat comments</th>
<th>Potential issues for councils/local government</th>
</tr>
</thead>
<tbody>
<tr>
<td>properties in the base year. Capped Standard Rate is the total annual revenue from general rates as at 1 July in the capped year, divided by the number of ratable properties in the capped year.</td>
<td>Rebates, Remissions and Write-Offs, and Mandatory Rebates.</td>
<td></td>
</tr>
</tbody>
</table>

**187E - Primary rate cap determination**

Refer to the Explanatory Paper for a detailed description of the ‘Primary rate cap determination’.

The Bill states that a primary rate cap determination may apply to councils generally or a class of councils, or a particular council.

The Bill states that ESCOSA must set a primary rate cap by 31 December before the next capped year, or by another date set by ESCOSA. This means that ESCOSA could potentially specify a date at any point up 30 June (being the day before the capped year), which would severely limit councils ability to consult on and set an annual business plan and budget.

The Bill does not require ESCOSA to use a particular index (CPI or LGPI) as the basis for the primary rate cap. As this is a matter of discretion for ESCOSA, there is no certainty that a consistent or fair and reasonable approach will be taken to setting the cap each year.

ESCOSA may consider including an efficiency or productivity component when determining the primary rate cap. Note that the formula used by the Victorian Essential Services Commissioner has a 0.05 per cent efficiency factor for 2017-18 and 0.1 per cent for 2018-19.

As there is not detail available about the calculation of an annual cap, it is not currently clear whether there will be a requirement for ESCOSA to consider ‘asset renewal gaps’ as

Noting the wording of the legislation states that ESCOSA ‘may’ apply a rate cap determination to councils (generally/class/individual). Given this does not say ESCOSA ‘must’ apply a rate cap determination, councils may wish to test whether there is scope for no rate cap to be applied based on their previous performance and rate increases.

Setting a primary rate cap that recognises growth in rateable properties over the year is a positive intention.

However, more relevant for councils will be the index (CPI/LGPI) or other matters ESCOSA takes into consideration when setting a rate cap. This is entirely open to interpretation and the discretion of ESCOSA (subject to any directions provided by the Minister).

There is no information available on the criteria to be used by ESCOSA in making these determinations (which could potentially change year-to-year) or the information available to ESCOSA to inform their decisions. This creates a potential risk of significant red tape and duplication of reporting requirements on councils.

The conditions that may trigger a primary rate cap to be determined for any particular council may be viewed as a punitive response.

There is potentially only five month gap between declaration of current year’s budget (July/August) and then having an advanced plan for next financial year (in December of same year when ESCOSA declares rate). This will place pressure on council resources and may result in increased administrative costs. This also
<table>
<thead>
<tr>
<th>Summary of the provisions of the Bill as outlined in Explanatory Paper</th>
<th>LGA of SA Secretariat comments</th>
<th>Potential issues for councils/local government</th>
</tr>
</thead>
<tbody>
<tr>
<td>187F – Rate cap variation determinations</td>
<td>This section enables ESCOSA to receive and assess council applications for a variation of a primary rate cap from councils. Applications must be received by 31 March of the year before the capped year. Councils may apply for a rate cap variation for 1 or more years up to a maximum of 5 years. Councils subject to an individually determined primary rate cap (see punitive comment above) will not be able to seek a rate cap variation (noting that in these circumstances the relevant council will be consulted before a cap is set).</td>
<td>Although a primary rate cap may apply generally to all councils or to a class of councils (class is not defined) applications for rate cap variations can only be made by an individual council. There is no specification on how long ESCOSA will take to consider applications to vary the rate cap or if the application is denied whether the council has any right of review or appeal.</td>
</tr>
<tr>
<td>187G – Rate cap variations determination applications</td>
<td>ESCOSA can set a fee for an application, not in excess of the reasonable costs of determining</td>
<td>While it is not clear, councils would be significantly impacted if they are expected to cover the costs of administering the overall rate</td>
</tr>
<tr>
<td>Summary of the provisions of the Bill as outlined in Explanatory Paper</td>
<td>LGA of SA Secretariat comments</td>
<td>Potential issues for councils/local government</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>The Bill is specific in the detail required in applications, which are also set out in the Explanatory Paper. In summary, councils must specify:</td>
<td>the application. There is no further detail on this point, or on the broader issue of how ESCOSA will be funded to administer the rate capping system. In Victoria, these costs were nearly $3 million in 2016/17.</td>
<td>capping system. If they are, this would be a further example of cost shifting.</td>
</tr>
<tr>
<td>• Number of financial years</td>
<td>There is no information on when ESCOSA’s guidelines for applications to vary a primary rate cap and the community consultation required will be available.</td>
<td>It is uncertain if councils will have the ability to apply for any changes to previously approved variations – for example if there is a change in circumstances, events or an unforeseen impact on the council’s long term financial management plan.</td>
</tr>
<tr>
<td>• Reasons for variation</td>
<td>There is no indication of what weighting/importance ESCOSA will place on any criteria when assessing applications for variations.</td>
<td>Councils will be disadvantaged by the lack of review and appeal provisions in the Bill.</td>
</tr>
<tr>
<td>• Proposed varied rate cap for each specified year (could be different over more than one year)</td>
<td>The current criteria appears to place emphasis on ‘value for money’ however there are some services/infrastructure that Councils provide which it may be hard to justify are ‘value for money’, Council’s provide them essentially as a community service obligation (ie. local government does it because the private sector doesn’t). Consideration should be given to expanding the criteria regarding ‘How varied rate cap represents value for money’ to include a reference to ‘and/or achieves increased/enhanced community/social outcomes’.</td>
<td></td>
</tr>
<tr>
<td>• Community engagement process</td>
<td>The Bill does not outline a process for councils to seek a review or appeal ESCOSA decisions on variations. This is a significant issue/omission, insofar as other individuals, industries and requirements set out in the functions of ESCOSA has the legislative right to</td>
<td></td>
</tr>
<tr>
<td>• Likely impact on ratepayers, their capacity and willingness to pay</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Considerations of reprioritising spending measures and alternative funding options – plus explanation of why these are not suitable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• How varied rate cap represents value for money</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Consistency with council’s long term financial management plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Summary of the provisions of the Bill as outlined in Explanatory Paper</td>
<td>LGA of SA Secretariat comments</td>
<td>Potential issues for councils/local government</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>187H – Ministerial requests and directions</strong>&lt;br&gt;The Bill states that the Minister can direct ESCOSA to consider matters relating to:&lt;br&gt;• A primary rate cap determinations, including a cap that may apply to a particular council&lt;br&gt;• Applications for a rate cap variation determination&lt;br&gt;While the Bill enables the Minister to request or direct ESCOSA to consider matters, the Explanatory Paper suggests that ESCOSA will maintain its discretion as to whether to act.&lt;br&gt;Section 187H requires ESCOSA to publish copies of any Ministerial request direction on its website, to ensure the appropriate level of transparency.</td>
<td>While transparency of Ministerial direction may be maintained through Section 187H, the Bill provides Ministerial powers that seem to contradict the independent nature of ESCOSA.</td>
<td>Councils and local government will need to be mindful that given the ability for broad ranging Ministerial direction, the determinations of ESCOSA may be more aligned to recommendations to the Minister. This may allow for politically motivated decision making.</td>
</tr>
<tr>
<td><strong>187I – Council must notify ESCOSA of certain matters</strong>&lt;br&gt;The Explanatory Paper confirms that the proposed rate capping system in the Bill would only apply to general rates revenue. It considers that separate rates and other feed and charges are already restricted under the Local Government Act. This section sets requirements to ensure ESCOSA can set a future rate cap to a particular council if they are of the view that they are using fees and charges unreasonably.</td>
<td>This section restricts council ability to change the basis on which rates are assessed against land, declaring separate rates or imposing a service rate or annual service charge. It requires councils to notify ESCOSA so that they can consider applying an individual primary rate cap to that council. Failure to inform ESCOSA will not affect the validity of rates or changes, but will likely trigger an individual primary rate cap in the following financial year.</td>
<td>As they do now, councils will need to ensure that any review of separate rates, fees and charges are done in a transparent way, in consultation with their community.</td>
</tr>
<tr>
<td>Summary of the provisions of the Bill as outlined in Explanatory Paper</td>
<td>LGA of SA Secretariat comments</td>
<td>Potential issues for councils/local government</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td><strong>187J – Compliance with rate cap determination</strong>&lt;br&gt;This section requires councils’ compliance with any rate cap determination made by ESCOSA.</td>
<td>The Bill states that failure to comply with a rate cap determination does not affect the validity of any income in the financial year in which the failure occurred.</td>
<td>Councils need to be mindful that in the case of non-compliance with a rate cap, the validity of general rate income is only guaranteed for the same financial year. There is the possibility for ESCOSA or the Minister to make a retrospective adjustment the following year through a primary rate cap that applies to that individual council. It is important to note Section 187E (6), which states a primary rate cap determination may be a positive or negative amount. This means a council could technically be required to ensure the general rates revenue for one financial year is actually less than the previous year.</td>
</tr>
<tr>
<td><strong>187K – Administration</strong>&lt;br&gt;This section provides ESCOSA with powers to perform the functions of the rate oversight system. Additionally, ESCOSA will be required to:</td>
<td>Noting that councils are directly accountable to their communities, there is no comment on how will ESCOSA be accountable for the decisions they make that impact local government? Beyond a report tabled in Parliament, who is ESCOSA accountable to? ESCOSA has been given a function to assess the effect of primary rate cap determinations on the provision of services and infrastructure by councils, and the financial sustainability of councils. However, there is no detail on what support or change in approach there would be if these are affected in any significant way or if ESCOSA has serious concerns. Also, there is no detail on how the Government would support ESCOSA to develop a thorough and practical knowledge of local government before they start making decisions on the parameters of the rate capping model and Councils should note that there is no detail on how much the rate capping system will cost to administer each year or how will this will be funded. There is a potential for further cost shifting from the State Government.</td>
<td></td>
</tr>
</tbody>
</table>

ESCOSA will make a report on these matters to the Minister every two years. Reports received by the Minister from ESCOSA must tabled in Parliament, and may also be published on ESCOSA’s website.
<table>
<thead>
<tr>
<th>Summary of the provisions of the Bill as outlined in Explanatory Paper</th>
<th>LGA of SA Secretariat comments</th>
<th>Potential issues for councils/local government</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>determinations of a preliminary rate cap. Note that the Victorian ESC develops resources for councils and undertakes inquiries, studies and reviews as required.</td>
<td></td>
</tr>
<tr>
<td><strong>Clause 7 – Amendment of Section 273</strong></td>
<td>Refer to comments on section 187J</td>
<td></td>
</tr>
<tr>
<td><strong>Clause 8 – Amendment of Section 303</strong></td>
<td>LGA comments will depend on future regulations.</td>
<td></td>
</tr>
<tr>
<td>Amends the Local Government Act to enable regulations to be made to deal with saving or transitional arrangements of the Bill</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Clause 9 – Review</strong></td>
<td>There is no detail beyond a requirement to review the legislation, which does not appear to be linked to the outcomes of the rate capping system.</td>
<td>There is no sunset clause to the legislation. It is likely to remain in place once passed.</td>
</tr>
<tr>
<td>Requires that the Minister review the legislation before 31 December 2023 (after 5 years operation)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Some key questions - Local Government (Rate Oversight) Amendment Bill 2018

Primary rate cap determinations

- Has the State Government undertaken a Regulatory Impact Assessment, including consultation with relevant stakeholders about any unintended outcomes that may result, any implementation issues, and suggestions on how to monitor the effectiveness of the proposed rate capping model?
- What information would ESCOSA have to make a rate cap determination by December for the following financial year? Will this include up-to-date valuation data?
- What financial modelling has been undertaken to assess the impact of a rate cap on councils, in particular growth councils, smaller and/or regional councils? The LGA and SA councils will not be able to assess the impact of the proposed rate capping system on services and operations until we have specific detail and modelling.
- Will the State Government fund a comprehensive benchmarking program as advocated by the LGA?
- What role would the South Australian Local Government Grants Commission (LGGC) have, noting they are a trusted source of data and have a well-developed understanding of the local government sector?
- How would ESCOSA develop a thorough and practical knowledge of local government over the coming months before they start making decisions that have a significant impact on local government operations?

Variation applications

- When will ESCOSA guidelines be available and what assurances and processes would there be to ensure adequate and timely consultation with councils and the LGA on the guidelines?
- How much additional red tape and administrative costs would be generated by the processes required under the Bill, and are these processes practical and achievable for councils? Has any modelling been done on the costs to ratepayers of administering the system?
- What weighting/importance would ESCOSA give to criteria when assessing applications for variations? How would they treat unique community services that are being provided by councils because there is no one else filling an important need within their community – would these examples meet the test of ‘appropriate services’?
- Would councils have the ability to apply for any changes to previously approved variations?
- Would there be a process for councils to seek a review or appeal ESCOSA decisions on variations?

Monitoring and reporting

- How much would the rate capping system cost to administer each year? How will this be funded?
- Councils are accountable to their communities for the decision they make through democratic election processes. How would an independent regulator be held accountable by the community for the decisions they make that impact on local services, infrastructure and facilities?
- How would the State Government report publically on the outcomes of a rate capping system and what opportunity will there be for communities to provide their feedback on these outcomes?
## Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 1—Preliminary</strong></td>
<td></td>
</tr>
<tr>
<td>1—Short title</td>
<td>1. Generally it is the position of Council that the Minister should ensure ESCOSA is resourced for this work from appropriations within the State budget.</td>
</tr>
<tr>
<td></td>
<td>2. There is significant need for guidance documentation and regulations to support the Act, there should be a mechanism to ensure the sector is fully engaged in their development before they are adopted.</td>
</tr>
<tr>
<td><strong>Part 1—Preliminary</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>2—Commencement</td>
<td>Nil</td>
</tr>
<tr>
<td><strong>Part 1—Preliminary</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>3—Amendment provisions</td>
<td>Nil</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>4—Amendment of section 3—Objects</td>
<td>Nil</td>
</tr>
<tr>
<td>Section 3(f)—after &quot;communities&quot; insert: and to provide for appropriate financial contributions by ratepayers to those services and facilities</td>
<td></td>
</tr>
</tbody>
</table>
## Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>1. Council budgeting timeframes and processes are going to need to change as budgets need to be practically complete at least 6 weeks earlier if a deadline to make an application by 31 March will be made on sound information and analysis – practically it is earlier than this as community engagement should occur. It is likely that variations may need to be thought of 12 months prior, not in the construction of the relevant years budget, this will probably require a rolling 2 year budget process.</td>
</tr>
<tr>
<td>5—Amendment of section 123—Annual business plans and budgets</td>
<td>2. Will it require more finance resources as finance staff in many and probably most regional/rural Councils are completing EOFY/grant returns and the like into November, given the issue raised above it may be that we must commence preparation of the budgets, this would compete against the need to hold costs down and achieve efficiencies.</td>
</tr>
<tr>
<td>Section 123—after subsection (2) insert:</td>
<td></td>
</tr>
<tr>
<td>(2a) A council must ensure that, if relevant, an annual business plan also contains a statement—</td>
<td></td>
</tr>
<tr>
<td>(a) that the council intends to apply for a rate cap variation determination to increase the primary rate cap determination applying to the council for the financial year under Chapter 10 Part 1A; or</td>
<td></td>
</tr>
<tr>
<td>(b) that the council has made an application to ESCOSA for a rate cap variation determination but that a determination has not been made in relation to the application; or</td>
<td></td>
</tr>
<tr>
<td>(c) that a rate cap variation determination made by ESCOSA for the financial year applies to the council.</td>
<td></td>
</tr>
</tbody>
</table>
### Part 2—Amendment of Local Government Act 1999

6—Insertion of Chapter 10 Part 1A

Chapter 10—after Part 1 insert:

**Part 1A—Rate oversight**

#### 187C—Objects of Part

The objects of this Part are to ensure—

(a) that the financial contribution of ratepayers to the provision of services and infrastructure by local government to meet the present and future needs of local communities is subject to appropriate oversight; and

(b) that a council has the financial capacity to perform its duties and functions and exercise its powers.

---

1. There is already oversight of Council rate setting through electoral processes and full budget and business planning engagement of the community.

2. Further our Asset Management Plans and Long Term Financial Plans together determine our future needs. The legislation is structured so that this additional oversight is necessary, within the context of the engagement and oversight in the system at present it is considered sound practice to ensure these additional legislative compliance matters are taken into account by ESCOSA as part of Section 187E of the Bill.

3. The Bill structures these objects as Council having sufficient capacity to perform its duties and functions which grow as population and land uses change. Growth previously included valuation increases from development or more importantly when land uses move to high use such as vacant to residential or vacant to commercial which will not be picked up in the model. Therefore the system of capping is not catering for the achievement of the objective to ensure services can be performed.

4. The additional rate revenue delivered from development (not just new allotments) goes to offsetting the increased demand for services eg. vacant land usually has limited or no customers to service, as compared to housing, commercial, there’s a greater service demand on existing services (including asset consumption) for the new/additional customers. This can have a significant impact on future sustainability and without catering for it parts of the community will experience significant redistribution effects of the rate burden thereby undermining the intent and beneficiaries of the policy direction.
<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5. Generally how is the system going to cater for externalities such as cost shifting, legislative burden increases, internal and domestic economic matters (e.g. electricity prices, China recycling policy change, water prices, insurance impacts), emergency and disaster impacts, and industrial relations. These factors should also be considerations under Section 187E.</td>
</tr>
</tbody>
</table>
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>1. It is suggested to avoid any doubt the rate cap is on the gross rate revenue as each Council has varying reductions such a rebates, fines and interest and would be simpler and fairer.</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td>187D—Interpretation</td>
<td></td>
</tr>
<tr>
<td>(1) In this Part—</td>
<td></td>
</tr>
<tr>
<td><em>base standard rate</em>—see subsection (2);</td>
<td></td>
</tr>
<tr>
<td><em>base year</em> means the financial year before the capped year;</td>
<td></td>
</tr>
<tr>
<td><em>capped standard rate</em> see subsection (3);</td>
<td></td>
</tr>
<tr>
<td><em>capped year</em> means the financial year specified in a primary rate cap determination;</td>
<td></td>
</tr>
<tr>
<td><em>ESCOSA</em> means the Essential Services Commission established under the Essential Services Commission Act 2002;</td>
<td></td>
</tr>
<tr>
<td><em>primary rate cap</em> means the primary rate cap (expressed as a percentage) specified by ESCOSA in a primary rate cap determination;</td>
<td></td>
</tr>
<tr>
<td><em>primary rate cap determination</em>—see section 187E(1);</td>
<td></td>
</tr>
<tr>
<td><em>rate cap variation determination</em>—see section 187F(1);</td>
<td></td>
</tr>
<tr>
<td><em>varied rate cap</em> means the varied rate cap (expressed as a percentage) specified by ESCOSA in a rate cap variation determination.</td>
<td></td>
</tr>
<tr>
<td>Legislation Section</td>
<td>Submission</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong>&lt;br&gt;6—Insertion of Chapter 10 Part 1A&lt;br&gt;Chapter 10—after Part 1 insert:&lt;br&gt;Part 1A—Rate oversight&lt;br&gt;187D—Interpretation&lt;br&gt; (2) The <em>base standard rate</em>, in relation to a council, means the rate calculated in accordance with the following formula:</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Where—<br> *BSR* is the base standard rate;<br> *Rb* is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 30 June in the base year;<br> *N* is the number of rateable properties within the area of the council as at 30 June in the base year.
### Legislation Section

<table>
<thead>
<tr>
<th>Part 2—Amendment of Local Government Act 1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
</tr>
<tr>
<td>Part 1A—Rate oversight</td>
</tr>
</tbody>
</table>

#### 187D—Interpretation

(3) The **capped standard rate**, in relation to a council, means the rate calculated in accordance with the following formula:

\[
CSR = \frac{Rc}{N}
\]

Where—
- \(CSR\) is the capped standard rate;
- \(Rc\) is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 1 July in the capped year;
- \(N\) is the number of rateable properties within the area of the council as at 1 July in the capped year.

### Submission

1. Whilst there are definitions around the BSR and CSR, there is no clear definition on how we apply the primary rate cap determination. Is it applied to annualised revenue or the BSR. One assumes it is applied to the BSR but this is not clearly stated. If it were to be applied to annualised revenue then all growth would be lost. Any growth from subdivision of existing rateable properties will now be lost with this definition, this is an issue of clarification of definitions.

2. A problem with this methodology is that it does not fully provide for growth. It allows for growth in assessments at the current average. Where a council has significant vacant land, there will be no growth in revenue as a result of construction. For a council that has a changing profile, perhaps from primarily residential to more Commercial and industrial, revenue will not be reflective of this changing profile as it will be based on the average which is residential. There are various combinations of impact that could be detrimental to sustainability and unwanted redistribution of the rate burden.
<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>1. The calculation of the cap should take into account any cost shifting or increases beyond Council’s control see submission comments to Section 187C above.</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td>2. There needs to be a level of definition and clarity in the legislation about the cap being built on not just historical indexes but also on forecasts.</td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td>3. Limitation or some form of clarity of “other matters”, perhaps through an annual discussion paper or principles policy of ESCOSA of what other matters will be taken into account and allowing sector consultation.</td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td>4. The ability of the Minister to direct should be limited to seeking ESCOSA to set a determination which therefore ensures independence.</td>
</tr>
<tr>
<td>187E—Primary rate cap determinations</td>
<td>5. Rate capping determination set by ESCOSA should be based on future indicator forecasts not on historical indicators/data. In an economic climate of increasing inflation, Councils will suffer using historical indicators.</td>
</tr>
<tr>
<td>(1) ESCOSA may, on its own initiative or at the request of the Minister, by notice in the Gazette, determine that the capped standard rate for a specified financial year must not exceed the base standard rate by more than the primary rate cap specified in the notice (a <strong>primary rate cap determination</strong>).</td>
<td></td>
</tr>
<tr>
<td>1. Classes of Councils should be defined, perhaps in a similar way the remuneration tribunal does so, or a ESCOSA policy position about how classes will be determined.</td>
<td></td>
</tr>
</tbody>
</table>
**Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018**

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>1. Relevant indexes should be defined and include LGPI and wage cost indexation. CPI by definition is a measure of the average change over time in the prices paid by households for a fixed basket of goods and services. Councils consume little of these household goods and services and therefore it should be excluded or given little weight in calculating the costs faced by Councils. Those goods that are aligned like utilities are very different markets and consumed in very different ways. Another example would be insurances and Council risk environment is much different to a household.</td>
</tr>
<tr>
<td><strong>6—Insertion of Chapter 10 Part 1A</strong></td>
<td>2. The efficiency or productivity dividend or component could be construed as illogical. The independent ESCOSA decision is meant to take account of the relevant costs to run the organisation so as to be consistent with the Objects at 187C being in essence to ensure sufficient funds to perform Councils role. Applying a further (savings/cost cutting) factor seems on the face of it to be contradicting the Bills own objects in that ESCOSA after analysis and consideration or relevant factors makes a determination that it costs X to achieve the requirements of Councils role, but you have to meet a target of X-y when it has already been determined that X is the figure.</td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td>3. Refer to Section 187C for other factors that should be considered in making a determination.</td>
</tr>
<tr>
<td><strong>187E—Primary rate cap determinations</strong></td>
<td>4. Impacts of emergency and disaster response and recovery should be a factor in making cap determinations.</td>
</tr>
<tr>
<td>(3) Before making a primary rate cap determination that is to apply to councils generally or a class of councils, ESCOSA must consider the following:</td>
<td>5. The ability of the Minister to direct should be limited to seeking ESCOSA to set a determination which therefore ensures independence.</td>
</tr>
<tr>
<td>(a) the basis of the primary rate cap (for example, a relevant price or cost index);</td>
<td></td>
</tr>
<tr>
<td>(b) whether the primary rate cap should include an efficiency or productivity component;</td>
<td></td>
</tr>
<tr>
<td>(c) the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);</td>
<td></td>
</tr>
<tr>
<td>(d) any matter that the Minister directs ESCOSA to consider;</td>
<td></td>
</tr>
<tr>
<td>(e) any other matter considered relevant by ESCOSA.</td>
<td></td>
</tr>
</tbody>
</table>
### Part 2—Amendment of Local Government Act 1999

6—Insertion of Chapter 10 Part 1A

Chapter 10—after Part 1 insert:

**Part 1A—Rate oversight**

**187E—Primary rate cap determinations**

(4) The following provisions apply to the making of a primary rate cap determination that is to apply to a particular council:

(a) ESCOSA may only make a primary rate cap determination that is to apply to a particular council if ESCOSA considers it appropriate to do so taking into account—

(i) the council’s record of compliance with 1 or more previous primary rate cap determinations or rate cap variation determinations; or

(ii) a proposal by the council to—

(A) change the basis on which rates are assessed against land under section 148; or

(B) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155 in relation to a financial year; or

(iii) the level of other fees or charges imposed or proposed to be imposed by the council other than under Part 1; or

(iv) any other matter that ESCOSA thinks fit;

(b) before making a primary rate cap determination that is to apply to a particular council, ESCOSA must—

(i) consider the following:

(A) the matter or matters set out in subsection (4)(a)(i) to (iv) based on which ESCOSA considers it appropriate to make the determination;

(B) if ESCOSA proposes to make a primary rate cap determination that is to apply to councils generally for the relevant financial year, the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);

(C) any matter that the Minister directs ESCOSA to consider;

(D) any other matter considered relevant by ESCOSA; and

---

1. The ability of the Minister to direct should be limited to seeking ESCOSA to set a determination which therefore ensures independence.

2. There should be mechanisms within the system to ensure engagement with the sector before determining many of these administrative decisions and guidelines / regulations that are developed in support of this section.
<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>(ii) give the council a reasonable opportunity to make submissions in relation to the proposed determination.</td>
<td></td>
</tr>
</tbody>
</table>
### Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
</table>
| **Part 2—Amendment of Local Government Act 1999**  
6—Insertion of Chapter 10 Part 1A  
Chapter 10—after Part 1 insert:  
Part 1A—Rate oversight  
**187E—Primary rate cap determinations**  
(5) A primary rate cap determination does not have effect in relation to a capped year unless it is published in the Gazette—  
(a) on or before 31 December in the financial year before the capped year;  
or  
(b) on or before another date specified by ESCOSA by notice in the Gazette in the financial year before the capped year. | 1. Part B should be removed delaying such a decision could have significant impact to budget processes and require extensive rework of budgets.  
2. There is a need to provide some direction to this section to provide an estimated rate cap for the 10 year planning cycle required of the Local Government Act to ensure compliance with Section 122 of the Act. |
| **Part 2—Amendment of Local Government Act 1999**  
6—Insertion of Chapter 10 Part 1A  
Chapter 10—after Part 1 insert:  
Part 1A—Rate oversight  
**187E—Primary rate cap determinations**  
(6) A primary rate cap under a primary rate cap determination may be a positive or negative amount. | **Nil** |
| **Part 2—Amendment of Local Government Act 1999**  
6—Insertion of Chapter 10 Part 1A  
Chapter 10—after Part 1 insert:  
Part 1A—Rate oversight  
**187F—Rate cap variation determinations**  
(1) ESCOSA may, on application by a council the subject of a primary rate cap determination applying to councils generally or a class of councils, make a determination specifying a varied rate cap (being a cap that is different from the primary rate cap applying to the council under the primary rate cap determination) for 1 or more specified financial years (up to a maximum of 5 years) (a rate cap variation determination). | 1. Significant concern about timing of decisions and impact on budget processes.  
2. How will the mechanisms work – reiterate the guidelines/regulations developed to support the process of variation require commitment to sector engagement ie. level of documentation, can a “class of councils” apply together, what are the costs. |
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td>1. The ability of the Minister to direct should be limited to seeking ESCOSA to set a determination which therefore ensures independence.</td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td>187F—Rate cap variation determinations</td>
<td></td>
</tr>
<tr>
<td>(2) ESCOSA may only make a rate cap variation determination on an application under this section if satisfied that the varied rate cap is appropriate, having regard to—</td>
<td>1. There should be a minimum standard set for ESCOSA to publish its findings for the determination.</td>
</tr>
<tr>
<td>(a) the matters set out in section 187G(2); and</td>
<td>2. There is no review mechanism within the Bill to ensure a process of appeal should a determination be considered at error or fault in its reasoning by the applicant.</td>
</tr>
<tr>
<td>(b) the council’s record of compliance with any previous primary rate cap determination or rate cap variation determination; and</td>
<td></td>
</tr>
<tr>
<td>(c) whether requirements given by ESCOSA under section 29 of the Essential Services Commission Act 2002 relating to the council giving information relevant to the application (if any) have been complied with; and</td>
<td></td>
</tr>
<tr>
<td>(d) any matter that the Minister directs ESCOSA to consider; and</td>
<td></td>
</tr>
<tr>
<td>(e) any other matter determined by ESCOSA.</td>
<td></td>
</tr>
<tr>
<td>(3) If ESCOSA makes a rate cap variation determination under this section, ESCOSA must publish a notice in the Gazette specifying—</td>
<td></td>
</tr>
<tr>
<td>(a) the fact that a rate cap variation determination has been made; and</td>
<td></td>
</tr>
<tr>
<td>(b) the council to which the rate cap variation determination applies; and</td>
<td></td>
</tr>
<tr>
<td>(c) the varied rate cap applying under the rate cap variation determination (which may be the varied rate cap proposed by the council or another cap set by ESCOSA); and</td>
<td></td>
</tr>
<tr>
<td>(d) each financial year to which the varied rate cap applies.</td>
<td></td>
</tr>
</tbody>
</table>
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td>187F—Rate cap variation determinations</td>
<td></td>
</tr>
<tr>
<td>(4) A varied rate cap under a rate cap variation determination may be a positive or negative amount.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td>187G—Rate cap variation determination applications</td>
<td></td>
</tr>
<tr>
<td>(1) An application by a council for a rate cap variation determination must—</td>
<td></td>
</tr>
<tr>
<td>(a) be made by—</td>
<td></td>
</tr>
<tr>
<td>(i) 31 March before the first capped year to which the application relates; or</td>
<td></td>
</tr>
<tr>
<td>(ii) by such other date fixed by ESCOSA by notice in the Gazette; and</td>
<td></td>
</tr>
<tr>
<td>(b) be made in the form and manner determined by ESCOSA; and</td>
<td></td>
</tr>
<tr>
<td>(c) be accompanied by the fee determined by ESCOSA, which must not exceed the reasonable costs of determining the application.</td>
<td></td>
</tr>
</tbody>
</table>

1. Council budgeting timeframes and processes are going to need to change as budgets need to be practically complete at least 6 weeks earlier if a deadline to make an application by 31 March will be made on sound information and analysis – practically it is earlier than this as community engagement should occur. It is likely that variations may need to be thought of 12 months prior, not in the construction of the relevant years budget, this will probably require a rolling 2 year budget process.

2. Will it require more finance resources as finance staff in many and probably most regional/rural Councils are completing EOFY/grant returns and the like into November, given the issue raised above it maybe that we must commence preparation of the budgets, this would compete against the need to hold costs down and achieve efficiencies.

3. Fee determination is a concern – the cost of applying for a variation will place further impact on Councils to manage within the new system, these costs should be borne by the State.
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187G—Rate cap variation determination applications</strong></td>
<td>1. Given that the primary rate cap is to be determined by 31 December (or date to be gazetted otherwise) and a request for a rate cap variation determination to be submitted by 31 March this doesn't give much opportunity to complete all of (a) to (i), especially with Community Engagement being required there is real need to address the timing matters within the Bill.</td>
</tr>
<tr>
<td>(2) The application must specify—</td>
<td></td>
</tr>
<tr>
<td>(a) the number of financial years (up to a maximum of 5 years) that the council proposes that it be subject to a rate cap variation determination; and</td>
<td></td>
</tr>
<tr>
<td>(b) the proposed varied rate cap for each specified financial year; and</td>
<td></td>
</tr>
<tr>
<td>(c) the reasons the council seeks a varied rate cap; and</td>
<td></td>
</tr>
<tr>
<td>(d) the community engagement process that has been undertaken by the council on the proposed varied rate cap; and</td>
<td></td>
</tr>
<tr>
<td>(e) the likely impact of the proposed varied rate cap on ratepayers, including their capacity and willingness to pay rates in accordance with the proposed varied rate cap; and</td>
<td></td>
</tr>
<tr>
<td>(f) whether consideration has been given to reprioritising proposed spending measures and alternative funding options and, if so, why those options are not adequate; and</td>
<td></td>
</tr>
<tr>
<td>(g) how the varied rate cap represents value for money for the council and its ratepayers and promotes the efficient use of council resources; and</td>
<td></td>
</tr>
<tr>
<td>(h) how the proposal is consistent with the council’s long term financial plan and infrastructure and asset management plan under Chapter 8 Part 1; and</td>
<td></td>
</tr>
<tr>
<td>(i) any other information required by ESCOSA.</td>
<td></td>
</tr>
<tr>
<td>2. How can Council’s forecast its financial position and needs without knowing what the cap will be over the term of the LTFP they are required to produce. Some forward estimate directions should be required of ESCOSA so that Council can accurately determine its long term plans and CEO’s can confidently issue the required financial sustainability statement.</td>
<td></td>
</tr>
<tr>
<td>3. What process is there for significant events that are realised after 31 March?</td>
<td></td>
</tr>
<tr>
<td>4. Traditionally Council receives the valuations and revisits for valuations/subdivisions well after the 31 March, so spikes in valuations won’t be known and the resulting valuation amount will be higher than expected and average rate charges will have to be under the cap. And some expected subdivisions don’t get to Council in time before declaration, processing of valuations/subdivisions should be aligned by legislation with this rate cap determination process.</td>
<td></td>
</tr>
<tr>
<td>5. Where Councils need to make a material adjustment to appropriately cost from/to Service charges to/from general rates, what is the ESCOSA process to ensure its material to be reported and/or the end result is equitable and fair?</td>
<td></td>
</tr>
<tr>
<td>Legislation Section</td>
<td>Submission</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td><strong>6—Insertion of Chapter 10 Part 1A</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187G—Rate cap variation determination applications</strong></td>
<td></td>
</tr>
<tr>
<td>(3) A council must, as soon as is reasonably practicable after making an application for a rate cap variation determination, publish a copy of the application (including any accompanying information and documents) on its website.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td><strong>6—Insertion of Chapter 10 Part 1A</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187H—Publication of Ministerial requests and directions</strong></td>
<td></td>
</tr>
<tr>
<td>(1) If the Minister makes a request under section 187E(1), ESCOSA must publish a copy of the request on its website as soon as is reasonably practicable after its receipt.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td><strong>6—Insertion of Chapter 10 Part 1A</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187H—Publication of Ministerial requests and directions</strong></td>
<td></td>
</tr>
<tr>
<td>(2) If the Minister gives—</td>
<td></td>
</tr>
<tr>
<td>(a) a direction under section 187E(3)(d) or (4)(b)(i)(C); or</td>
<td></td>
</tr>
<tr>
<td>(b) a direction under section 187F(2)(d), ESCOSA must publish a copy of the direction on its website as soon as is reasonably practicable after its receipt.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td><strong>6—Insertion of Chapter 10 Part 1A</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td>Legislation Section</td>
<td>Submission</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>1. The wording of this part of the Bill intends ESCOSA to be notified only when introducing a new charge or the basis or rating, or that is how it seems to be intended. Clarification and simplification of its wording the make that clear would be of benefit.</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td><strong>Part 1A—Rate oversight</strong></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td><strong>187I—Council must notify ESCOSA of certain matters</strong></td>
</tr>
<tr>
<td>Part 1A—Rate oversight</td>
<td>(1) A council must not—</td>
</tr>
<tr>
<td></td>
<td>(a) change the basis on which rates are assessed against land under section 148; or</td>
</tr>
<tr>
<td></td>
<td>(b) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155, unless the council notifies ESCOSA, in the manner and form determined by ESCOSA, of the proposal before 31 October of the year before the first financial year in which the change, rate or charge (as the case may be) is to apply.</td>
</tr>
<tr>
<td></td>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td><strong>Part 1A—Rate oversight</strong></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td><strong>187I—Council must notify ESCOSA of certain matters</strong></td>
</tr>
<tr>
<td></td>
<td>(2) If a council notifies ESCOSA under subsection (1) of a—</td>
</tr>
<tr>
<td></td>
<td>(a) proposed change of a kind referred to in subsection (1)(a); or</td>
</tr>
<tr>
<td></td>
<td>(b) proposed rate or charge of a kind referred to in subsection (1)(b), the council must provide ESCOSA with any information or document required by ESCOSA in relation to the change, rate or charge (as the case requires).</td>
</tr>
</tbody>
</table>
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td>Part 1A—Rate oversight</td>
<td>Nil</td>
</tr>
<tr>
<td><strong>187I—Council must notify ESCOSA of certain matters</strong></td>
<td></td>
</tr>
<tr>
<td>(3) A failure to comply with this section does not affect the validity of any of the</td>
<td></td>
</tr>
<tr>
<td>following rates or charges recoverable under this Chapter (or any fine or</td>
<td></td>
</tr>
<tr>
<td>interest relating to such rates or charges):</td>
<td></td>
</tr>
<tr>
<td>(a) a rate or charge assessed against land on a changed basis of a kind</td>
<td></td>
</tr>
<tr>
<td>referred to in subsection (1)(a); or</td>
<td></td>
</tr>
<tr>
<td>(b) a separate rate, service rate or annual service charge of a kind referred</td>
<td></td>
</tr>
<tr>
<td>to in subsection (1)(b).</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td>Nil</td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td>Part 1A—Rate oversight</td>
<td></td>
</tr>
<tr>
<td><strong>187J—Compliance with rate cap determinations</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>(1) A council must comply with a primary rate cap determination.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td></td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td>Nil</td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td>Part 1A—Rate oversight</td>
<td></td>
</tr>
<tr>
<td><strong>187J—Compliance with rate cap determinations</strong></td>
<td></td>
</tr>
<tr>
<td>(2) If a rate cap variation determination is made in respect of a council—</td>
<td></td>
</tr>
<tr>
<td>(a) the rate cap variation determination applies to the council for the financial</td>
<td></td>
</tr>
<tr>
<td>year or years specified in the determination (instead of the primary rate cap</td>
<td></td>
</tr>
<tr>
<td>determination applying during that year or those years); and</td>
<td></td>
</tr>
<tr>
<td>(b) the council must comply with the rate cap variation determination.</td>
<td></td>
</tr>
</tbody>
</table>
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187J—Compliance with rate cap determinations</strong></td>
<td></td>
</tr>
<tr>
<td>(3) A failure to comply with a primary rate cap determination or a rate cap</td>
<td></td>
</tr>
<tr>
<td>variation determination does not affect the validity of any rate, charge,</td>
<td></td>
</tr>
<tr>
<td>interest or fine recoverable under this Chapter in respect of the financial year</td>
<td></td>
</tr>
<tr>
<td>in relation to which the failure occurred.</td>
<td></td>
</tr>
</tbody>
</table>

| **Part 2—Amendment of Local Government Act 1999**                                   |            |
| 6—Insertion of Chapter 10 Part 1A                                                  |            |
| Chapter 10—after Part 1 insert:                                                    |            |
| **Part 1A—Rate oversight**                                                          |            |
| **187K—Administration**                                                             |            |
| (1) ESCOSA has such functions and powers as are necessary or expedient to give     |            |
| effect to this Part, including the following functions:                             |            |
| (a) to monitor and review councils’ compliance with this Part and, in particular,  |            |
| to monitor and review compliance with primary rate cap                               |            |
| determinations and rate cap variation determinations;                               |            |
| (b) to assess the effect of primary rate cap determinations and rate cap variation  |            |
| determinations on the provision of services and infrastructure by councils and the  |            |
| sustainability of the financial performance and position of councils;               |            |
| (c) to identify trends across the local government sector arising from the operation |            |
| of primary rate cap determinations and rate cap variation determinations, and any    |            |
| other impacts arising from the operation of this Part.                              |            |

1. Generally supportive of ongoing review by ESCOSA of the implications of the rate cap in relation to services and infrastructure, however, there will be costs that Council will have to absorb in relation to this monitoring. It would be appropriate for these costs to be understood and provide for in the setting of the cap.

2. There should be a mechanism within the system to ensure engagement with the sector before determining these administrative requirements to ensure relevance, ease of collection and minimisation of duplication especially as benchmarking is developed.
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong>&lt;br&gt;6—Insertion of Chapter 10 Part 1A&lt;br&gt;Chapter 10—after Part 1 insert:&lt;br&gt;<strong>Part 1A—Rate oversight</strong>&lt;br&gt;187K—Administration&lt;br&gt;  (2) ESCOSA must, in relation to each financial year, give an annual report to the Minister on the compliance of councils with any primary rate cap determination and rate cap variation determination applying in that year.</td>
<td>1. Ensure ESCOSA is resourced for this work from appropriations within the State budget.</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong>&lt;br&gt;6—Insertion of Chapter 10 Part 1A&lt;br&gt;Chapter 10—after Part 1 insert:&lt;br&gt;<strong>Part 1A—Rate oversight</strong>&lt;br&gt;187K—Administration&lt;br&gt;  (3) ESCOSA must prepare a biennial report on—&lt;br&gt;    (a) the matters referred to in subsection (1)(b) and (c); and&lt;br&gt;    (b) any other matter relating to the operation of this Part that ESCOSA considers appropriate.</td>
<td>1. Ensure ESCOSA is resourced for this work from appropriations within the State budget.</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong>&lt;br&gt;6—Insertion of Chapter 10 Part 1A&lt;br&gt;Chapter 10—after Part 1 insert:&lt;br&gt;<strong>Part 1A—Rate oversight</strong>&lt;br&gt;187K—Administration&lt;br&gt;  (4) A report under subsection (3) must be given to the Minister within 3 months after the end of the second financial year to which the report relates.</td>
<td>1. Ensure ESCOSA is resourced for this work from appropriations within the State budget.</td>
</tr>
<tr>
<td>Legislation Section</td>
<td>Submission</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187K—Administration</strong></td>
<td></td>
</tr>
<tr>
<td>(5) The Minister must cause a copy of a report given to the Minister under this section to be laid before both Houses of Parliament within 12 sitting days after receiving the report.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>6—Insertion of Chapter 10 Part 1A</td>
<td></td>
</tr>
<tr>
<td>Chapter 10—after Part 1 insert:</td>
<td></td>
</tr>
<tr>
<td><strong>Part 1A—Rate oversight</strong></td>
<td></td>
</tr>
<tr>
<td><strong>187K—Administration</strong></td>
<td></td>
</tr>
<tr>
<td>(6) ESCOSA may, as soon as is reasonably practicable after giving a report under this section to the Minister, publish a copy of the report on its website.</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>7—Amendment of section 273—Action on report</td>
<td></td>
</tr>
<tr>
<td>Section 273(1)—after paragraph (c) insert:</td>
<td></td>
</tr>
<tr>
<td>; or</td>
<td></td>
</tr>
<tr>
<td>(d) a report of ESCOSA under Chapter 10 Part 1A,</td>
<td></td>
</tr>
<tr>
<td><strong>Part 2—Amendment of Local Government Act 1999</strong></td>
<td>Nil</td>
</tr>
<tr>
<td>8—Amendment of section 303—Regulations</td>
<td></td>
</tr>
<tr>
<td>(1) Section 303(8a)—delete &quot;additional&quot;</td>
<td></td>
</tr>
<tr>
<td>(2) Section 303(8a)—delete &quot;enactment of the Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015&quot; and substitute: amendment of this Act by another Act</td>
<td></td>
</tr>
</tbody>
</table>
Summary of Feedback on the Local Government Rate Oversight Amendment Bill 2018

<table>
<thead>
<tr>
<th>Legislation Section</th>
<th>Submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 2—Amendment of Local Government Act 1999 9—Review</td>
<td>1. Councils / LGA and their communities should have the opportunity to be able to provide feedback and for it to be incorporated into the review and associated report.</td>
</tr>
<tr>
<td>(1) The Minister responsible for the administration of the Local Government Act 1999 must cause a review of the operation of Chapter 10 Part 1A of that Act (as to be inserted into the Local Government Act 1999 by section 6 of this Act) to be conducted and a report on the results of the review to be prepared and submitted to the Minister.</td>
<td></td>
</tr>
<tr>
<td>(2) The review and report must be completed by 31 December 2023.</td>
<td>1.</td>
</tr>
<tr>
<td>(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after receiving the report.</td>
<td>1.</td>
</tr>
</tbody>
</table>
7.2.2 DEBATE AGENDA – FINANCE

7.2.2.1 MONTHLY FINANCE INTERIM REPORT (AS AT 30 JUNE 2018)

B411

Author: Senior Accountant

PURPOSE
The Uniform Presentation of Finances report provides information as to the financial position of Council, including notes on material financial trends and transactions.

RECOMMENDATION
That the Monthly Finance Interim Report as at 30 June 2018 be received and noted.

REPORT
Discussion
The Monthly Finance Interim Report (as at 30 June 2018) is attached. The report has been prepared comparing actuals to the Original adopted 2017/18 Budget and incorporating the adopted Revised Budgets for September, December and March.

Work will continue on the finalisation of these figures until the completion of the external audit process, scheduled for October, after which the full financial statements will be presented to Council. Further updates will also be presented to Council including analysis, material variances and a final report on financial results.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1: Monthly Finance Interim Report 30 June 2018

Policy
Budget & Business Plan and Review Policy

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
Corporate Plan
How We Work – Good Governance

6.2 Ensure that Council’s policy and process frameworks are based on principles of sound governance and meet legislative requirements.
6.3 Align operational strategy to strategic objectives and measure organisational performance to demonstrate progress towards achieving our goals.
6.4 Ensure that decisions regarding expenditure of Council’s budget are based on an assessment of whole of life costs, risks associated with the activity and advice contained within supporting plans.
6.9 Provide access to Council’s plans, policies and processes and communicate with the community in plain English.

6.16 Provide contemporary internal administrative and business support services in accordance with mandated legislative standards and good practice principles.

Legislative Requirements
Local Government (Financial Management) Regulations 2011 - Reg 9(1)(b)
LGA Information paper no. 25 – Monitoring Council Budget Performance

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

Financial
To enable Council to make effective and strategic financial decisions, a regular up to date high level financial report is provided.

**COMMUNITY CONSULTATION**

Community Consultation was part of the original budget adoption process in June 2017, as per legislation. This report is advising Council of the monthly finance position compared to that budget.
# Uniform Presentation of Finances

### OPERATING ACTIVITIES:

<table>
<thead>
<tr>
<th></th>
<th>Operating</th>
<th>Operating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Income</td>
<td>$36,690</td>
<td>$37,628</td>
</tr>
<tr>
<td>Less Operating Expenses</td>
<td>94.79%</td>
<td>92.13%</td>
</tr>
<tr>
<td></td>
<td>$36,734</td>
<td>$37,796</td>
</tr>
<tr>
<td>Operating Surplus / (Deficit)</td>
<td>(44)</td>
<td>(168)</td>
</tr>
</tbody>
</table>

### CAPITAL ACTIVITIES:

#### Net Outlays on Existing Assets

<table>
<thead>
<tr>
<th>Capital Expenditure on Renewal and Replacement of Existing Assets</th>
<th>84.61%</th>
<th>88.00%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less Depreciation, Amortisation &amp; Impairment</td>
<td>7,518</td>
<td>7,518</td>
</tr>
<tr>
<td>Less Proceeds from Sale of Replaced Assets</td>
<td>401</td>
<td>614</td>
</tr>
<tr>
<td>Net Outlays on Existing Assets (b)</td>
<td>(2,357)</td>
<td>(2,784)</td>
</tr>
</tbody>
</table>

#### Net Outlays on New and Upgraded Assets

| Capital Expenditure on New and Upgraded Assets | 67.86% | 47.35% |
| Less Amounts Received Specifically for New and Upgraded Assets  |        |       |
| Less Proceeds from Sale of Surplus Assets         | 707    | 1,098  |
| Net Outlays on New and Upgraded Assets (c)        | 3,908  | 5,573  |

### Net Lending/(Borrowing) for the Financial Year (a)-(b)-(c)

Total % Capital Budget Spent

| 76.90% | 65.24% |

### Reconciliation for the movement in Net Lending / (Borrowing)

<table>
<thead>
<tr>
<th>Original 2017/18 Full Year Budget Net Lending / (Borrowing)</th>
<th>(1,595)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carried Forward Budget Adjustments:</td>
<td></td>
</tr>
<tr>
<td>Report on Financial Results. Funds were held for these projects in cash and investments at 30 June 2017.</td>
<td>(3,848)</td>
</tr>
<tr>
<td>September 2017 Budget Review: Funds required for these items will decrease Council’s cash and investments. This amount includes amendments approved at the Council meeting held in July 2017.</td>
<td>(268)</td>
</tr>
<tr>
<td>December 2017 Budget Review: Funds required for these items will decrease Council’s cash and investments.</td>
<td>(332)</td>
</tr>
<tr>
<td>March 2018 Budget Review: Funds required for these items will increase Council’s cash and investments.</td>
<td>1,309</td>
</tr>
<tr>
<td>Carried Forward Budget Adjustments to 2018-19</td>
<td>1,777</td>
</tr>
<tr>
<td>Full Year Revised Budget - Net Lending / (Borrowing)</td>
<td>(2,957)</td>
</tr>
</tbody>
</table>

### NOTES

1) The early payment for Grants Commission funding 2018/19 $605k was received in June

2) 2017/18 Capital Expenditure spent to end of June includes:
- Angaston Railway Precinct Upgrade $64k, The Big Project $15k
- Bridges $110k
- Budgeting Software $14k
- CWMS $212k
- Drainage $683k
- Eden Valley Township Steel Sculptures $27k
- Floodwall $709k
- Footpaths $710k
- Forklift $32k
- Mount Pleasant Hall Air Conditioning $13k
- Nuriootpa Centennial Park Authority Community Pavilion $88k, Function Centre Fire Safety $10k
- Nuriootpa Skate Park $15k
- Playground Equipment $94k
- Road Resheeting $1,064k
- Sealed Roads $2,378k
- Stockwell Recreation Park Air Conditioning $18k
- Talunga Park Toilets $60k
- Tanunda Recreation Park Big Project $31k, Kegel Club Cladding $12k
- Tanunda to Gawler Bike Path $29k (final flood repair)
- The Rex 24/7 Access Project $46k
- Trucks, Backhoe, Woodchipper $568k (less trade-ins $182k)
- Williamstown Hall Chairs $8k
- Williamstown QVJP Retaining Wall $47k, Bridge Entrance $24k, Fence $12k, Kitchen $18k

---

**528**
7.3.1 CONSIDERATION AND ADOPTION OF BAROSSA REGIONAL GALLERY COMMITTEE RESOLUTIONS
B7322

PURPOSE
The minutes of Barossa Regional Gallery Committee meetings held 27 February 2018 and 24 April 2018 are presented for the consideration and adoption by Council.

RECOMMENDATION
That Council, having reviewed the Minutes of the Barossa Regional Gallery Committee meetings held 27 February 2018 and 24 April 2018, adopt the Resolutions contained therein.

REPORT
The consideration and adoption of recommendations of Council committees requires assessment by Council to ensure compliance with Council obligations under section 6(a) of the Local Government Act.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1: Minutes of the Barossa Regional Gallery Committee meeting held 27 February 2018
Attachment 2: Minutes of the Barossa Regional Gallery Committee meeting held 24 April 2018

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
Community Plan
Corporate Plan
How We Work – Good Governance

6.2 Ensure that Council’s policy and process frameworks are based on principles of sound governance and meet legislative requirements.

6.9 Provide access to Council’s plans, policies and processes and communicate with the community in plain English.

Legislative Requirements
Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Nil

COMMUNITY CONSULTATION
Not required under legislation or Council’s Public Consultation Policy.
# MINUTES
**THE MEETING OF THE BAROSSA REGIONAL GALLERY COMMITTEE NO 128**

held at the Barossa Regional Gallery, 3 Basedow Road, Tanunda
Tuesday 27th February 2018, commencing at 7.00pm

<table>
<thead>
<tr>
<th>1.0 Welcome by Chairman:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve welcomed all present to the meeting.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1.1 Present:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steve Kaesler, Kirsty Hage, Paul Schluter, Raelene Falland, Elizabeth Henderson, Peter Heuzenroeder, Sally Goers Fox, Leonie Boothby &amp; Marie Rothe</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1.2 Apologies:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Bader</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2.0 Previous Minutes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Minutes of the meeting held on 29th November 2017 were circulated and were confirmed as a true and correct record of the proceedings of that meeting.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.0 Correspondence:</th>
</tr>
</thead>
<tbody>
<tr>
<td>OUT: A Letter of thanks to Exhibition Volunteers.</td>
</tr>
<tr>
<td>IN: Nil</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.1 Business Arising from Correspondence:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>4.0 Reports:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>4.1 Programming/Exhibitions Committee:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Sally reported that she had stepped down as Person in Charge of the Exhibitions, but will remain on the committee. Chairman thanked Sally for all the time and effort she has put in over the years and her expertise was a wonderful asset to the Gallery. The position should be a part-time position. Kirsty is organising 3hrs to be allocated to Exhibition administration. Looking at an employed person in Corporate &amp; Community at the Council. In the exhibition’s committee the position of Curator to be fully described (contact with artist and organise people to hang exhibition) and committee members to take in turns throughout the year.</td>
</tr>
<tr>
<td>• Current Exhibition- “Watercolours and Mixed Media Sculptures” by Simone Lyon. Simone is a member of the Exhbitions Committee.</td>
</tr>
<tr>
<td>• Exhibitions are booked out in 2019</td>
</tr>
<tr>
<td>• Embroidery Retrospective Installation Sept 4 – Oct 4 in auditorium area.</td>
</tr>
</tbody>
</table>
MINUTES
THE MEETING OF THE BAROSSA REGIONAL GALLERY COMMITTEE NO 128
held at the Barossa Regional Gallery, 3 Basedow Road, Tanunda
Tuesday 27th February 2018, commencing at 7.00pm

4.2 Strategic Planning & Actions:
- ‘The Big Project’ – an architect is to draw up a Master Plan of the big picture - development of a Spatial Plan for an Arts & Culture Hub for the Barossa. Will be going to Council. In consideration, is this building & additions; a style that would be successful as a cultural Hub; volunteer input. A draft Master Plan to be emailed to committee members.

4.3 Kirsty’s/Dayna’s Corner:
- Kirsty looking for more weekend sitters. Advertising through the Leader. Kirsty tidying up position description for volunteers at Gallery.

4.4.0 Finance: Working on budget for next year. No major changes. Money already allocated last year for improvements.

4.4.1 Cookbook: Sandie Hamence’ Report

<table>
<thead>
<tr>
<th></th>
<th>Sales</th>
<th>Deposits</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 2017</td>
<td>$0</td>
<td>$354.75</td>
</tr>
<tr>
<td>December 2017</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>January 2018</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

- There is another year’s supply of books. Book, when printed, needs some additions including mention of 100yr celebration and some explanation to be included on history of cookbook.

4.5 Liedertafel:
- AGM tonight
- Starting practice next week.

4.6 RSL:
- ANZAC Service in the Hall 11am. Steve is playing the organ.
- Opening of the Gallery should be after the service. Raelene will ask if there is a problem if people enter the Gallery part during the Service.

4.7 Building Maintenance Report:
- Contract with Lyle Rosenzweig has been made for painting the auditorium ceiling and walls – cream tones – good transition into gallery. Hall will be closed from 17th June – 30th June.
- Liedertafel have just been notified.
- New automatic door closes have been fitted to front doors.
- All uses of Auditorium should go through Kirsty and Steve. There is paperwork to be filled out. Kirsty is in charge of calendar for bookings.
- March 7th – Gypsy Fire Concert.
- March 25th Adelaide Harmony Choir & organ - Messiah
- April 22nd – Valley Voices Concert
- May 26th – Night of Silent Movies and organ.

4.9 Organ Report:
- Organ Committee repaired flooring in dressing room
- Organ CD is on sale @ $25 – reviews have been good
| 5.0 | New Business:  
|     | • Hermannsburg Choir visit – Steve will work on date during exhibition and accommodation.  
|     | • Sally has approached Art Gallery SA for loan of an early Namatjira Painting as this is a very important Exhibition. Also in contact with Lutheran Church Archives. |

The meeting closed 8.15pm  
**Date:** 27th February 2018  
**Chairperson:** Steve Kaesler  
**Minutes:** Marie Rothe  

**Next Committee Meeting:**  
Tuesday 24th April 2018 at 7pm
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
| **1.0** | **Welcome by Chairman:**  
Steve welcomed all present to the meeting. |
| **1.1** | **Present:**  
Steve Kaesler, Paul Schluter, Raelene Falland, Elizabeth Henderson, Peter Heuzenroeder, Sally Goers Fox, Leonie Boothby, Robert Bader & Marie Rothe  
Steve |
| **1.2** | **Apologies:** Kirsty Hage |
| **2.0** | **Previous Minutes:**  
The Minutes of the meeting held on 27th February 2018 were circulated and were confirmed as a true and correct record of the proceedings of that meeting.  
Moved: Sally Sec: Paul  
All in favour |
| **3.0** | **Correspondence:**  
OUT: Nil  
IN: Nil |
| **3.1** | **Business Arising from Correspondence:**  
Nil |
| **4.0** | **Reports:** |
| **4.1** | **Programming/Exhibitions Committee:**  
- Migration Museum Exhibition – Internment 23rd October – 26th November. Sally has provided copies of photos from personal collection for the Exhibition – Barossa component. She seeks to document Barossa Stories from local people.  
- Hermannsburg Exhibition need to determine if it should be delayed as choir not available at scheduled time - thinking of postponing it this year.  
- Programme for Vintage Festival 2019 to be determined  
Sally |
| **4.2** | **Strategic Planning & Actions:**  
- At a Special Meeting on Thursday 26th April, Council are considering the Barossa Regional Cultural Hub Master Plan to be endorsed for public consultation. Gallery Committee Members are encouraged to review the Plan and provide comments as part of the public consultation process. The Developments proposed in the draft Barossa Regional Culture Hub Master Plan have been incorporated into a larger Expression of Interest (EOI) for Federal Government Funding under its Regional Growth Fund. Should the ‘EOI’ be successful, the Council will then develop a Business Case for the overall project prior to lodging a funding application.  
Leonie. |
| **4.3** | **Kirsty's/Dayna's Corner:**  
- Glenda Dinnerville has been employed for some hours a week. Dayna will be back. New volunteer Andrea Kiermeier.  
Steve |
## MINUTES

THE MEETING OF THE BAROSSA REGIONAL GALLERY COMMITTEE NO 130

held at the Barossa Regional Gallery, 3 Basedow Road, Tanunda
Tuesday 24<sup>th</sup> April 2018, commencing at 7.00pm

<table>
<thead>
<tr>
<th>4.4.0</th>
<th><strong>Finance:</strong> Tracking well as per Maintenance Work.</th>
<th>Steve</th>
</tr>
</thead>
</table>
| 4.4.1 | **Cookbook:** Sandie Hamence’ Report

<table>
<thead>
<tr>
<th>Sales</th>
<th>Deposits</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,080.75</td>
<td>$0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Peter Heuzenroeder</th>
</tr>
</thead>
</table>
| 4.5  | **Liedertafel:**
|       | - ANZAC Service - singing |
|       | - 2<sup>nd</sup> May – singing at Nuriootpa Redeemer School |
|       | - 22<sup>nd</sup> June – Celebrating Lobethal Choir’s 140<sup>th</sup> Anniversary at Hahndorf Mill with other German State Choirs |
|       | - 15<sup>th</sup> July Mid-Winter Concert in Gallery Auditorium |
| Paul Schluter |
| 4.6  | **RSL:**
|       | - ANZAC Service in the Hall 11am. Steve is playing the organ. |
| Raelene Falland |
| 4.7  | **Building Maintenance Report:**
|       | - Contract with Lyle Rosenzweig has been made for painting the auditorium ceiling and walls – cream tones – good transition into gallery. Hall will be closed from 17<sup>th</sup> June – 30<sup>th</sup> June. |
|       | - Overhead lighting in main auditorium – LED. Following up with a review - for further LED lighting for Gallery 2 – more economic. |
| Steve |
| 4.9  | **Organ Report:**
|       | - May 25<sup>th</sup> – History Month – “Night at the Movies” – organist David Johnston. |
|       | - Open Day 16<sup>th</sup> June |
| Steve |
| 5.0  | **New Business:**
|       | - Elizabeth asked that permanent signage be considered. Many people miss the Art Gallery entrance. |

The meeting closed 8pm
**Date:** 24<sup>th</sup> April 2018
**Chairperson:** Steve Kaesler  **Minutes:** Marie Rothe

**Next Committee Meeting:**  Tuesday 26<sup>th</sup> June 2018 at 7pm

| 534 | 2 |
7.3.1 DEBATE AGENDA – DIRECTOR CORPORATE AND COMMUNITY SERVICES

7.3.1.2 NURIOOTPA CENTENNIAL PARK AND COULTHARD RESERVE MASTER PLAN – COST ASSESSMENT REPORT

B6144

PURPOSE
To present the cost estimate for the Nuriootpa Centennial Park and Coulthard Reserve master plan further to item (3) of the resolution of the Council ref: 2014-18/1335 on the 20 March 2018.

RECOMMENDATION
That Council receives and notes the cost estimate ref: 18/46106 for the Nuriootpa Centennial Park and Coulthard Reserve Master Plan for inclusion/reference in The Big Project Feasibility and Business Plan and grant funding applications.

REPORT
Background
At its meeting on the 20 March 2018, Council resolved that:

MOVED Cr Lange that Council

(2) Endorses the Draft Concept Plan Design Report for Nuriootpa Centennial Park and Coulthard Reserve noting that it may be subject to future amendment and budget consideration as required.

(3) Requires Officers to work with the Working Group and Architects to prioritise, phase and cost the Master Plan to provide data for The Big Project Feasibility Report and provide a future report to Council.

(4) Requires Officers to provide an update on the outcome of the consultation to people that provided written, formal feedback and where contact information has been provided.

Seconded Cr de Vries CARRIED 2014-18/1335

Introduction
The cost estimate has been completed (accelerated to support the Regional Growth Fund application and without the opportunity to present to the Working Group) and is included in Attachment 1.
The cost estimate will be presented to the Working Group at the next available meeting and will be subject of further discussion and refinement as detailed design development progresses.

Initial prioritisation of the adopted master plan has been driven by the current Federal Regional Growth Fund Expression of Interest (RGF EOI) to focus on the elements of the master plan that are assessed by Council to best deliver on the outcomes of the funding criteria, namely: Australian Jobs growth; Australian Gross Domestic Product (GDP) and building regional capacity.

**Discussion**

The cost estimate and any subsequent updates will be incorporated into the overall Feasibility Report and Business Case for The Big Project (to be developed when resources are available and dependent upon the outcome of the RGF EOI process) and used to inform future funding applications and priorities. The figures have been used in the recent project prioritisation process for the Federal RGF EOI.

The costs include estimates for: Preliminary costs (10%); Builder’s Margins (4%); Locality Loading (1.5%); Design Development and Construction contingencies (5%); Professional Fees (10%) and statutory charges (0.4%).

<table>
<thead>
<tr>
<th>Location</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A CENTENNIAL PARK</strong></td>
<td></td>
</tr>
<tr>
<td><strong>A1 SPORTING FACILITIES</strong></td>
<td></td>
</tr>
<tr>
<td>A1A Demolition of Sheds and Scouts Hall</td>
<td>31,528</td>
</tr>
<tr>
<td>A1B Relocation of Soccer Pitch</td>
<td>381,801</td>
</tr>
<tr>
<td>A1C New Facilities including Change Rooms for AFL, Cricket &amp; Soccer, Gym, Toilets, User Group Storage, Undercover Spectator Area</td>
<td>1,555,472</td>
</tr>
<tr>
<td>A1D Upgrade Existing AFL Change Rooms</td>
<td>371,196</td>
</tr>
<tr>
<td>A1E Electrical Switchboard Works</td>
<td>212,111</td>
</tr>
<tr>
<td>A1F Stormwater Drainage Upgrade</td>
<td>801,817</td>
</tr>
<tr>
<td>A1G Cricket Net Upgrade</td>
<td>84,847</td>
</tr>
<tr>
<td>A1H Upgrade Existing Grandstand and Spectator Area</td>
<td>497,541</td>
</tr>
<tr>
<td>A1I Lighting Upgrade to Main Oval and Tennis Courts</td>
<td>282,813</td>
</tr>
<tr>
<td>A1J Fencing Upgrade to Main Oval</td>
<td>224,884</td>
</tr>
<tr>
<td>A1K Turf Wicket and Lighting to Hoffman Oval</td>
<td>275,743</td>
</tr>
<tr>
<td><strong>A1 - SPORTING FACILITIES</strong></td>
<td>4,719,753</td>
</tr>
<tr>
<td>A2 RECREATION FACILITIES</td>
<td>714,104</td>
</tr>
<tr>
<td>A3 CAR PARKING AND VEHICLE MOVEMENT</td>
<td>1,640,131</td>
</tr>
<tr>
<td>A4 SHARED USE AREAS, MOVEMENT AND BOUNDARIES</td>
<td>1,550,997</td>
</tr>
<tr>
<td><strong>A - CENTENNIAL PARK</strong></td>
<td>8,624,985</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B COULTHARD RESERVE</strong></td>
<td></td>
</tr>
<tr>
<td>B1 Recreation Facilities Including Relocation/Construction of Scouts Hall in the Reserve and Access Point across the Ditch</td>
<td>1,339,689</td>
</tr>
<tr>
<td>B2 Lake, Natural Setting and Boundary</td>
<td>1,725,083</td>
</tr>
<tr>
<td>B3 Car Parking and Movement</td>
<td>820,243</td>
</tr>
<tr>
<td><strong>B - COULTHARD RESERVE</strong></td>
<td>3,885,015</td>
</tr>
</tbody>
</table>
During the master plan development and consultation process, the upgrade to soccer facilities were identified as the highest priority and this was reinforced as part of the Federal RGF EOI submitted in April 2018.

**Summary and Conclusion**
A high level cost estimate of $8.6 million for Nuriootpa Centennial Park and $3.8 million for Coulthard Reserve including costs and contingencies but excluding GST has been obtained to deliver the adopted master plan.

This will be incorporated into the priorities for the overall “The Big Project” Feasibility Report modelling to be carried out on completion of the remaining master planning processes and when resources can be prioritised.

The figures have been used to inform the recent Federal RGF EOI process that includes: the soccer and multi function/user facilities; public toilets; AFL change room upgrades; soccer pitch realignment; relocation of scouts; parking and pedestrian infrastructure and associated drainage, civil and service improvements; cricket net relocation.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**
Attachment 1  Cost Estimate Report – Rider Levett Bucknall 18/46106

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**

**Community Plan**
- Natural Environment and Built Heritage
- Community and Culture
- Infrastructure
- Health and Wellbeing

**How We Work – Good Governance**

**Corporate Plan**
1.2 work toward developing township, streetscapes, entrances and open spaces that are attractive, welcoming and maintained to an agreed level of service
2.6 Provide, promote and support community arts and cultural events, programs, attractions and services.
3.1 provide regional and local walking and cycling connections between open spaces.
3.2 ensure Council’s parks, gardens and playgrounds are accessible, relevant and safe and maintained to an agreed level of service.
3.3 Ensure Council’s sporting, recreational and leisure grounds and playing areas and associated programs meet the current need of the community to an agreed level of service.
3.9 Ensure Council facilities and assets are accessible, safe and maintained to an agreed level of service.
3.11 advocate for the allocation of State and Federal funding to maintain and invest in infrastructure within our region.
4.1 Deliver and promote health and wellbeing initiatives in line with the Public Health Plan
6.4 Ensure that decisions regarding expenditure of Council’s budget are based on an assessment of whole of life cost, risks associated with the activity and advice contained within supporting plans.

Legislative Requirements
Local Government Act 1999
Development Act 1993

<table>
<thead>
<tr>
<th>FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial</strong></td>
</tr>
<tr>
<td>No additional information</td>
</tr>
</tbody>
</table>

| **Resource**                                          |
| The project management falls within the scope of “The Big Project” with input from the Director Corporate and Community Services and Manager Community Projects as required |

| **Risk Management**                                   |
| Effective cost assessment and control is a key requirement of managing financial and reputational risk to Council. There is no provision for escalation in the quoted costs. |

| COMMUNITY CONSULTATION                                 |
| The adopted Nuriootpa Centennial Park and Coulthard Reserve master plan is the outcome of the approved consultation process with community groups and the broader community through the development of the proposal. |
### Description

**Basis of Estimate**
This estimate is based upon measured quantities to which we have applied rates and conditions we currently believe applicable as at April 2018. We assumed that the project will be competitively tendered under standard industry conditions and form of contract.

This cost estimate is based on the documentation listed under the "Documents" section and does not at this stage provide a direct comparison with tenders received for the work at any future date. To enable monitoring of costs this estimate should be updated regularly during the design and documentation phases of this project.

**Limitation of Estimate**
This estimate should be viewed as a Concept Cost Plan for use in strategic master planning review and options analysis. It should **not** be used for decision making analysis to commit to a project (including acquisition, finance approval, equity approval or the like). We recommend that a more detailed elemental cost plan be prepared before such commitment is to be considered.

**Items Specifically Included**
This estimate specifically includes the following:

**Contingencies**
The estimate includes the following contingency allowances:

- **5%** - Design Development Contingency which allows for issues that will arise during the design and documentation period as the design team develops the design through to 100% documentation.

- **5%** - Construction Contingency which allows for issues that will arise during the construction period including for latent conditions, design errors and omissions, design changes, client changes, extension of time costs and provisional sum adjustments.

- **1.5%** - Locality Loading which allows for the differential in pricing between the base of Adelaide and the actual project locality of **Barossa Valley** and allows for the additional labour, material, transport and associated costs of contraction in this location. We assume that there will be a mixture of local and Adelaide based trades.

**Items Specifically Excluded**
The estimate **specifically excludes** the following which should be considered in an overall project feasibility study:

**Project Scope Exclusions**
- Stand-by power generator
- Murals and works of art
- Work outside site boundaries
- Works to Caravan Parks
- Works to north of oval under item No. 10 - noted as future works
- Re-location of existing AFL changerooms - allowance for minor upgrade only

**Scope Exclusions for works by others**
- Loose, soft and hard furnishings
- Kitchen and cooking equipment including stainless steel shelving to coolrooms and store rooms
- Beer and post mix equipment, fonts, post mixes, beer and soft drinks pythons/lines, temprites etc.
- Bar equipment including dishwashers, glass washers, coffee machines, etc.
The Big Project - Barossa Valley
Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

Description

- AV/ICT Equipment

Risk Exclusions

- Relocation and upgrade of existing services
- Repair to any damage caused to unidentified services during the performing of the works
- Contaminated ground Removal and Reinstatement
- Removal and Reinstatement of any soft, wet and weak spots in subgrade
- Asbestos and Hazardous Materials Removal
- Staging / Phasing costs

Other Project Cost Exclusions

- Legal fees
- Goods and Services Taxation
- Escalation in costs from March 2018 to future construction period.

Documents

The following documents have been used in preparing this estimate:

- Masterplan Report - 5/3/18
- Asbestos Registers
- Arborist Report - 27/9/17
## Location Summary

<table>
<thead>
<tr>
<th>Location</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A CENTENNIAL PARK</strong></td>
<td></td>
</tr>
<tr>
<td>A1 SPORTING FACILITIES</td>
<td></td>
</tr>
<tr>
<td>A1A Demolition of Sheds and Scouts Hall</td>
<td>31,528</td>
</tr>
<tr>
<td>A1B Relocation of Soccer Pitch</td>
<td>381,801</td>
</tr>
<tr>
<td>A1C New Facilities including Change Rooms for AFL, Cricket &amp; Soccer, Gym, Toilets, User Group Storage, Undercover Spectator Area</td>
<td>1,555,472</td>
</tr>
<tr>
<td>A1D Upgrade Existing AFL Change Rooms</td>
<td>371,196</td>
</tr>
<tr>
<td>A1E Electrical Switchboard Works</td>
<td>212,111</td>
</tr>
<tr>
<td>A1F Stormwater Drainage Upgrade</td>
<td>801,817</td>
</tr>
<tr>
<td>A1G Cricket Net Upgrade</td>
<td>84,847</td>
</tr>
<tr>
<td>A1H Upgrade Existing Grandstand and Spectator Area</td>
<td>497,541</td>
</tr>
<tr>
<td>A1I Lighting Upgrade to Main Oval and Tennis Courts</td>
<td>282,813</td>
</tr>
<tr>
<td>A1J Fencing Upgrade to Main Oval</td>
<td>224,884</td>
</tr>
<tr>
<td>A1K Turf Wicket and Lighting to Hoffman Oval</td>
<td>275,743</td>
</tr>
<tr>
<td><strong>A1 - SPORTING FACILITIES</strong></td>
<td>$4,719,753</td>
</tr>
<tr>
<td>A2 RECREATION FACILITIES</td>
<td>714,104</td>
</tr>
<tr>
<td>A3 CAR PARKING AND VEHICLE MOVEMENT</td>
<td>1,640,131</td>
</tr>
<tr>
<td>A4 SHARED USE AREAS, MOVEMENT AND BOUNDARIES</td>
<td>1,550,997</td>
</tr>
<tr>
<td><strong>A - CENTENNIAL PARK</strong></td>
<td>$8,624,985</td>
</tr>
<tr>
<td><strong>B COULTHARD RESERVE</strong></td>
<td></td>
</tr>
<tr>
<td>B1 RECREATION FACILITIES INCLUDING RELOCATION/CONSTRUCTION OF SCOUTS HALL IN THE RESERVE AND ACCESS POINT ACROSS THE DITCH</td>
<td>1,339,689</td>
</tr>
<tr>
<td>B2 LAKE, NATURAL SETTING AND BOUNDARY</td>
<td>1,725,083</td>
</tr>
<tr>
<td>B3 CAR PARKING AND MOVEMENT</td>
<td>820,243</td>
</tr>
<tr>
<td><strong>B - COULTHARD RESERVE</strong></td>
<td>$3,885,015</td>
</tr>
<tr>
<td><strong>ESTIMATED TOTAL COST</strong></td>
<td>$12,510,000</td>
</tr>
</tbody>
</table>
The Big Project - Barossa Valley
Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

A CENTENNIAL PARK
A1 SPORTING FACILITIES
A1A Demolition of Sheds and Scouts Hall

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alterations and Renovations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allowance to demolish soccer shed</td>
<td>m²</td>
<td>683</td>
<td>18.00</td>
<td>12,294</td>
</tr>
<tr>
<td>and scouts hall including concrete</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>slab, etc</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allowance for sundry demolition</td>
<td>Item</td>
<td>10,000</td>
<td></td>
<td>10,000</td>
</tr>
<tr>
<td>noted on documents</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alterations and Renovations</td>
<td></td>
<td></td>
<td></td>
<td>$22,294</td>
</tr>
<tr>
<td>Preliminaries</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractors Preliminaries and</td>
<td>Item</td>
<td>2,341</td>
<td></td>
<td>2,341</td>
</tr>
<tr>
<td>Supervision - 10%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminaries</td>
<td></td>
<td></td>
<td></td>
<td>$2,341</td>
</tr>
<tr>
<td>Builders Margin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractors Overheads and Margin</td>
<td>Item</td>
<td>1,030</td>
<td></td>
<td>1,030</td>
</tr>
<tr>
<td>- 4%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Builders Margin</td>
<td></td>
<td></td>
<td></td>
<td>$1,030</td>
</tr>
<tr>
<td>Locality Loading</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locality loading assuming that</td>
<td>Item</td>
<td>424</td>
<td></td>
<td>424</td>
</tr>
<tr>
<td>there will be a mixture of local and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adelaide based trades - 1.5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Locality Loading</td>
<td></td>
<td></td>
<td></td>
<td>$424</td>
</tr>
<tr>
<td>Contingency</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Design Development Contingency</td>
<td>Item</td>
<td>1,115</td>
<td></td>
<td>1,115</td>
</tr>
<tr>
<td>- 5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction Contingency</td>
<td>Item</td>
<td>1,339</td>
<td></td>
<td>1,339</td>
</tr>
<tr>
<td>- 5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contingency</td>
<td></td>
<td></td>
<td></td>
<td>$2,454</td>
</tr>
<tr>
<td>Professional Fees</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional Fees - 10%</td>
<td>Item</td>
<td>2,872</td>
<td></td>
<td>2,872</td>
</tr>
<tr>
<td>Professional Fees</td>
<td></td>
<td></td>
<td></td>
<td>$2,872</td>
</tr>
<tr>
<td>Statutory Charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td>113</td>
<td></td>
<td>113</td>
</tr>
<tr>
<td>Statutory Charges</td>
<td></td>
<td></td>
<td></td>
<td>$113</td>
</tr>
</tbody>
</table>

DEMOLITION OF SHEDS AND SCOUTS HALL

$31,528
### Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

#### The Big Project - Barossa Valley

**A CENTENNIAL PARK**

**A1 SPORTING FACILITIES**

**A1B Relocation of Soccer Pitch**

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AR</strong> Alterations and Renovations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 Dismantle and relocate existing Park Storage Shed including demolition of existing concrete slab on ground and construction of new slab and power provisions</td>
<td>m²</td>
<td>170</td>
<td>450.00</td>
<td>76,500</td>
</tr>
<tr>
<td><strong>XN</strong> Boundary Walls, Fencing and Gates</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Relocate existing fencing and provide new fencing where applicable to soccer pitch</td>
<td>Item</td>
<td></td>
<td></td>
<td>12,500</td>
</tr>
<tr>
<td><strong>XB</strong> Outbuildings and Covered Ways</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Allowance for tech bench to soccer pitch including concrete slab on ground - assumed basic structure</td>
<td>Item</td>
<td></td>
<td></td>
<td>25,000</td>
</tr>
<tr>
<td><strong>XL</strong> Landscaping and Improvements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Allowance to extend portion of soccer pitch south including earthworks, irrigation, relocation of goals, etc</td>
<td>m²</td>
<td>1,950</td>
<td>80.00</td>
<td>156,000</td>
</tr>
<tr>
<td><strong>PR</strong> Preliminaries</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td>28,349</td>
</tr>
<tr>
<td><strong>MA</strong> Builders Margin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td></td>
<td>12,473</td>
</tr>
<tr>
<td><strong>LL</strong> Locality Loading</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>5,128</td>
</tr>
<tr>
<td><strong>CT</strong> Contingency</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>13,499</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>16,216</td>
</tr>
<tr>
<td><strong>PF</strong> Professional Fees</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td>34,774</td>
</tr>
<tr>
<td><strong>ST</strong> Statutory Charges</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td></td>
<td>1,362</td>
</tr>
</tbody>
</table>

**RELOCATION OF SOCCER PITCH**

$381,801
<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NB</strong> New Buildings</td>
<td>Item</td>
<td>1</td>
<td>1,100,000</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>5 New single storey Sports Facility to include the following amenities (size and scope to be confirmed):</td>
<td>Item</td>
<td>1</td>
<td>1,100,000</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>- AFL Change Rooms</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Cricket Change Rooms</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Soccer Change &amp; Club Rooms</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Gym</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Toilets</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- User Group Storage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>XB</strong> Outbuildings and Covered Ways</td>
<td>Incl.</td>
<td>1</td>
<td></td>
<td>$115,498</td>
</tr>
<tr>
<td>6 New Undercover Spectator Area complete including concrete slab on ground, external walls, concrete steps, roof complete - basic type</td>
<td>Item</td>
<td>1</td>
<td></td>
<td>$115,498</td>
</tr>
<tr>
<td><strong>PR</strong> Preliminaries</td>
<td>Item</td>
<td>1</td>
<td>115,498</td>
<td>$115,498</td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td>1</td>
<td>115,498</td>
<td>$115,498</td>
</tr>
<tr>
<td><strong>MA</strong> Builders Margin</td>
<td>Item</td>
<td>1</td>
<td>50,817</td>
<td>$50,817</td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td>1</td>
<td>50,817</td>
<td>$50,817</td>
</tr>
<tr>
<td><strong>LL</strong> Locality Loading</td>
<td>Item</td>
<td>1</td>
<td>20,888</td>
<td>$20,888</td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td>1</td>
<td>20,888</td>
<td>$20,888</td>
</tr>
<tr>
<td><strong>CT</strong> Contingency</td>
<td>Item</td>
<td>1</td>
<td>54,995</td>
<td>$121,056</td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td>1</td>
<td>54,995</td>
<td>$121,056</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td>1</td>
<td>66,061</td>
<td>$121,056</td>
</tr>
<tr>
<td><strong>PF</strong> Professional Fees</td>
<td>Item</td>
<td>1</td>
<td>141,668</td>
<td>$141,668</td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td>1</td>
<td>141,668</td>
<td>$141,668</td>
</tr>
<tr>
<td><strong>ST</strong> Statutory Charges</td>
<td>Item</td>
<td>1</td>
<td>5,545</td>
<td>$5,545</td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td>1</td>
<td>5,545</td>
<td>$5,545</td>
</tr>
</tbody>
</table>

**NEW FACILITIES INCLUDING CHANGE ROOMS FOR AFL, CRICKET & SOCCER, GYM, TOILETS, USER GROUP STORAGE, UNDERCOVER SPECTATOR AREA**

$1,555,472
### Description

<table>
<thead>
<tr>
<th>AR</th>
<th>Alterations and Renovations</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Refurbish existing AFL Change Rooms - scope to be confirmed</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>m²</td>
<td>350</td>
<td>750.00</td>
<td>262,500</td>
</tr>
</tbody>
</table>

**Total Alterations and Renovations: $262,500**

<table>
<thead>
<tr>
<th>PR</th>
<th>Preliminaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>74</td>
<td>Contractors Preliminaries and Supervision - 10%</td>
</tr>
</tbody>
</table>

| Item | 27,562 |

**Total Preliminaries: $27,562**

<table>
<thead>
<tr>
<th>MA</th>
<th>Builders Margin</th>
</tr>
</thead>
<tbody>
<tr>
<td>76</td>
<td>Contractors Overheads and Margin - 4%</td>
</tr>
</tbody>
</table>

| Item | 12,127 |

**Total Builders Margin: $12,127**

<table>
<thead>
<tr>
<th>LL</th>
<th>Locality Loading</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td>Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
</tr>
</tbody>
</table>

| Item | 4,986 |

**Total Locality Loading: $4,986**

<table>
<thead>
<tr>
<th>CT</th>
<th>Contingency</th>
</tr>
</thead>
<tbody>
<tr>
<td>73</td>
<td>Design Development Contingency - 5%</td>
</tr>
<tr>
<td>77</td>
<td>Construction Contingency - 5%</td>
</tr>
</tbody>
</table>

| Item | 13,124 | 15,765 |

**Total Contingency: $28,889**

<table>
<thead>
<tr>
<th>PF</th>
<th>Professional Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>80</td>
<td>Professional Fees - 10%</td>
</tr>
</tbody>
</table>

| Item | 33,808 |

**Total Professional Fees: $33,808**

<table>
<thead>
<tr>
<th>ST</th>
<th>Statutory Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>79</td>
<td>Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
</tr>
</tbody>
</table>

| Item | 1,324 |

**Total Statutory Charges: $1,324**

**Upgrade Existing AFL Change Rooms: $371,196**
### A CENTENNIAL PARK

#### A1 SPORTING FACILITIES

**A1E Electrical Switchboard Works**

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>XE  External Electric Light and Power</td>
<td>Item</td>
<td>9</td>
<td>150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>PR  Preliminaries</td>
<td>Item</td>
<td>74</td>
<td>15,750</td>
<td>$15,750</td>
</tr>
<tr>
<td>MA  Builders Margin</td>
<td>Item</td>
<td>76</td>
<td>6,930</td>
<td>$6,930</td>
</tr>
<tr>
<td>LL  Locality Loading</td>
<td>Item</td>
<td>75</td>
<td>2,849</td>
<td>$2,849</td>
</tr>
<tr>
<td>CT  Contingency</td>
<td>Item</td>
<td>73</td>
<td>7,499</td>
<td>$7,499</td>
</tr>
<tr>
<td>PF  Professional Fees</td>
<td>Item</td>
<td>80</td>
<td>19,319</td>
<td>$19,319</td>
</tr>
<tr>
<td>ST  Statutory Charges</td>
<td>Item</td>
<td>79</td>
<td>756</td>
<td>$756</td>
</tr>
</tbody>
</table>

**Total**

$212,111

**EXTERNAL ELECTRICAL SWITCHBOARD WORKS**

Rates Current At April 2018
# The Big Project - Barossa Valley

Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AR Alterations and Renovations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>57 Removal trees as per tree report</td>
<td>No</td>
<td>27</td>
<td>1,500.00</td>
<td>40,500</td>
</tr>
<tr>
<td><strong>XP Site Preparation</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20 Allowance for earthworks to infill to drainage problem area</td>
<td>Item</td>
<td>100,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>XL Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26 Allowance for landscaping generally including establishment of trees</td>
<td>Item</td>
<td>50,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>XK External Stormwater Drainage</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19 Allowance for stormwater drainage solution including pits, pump and connection to Coulthard Reserve lake</td>
<td>Item</td>
<td>220,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>72 Allowance for stormwater drainage to Oval and Soccer problem areas</td>
<td>m²</td>
<td>15,653</td>
<td>10.00</td>
<td>156,530</td>
</tr>
<tr>
<td><strong>PR Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td>59,537</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MA Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td>26,195</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>LL Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td>10,768</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CT Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td>28,349</td>
<td></td>
<td></td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td>34,053</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PF Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td>73,027</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ST Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td>2,858</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**STORMWATER DRAINAGE UPGRADE**

$801,817
### The Big Project - Barossa Valley

#### Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

**Location Elements Item**

**A CENTENNIAL PARK**

**A1 SPORTING FACILITIES**

**A1G Cricket Net Upgrade**

*Rates Current At April 2018*

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FT Fitments</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16 Allowance to relocate and upgrade existing cricket nets including lay new surface, etc - assumed 3 No.</td>
<td>No</td>
<td>3</td>
<td>20,000.00</td>
<td>60,000</td>
</tr>
<tr>
<td><strong>Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td>6,300</td>
<td>6,300</td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td>2,772</td>
<td>2,772</td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td>1,140</td>
<td>1,140</td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>3,000</td>
<td>3,000</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>3,604</td>
<td>3,604</td>
</tr>
<tr>
<td><strong>Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td>7,728</td>
<td>7,728</td>
</tr>
<tr>
<td><strong>Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td>303</td>
<td>303</td>
</tr>
</tbody>
</table>

**CRICKET NET UPGRADE**

*Total* $84,847
## A CENTENNIAL PARK

### A1 SPORTING FACILITIES

#### A1H Upgrade Existing Grandstand and Spectator Area

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>AR Alterations and Renovations</td>
<td>Item</td>
<td>10</td>
<td>200,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>10 Refurbish existing Grandstand including removal of asbestos, reinstatement of soffit lining, etc - 190m² approx</td>
<td>Item</td>
<td>10</td>
<td>200,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>XR Roads, Footpaths and Paved Areas</td>
<td>m² 3,037</td>
<td>50.00</td>
<td>151,850</td>
<td></td>
</tr>
<tr>
<td>11 Allowance to upgrade spectator area in front of and behind Grandstand - scope to be confirmed</td>
<td>m² 3,037</td>
<td>50.00</td>
<td>151,850</td>
<td></td>
</tr>
<tr>
<td>PR Preliminaries</td>
<td>Item</td>
<td>74</td>
<td>36,944</td>
<td>$36,944</td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td>74</td>
<td>36,944</td>
<td>$36,944</td>
</tr>
<tr>
<td>MA Builders Margin</td>
<td>Item</td>
<td>76</td>
<td>16,255</td>
<td>$16,255</td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td>76</td>
<td>16,255</td>
<td>$16,255</td>
</tr>
<tr>
<td>LL Locality Loading</td>
<td>Item</td>
<td>75</td>
<td>6,682</td>
<td>$6,682</td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td>75</td>
<td>6,682</td>
<td>$6,682</td>
</tr>
<tr>
<td>CT Contingency</td>
<td>Item</td>
<td>73</td>
<td>17,591</td>
<td>$17,591</td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td>73</td>
<td>17,591</td>
<td>$17,591</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td>77</td>
<td>21,130</td>
<td>$21,130</td>
</tr>
<tr>
<td>PF Professional Fees</td>
<td>Item</td>
<td>80</td>
<td>45,315</td>
<td>$45,315</td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td>80</td>
<td>45,315</td>
<td>$45,315</td>
</tr>
<tr>
<td>ST Statutory Charges</td>
<td>Item</td>
<td>79</td>
<td>1,774</td>
<td>$1,774</td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td>79</td>
<td>1,774</td>
<td>$1,774</td>
</tr>
</tbody>
</table>

**UPGRADE EXISTING GRANDSTAND AND SPECTATOR AREA**

$497,541

Rates Current at April 2018
## The Big Project - Barossa Valley
Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

### A CENTENNIAL PARK
A1 SPORTING FACILITIES
A1 Lighting Upgrade to Main Oval and Tennis Courts

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Electric Light and Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12 New lights to Tennis Courts - assumed existing poles can be retained</td>
<td>No</td>
<td>8</td>
<td>7,500.00</td>
<td>60,000</td>
</tr>
<tr>
<td>13 Allowance for replacement of existing poles and new lights to Main Oval (training standard)</td>
<td>No</td>
<td>4</td>
<td>35,000.00</td>
<td>140,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$200,000</strong></td>
</tr>
<tr>
<td><strong>Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td>21,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$21,000</strong></td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td></td>
<td>9,239</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$9,239</strong></td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>3,798</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$3,798</strong></td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>9,999</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>12,011</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$22,010</strong></td>
</tr>
<tr>
<td><strong>Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td>25,758</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$25,758</strong></td>
</tr>
<tr>
<td><strong>Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td></td>
<td>1,008</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$1,008</strong></td>
</tr>
</tbody>
</table>

**LIGHTING UPGRADE TO MAIN OVAL AND TENNIS COURTS**

$282,813
## A CENTENNIAL PARK
### A1 SPORTING FACILITIES
#### A1J Fencing Upgrade to Main Oval

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alterations and Renovations</td>
<td>m</td>
<td>513</td>
<td>10.00</td>
<td>5,130</td>
</tr>
<tr>
<td>Boundary Walls, Fencing and Gates</td>
<td>m</td>
<td>513</td>
<td>300.00</td>
<td>153,900</td>
</tr>
<tr>
<td>Preliminaries</td>
<td>Item</td>
<td></td>
<td></td>
<td>16,699</td>
</tr>
<tr>
<td>Builders Margin</td>
<td>Item</td>
<td></td>
<td></td>
<td>7,348</td>
</tr>
<tr>
<td>Locality Loading</td>
<td>Item</td>
<td></td>
<td></td>
<td>3,020</td>
</tr>
<tr>
<td>Contingency</td>
<td>Item</td>
<td></td>
<td></td>
<td>7,951</td>
</tr>
<tr>
<td>Contingency</td>
<td>Item</td>
<td></td>
<td></td>
<td>9,551</td>
</tr>
<tr>
<td>Professional Fees</td>
<td>Item</td>
<td></td>
<td></td>
<td>20,483</td>
</tr>
<tr>
<td>Statutory Charges</td>
<td>Item</td>
<td></td>
<td></td>
<td>802</td>
</tr>
</tbody>
</table>

**Total** = $224,884

---

**Alterations and Renovations**
- **Demolish existing metal tubular fence**
  - Unit: m
  - Qty: 513
  - Rate: 10.00
  - Total: $5,130

**Boundary Walls, Fencing and Gates**
- **Allowance for new picket fence to Main Oval including access gates, etc (plastic wood or similar)**
  - Unit: m
  - Qty: 513
  - Rate: 300.00
  - Total: $153,900

---

**Preliminaries**
- **Contractors Preliminaries and Supervision - 10%**
  - Item
  - Total: $16,699

**Builders Margin**
- **Contractors Overheads and Margin - 4%**
  - Item
  - Total: $7,348

**Locality Loading**
- **Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%**
  - Item
  - Total: $3,020

**Contingency**
- **Design Development Contingency - 5%**
  - Item
  - Total: $7,951
- **Construction Contingency - 5%**
  - Item
  - Total: $9,551

**Professional Fees**
- **Professional Fees - 10%**
  - Item
  - Total: $20,483

**Statutory Charges**
- **Statutory Fees and Charges (including CITB Levy) - 0.4%**
  - Item
  - Total: $802

---

**FENCING UPGRADE TO MAIN OVAL**
- Total: $224,884
<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>XL Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18 Establish turf wicket complete to Hoffman Oval</td>
<td>Item</td>
<td>15,000</td>
<td></td>
<td>$15,000</td>
</tr>
<tr>
<td><strong>External Electric Light and Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17 Allowance for new lighting including light poles to Hoffman Oval including connection back to switchboard</td>
<td>No</td>
<td>4</td>
<td>45,000.00</td>
<td>180,000</td>
</tr>
<tr>
<td><strong>Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td>$20,475</td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td>9,008</td>
<td></td>
<td>$9,008</td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td>3,703</td>
<td></td>
<td>$3,703</td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td>9,749</td>
<td></td>
<td>$9,749</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td>11,711</td>
<td></td>
<td>$11,711</td>
</tr>
<tr>
<td><strong>Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td>25,114</td>
<td></td>
<td>$25,114</td>
</tr>
<tr>
<td><strong>Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td>983</td>
<td></td>
<td>$983</td>
</tr>
</tbody>
</table>

**TURF WICKET AND LIGHTING TO HOFFMAN OVAL** | | | | $275,743
# Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

## A CENTENNIAL PARK

### A2 RECREATION FACILITIES

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NB New Buildings</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>40 Allowance for toilet block (similar to what was installed in Talunga Park) (13/25)</td>
<td>No</td>
<td>1</td>
<td>150,000.00</td>
<td>150,000</td>
</tr>
<tr>
<td><strong>New Buildings</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$150,000</strong></td>
</tr>
<tr>
<td><strong>FT Fitments</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>87 Allowance for signage and graphics</td>
<td>Item</td>
<td></td>
<td>5,000</td>
<td>5,000</td>
</tr>
<tr>
<td><strong>Fitments</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$5,000</strong></td>
</tr>
<tr>
<td><strong>XL Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>70 Allowance for Memorial Garden works including retaining walls, garden beds, planting, irrigation, sculptures, stepping logs, seating, trees, etc complete (11)</td>
<td>Item</td>
<td></td>
<td>250,000</td>
<td>250,000</td>
</tr>
<tr>
<td>71 Upgrade existing playground including new equipments, etc complete (12)</td>
<td>Item</td>
<td></td>
<td>100,000</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$350,000</strong></td>
</tr>
<tr>
<td><strong>PR Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td>53,024</td>
<td>53,024</td>
</tr>
<tr>
<td><strong>Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$53,024</strong></td>
</tr>
<tr>
<td><strong>MA Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td>23,330</td>
<td>23,330</td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$23,330</strong></td>
</tr>
<tr>
<td><strong>LL Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td>9,590</td>
<td>9,590</td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$9,590</strong></td>
</tr>
<tr>
<td><strong>CT Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>25,247</td>
<td>25,247</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>30,328</td>
<td>30,328</td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$55,575</strong></td>
</tr>
<tr>
<td><strong>PF Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td>65,039</td>
<td>65,039</td>
</tr>
<tr>
<td><strong>Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$65,039</strong></td>
</tr>
<tr>
<td><strong>ST Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td>2,546</td>
<td>2,546</td>
</tr>
<tr>
<td><strong>Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$2,546</strong></td>
</tr>
<tr>
<td><strong>YY Special Provisions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>84 No allowance to replace existing scoreboard</td>
<td>Item</td>
<td></td>
<td>Excl.</td>
<td>Excl.</td>
</tr>
<tr>
<td><strong>Special Provisions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>RECREATION FACILITIES</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$714,104</strong></td>
</tr>
</tbody>
</table>

Excl.
# The Big Project - Barossa Valley

## Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

### Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fitments</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FT 23 Traffic calming - Install speed bumps</td>
<td>No</td>
<td>15</td>
<td>1,750.00</td>
<td>26,250</td>
</tr>
<tr>
<td>24 Allowance for Entry Statement to main road</td>
<td>Item</td>
<td></td>
<td></td>
<td>25,000</td>
</tr>
<tr>
<td>87 Allowance for signage and graphics</td>
<td>Item</td>
<td></td>
<td></td>
<td>5,000</td>
</tr>
<tr>
<td><strong>Total Fitments</strong></td>
<td></td>
<td></td>
<td></td>
<td>$56,250</td>
</tr>
<tr>
<td><strong>Roads, Footpaths and Paved Areas</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>XR 21 Upgrade existing bitumen road including line markings, etc</td>
<td>m²</td>
<td>4,311</td>
<td>35.00</td>
<td>150,885</td>
</tr>
<tr>
<td>25 New bitumen carpark complete including civil works</td>
<td>m²</td>
<td>4,350</td>
<td>75.00</td>
<td>326,250</td>
</tr>
<tr>
<td>27 Compacted gravel as informal carparking to north western corner</td>
<td>m²</td>
<td>4,683</td>
<td>50.00</td>
<td>234,150</td>
</tr>
<tr>
<td>90 Allowance for sundry kerbing</td>
<td>Item</td>
<td></td>
<td></td>
<td>40,000</td>
</tr>
<tr>
<td><strong>Total Roads, Footpaths and Paved Areas</strong></td>
<td></td>
<td></td>
<td></td>
<td>$751,285</td>
</tr>
<tr>
<td><strong>Boundary Walls, Fencing and Gates</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>XN 22 Demolish existing entrance and construct new walls to enable a wider entrance including foundations, walls, electronic gate, etc</td>
<td>Item</td>
<td></td>
<td>90,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Boundary Walls, Fencing and Gates</strong></td>
<td></td>
<td></td>
<td></td>
<td>$90,000</td>
</tr>
<tr>
<td><strong>Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>XL 26 Allowance for landscaping generally including establishment of trees</td>
<td>Item</td>
<td></td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td></td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>External Stormwater Drainage</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>XK 30 Allowance for stormwater generally to new carparking areas</td>
<td>m²</td>
<td>9,033</td>
<td>10.00</td>
<td>90,330</td>
</tr>
<tr>
<td><strong>Total External Stormwater Drainage</strong></td>
<td></td>
<td></td>
<td></td>
<td>$90,330</td>
</tr>
<tr>
<td><strong>External Electric Light and Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>XE 85 Allowance for lighting to new carparking areas</td>
<td>m²</td>
<td>9,385</td>
<td>13.00</td>
<td>122,005</td>
</tr>
<tr>
<td><strong>Total External Electric Light and Power</strong></td>
<td></td>
<td></td>
<td></td>
<td>$122,005</td>
</tr>
<tr>
<td><strong>Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PR 74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td>121,784</td>
</tr>
<tr>
<td><strong>Total Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td>$121,784</td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MA 76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td></td>
<td>53,583</td>
</tr>
<tr>
<td><strong>Total Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td>$53,583</td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LL 75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td>22,024</td>
<td></td>
</tr>
<tr>
<td><strong>Total Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td>$22,024</td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CT 73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>57,988</td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td></td>
<td>69,656</td>
</tr>
<tr>
<td><strong>Total Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td>$127,644</td>
</tr>
</tbody>
</table>
### A CENTENNIAL PARK

**A3 CAR PARKING AND VEHICLE MOVEMENT (continued)**  
Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PF</strong> Professional Fees</td>
<td>Item</td>
<td>80</td>
<td>149,379</td>
<td>$149,379</td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ST</strong> Statutory Charges</td>
<td>Item</td>
<td>79</td>
<td>5,847</td>
<td>$5,847</td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total** CAR PARKING AND VEHICLE MOVEMENT: $1,640,131
## A CENTENNIAL PARK

### A4 SHARED USE AREAS, MOVEMENT AND BOUNDARIES

**Rates Current At April 2018**

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FT Fitments</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>33 Allowance for picnic tables, benches, bollards, boom gates, wheelstops, etc</td>
<td>Item</td>
<td></td>
<td>100,000</td>
<td></td>
</tr>
<tr>
<td>87 Allowance for signage and graphics</td>
<td>Item</td>
<td></td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td><strong>AR Alterations and Renovations</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>57 Removal trees as per tree report</td>
<td>No</td>
<td>20</td>
<td>1,500.00</td>
<td>30,000</td>
</tr>
<tr>
<td>58 Remove deadwood to trees as per tree report</td>
<td>No</td>
<td>16</td>
<td>650.00</td>
<td>10,400</td>
</tr>
<tr>
<td><strong>XR Roads, Footpaths and Paved Areas</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28 Upgrade of existing compacted gravel surface</td>
<td>m²</td>
<td>11,522</td>
<td>25.00</td>
<td>288,050</td>
</tr>
<tr>
<td>29 Upgrade of existing bitumen surface</td>
<td>m²</td>
<td>3,233</td>
<td>35.00</td>
<td>113,155</td>
</tr>
<tr>
<td>34 Upgrade of existing surface finish to the road that connects Centennial Park with Coulthard Reserve</td>
<td>m²</td>
<td>2,366</td>
<td>30.00</td>
<td>70,980</td>
</tr>
<tr>
<td>90 Allowance for sundry kerbing</td>
<td>Item</td>
<td></td>
<td>40,000</td>
<td></td>
</tr>
<tr>
<td><strong>XN Boundary Walls, Fencing and Gates</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35 Gates including posts, etc separating Centennial Park with Coulthard Reserve</td>
<td>No</td>
<td>3</td>
<td>3,500.00</td>
<td>10,500</td>
</tr>
<tr>
<td>36 900mm high boundary fence between Caravan Park and Sporting Facility</td>
<td>m</td>
<td>475</td>
<td>150.00</td>
<td>71,250</td>
</tr>
<tr>
<td><strong>XB Outbuildings and Covered Ways</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>32 Allowance for shades structures generally</td>
<td>Item</td>
<td></td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td><strong>XL Landscaping and Improvements</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>31 Allowance for landscaping to areas 19 and 20 generally</td>
<td>Item</td>
<td></td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td>37 Allowance for low landscape edge between Caravan Park and Sporting Facility</td>
<td>m</td>
<td>475</td>
<td>100.00</td>
<td>47,500</td>
</tr>
<tr>
<td>81 Allowance for new trees generally</td>
<td>Item</td>
<td></td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td><strong>XK External Stormwater Drainage</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>88 Allowance for sundry stormwater drainage - scope to be confirmed</td>
<td>Item</td>
<td></td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td><strong>XE External Electric Light and Power</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>86 Allowance for lighting - scope to be confirmed</td>
<td>Item</td>
<td></td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td><strong>PR Preliminaries</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td>115,166</td>
<td></td>
</tr>
</tbody>
</table>

**Total Fitments** $115,000

**Total Alterations and Renovations** $40,400

**Total Roads, Footpaths and Paved Areas** $512,185

**Total Boundary Walls, Fencing and Gates** $81,750

**Total Outbuildings and Covered Ways** $75,000

**Total Landscaping and Improvements** $147,500

**Total External Stormwater Drainage** $50,000

**Total External Electric Light and Power** $75,000

**Total Preliminaries** $115,166
## A CENTENNIAL PARK

### A4 SHARED USE AREAS, MOVEMENT AND BOUNDARIES (continued)

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MA Builders Margin</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td>50,671</td>
<td><strong>$50,671</strong></td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>LL Locality Loading</strong></td>
<td>Item</td>
<td></td>
<td>20,828</td>
<td><strong>$20,828</strong></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td>20,828</td>
<td><strong>$20,828</strong></td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CT Contingency</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>54,836</td>
<td><strong>$120,707</strong></td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>65,871</td>
<td><strong>$120,707</strong></td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$120,707</strong></td>
</tr>
<tr>
<td><strong>PF Professional Fees</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td>141,261</td>
<td><strong>$141,261</strong></td>
</tr>
<tr>
<td><strong>Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$141,261</strong></td>
</tr>
<tr>
<td><strong>ST Statutory Charges</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td>5,529</td>
<td><strong>$5,529</strong></td>
</tr>
<tr>
<td><strong>Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$5,529</strong></td>
</tr>
</tbody>
</table>

**SHARED USE AREAS, MOVEMENT AND BOUNDARIES**

**$1,550,997**
## Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

### The Big Project - Barossa Valley

#### B COULTHARD RESERVE

B1 RELOCATION/FACILITIES INCLUDING
RELOCATION/CONSTRUCTION OF SCOUTS HALL IN THE RESERVE
AND ACCESS POINT ACROSS THE DITCH

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>NB New Buildings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>40 Allowance for toilet block (similar to what was installed in Talunga Park) (13/25)</td>
<td>No</td>
<td>1</td>
<td>150,000.00</td>
<td>150,000</td>
</tr>
<tr>
<td>45 New Scouts building - design to cost (26)</td>
<td>Item</td>
<td></td>
<td>300,000</td>
<td></td>
</tr>
<tr>
<td><strong>New Buildings</strong></td>
<td></td>
<td></td>
<td><strong>$450,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

| FT Fitments | |     |       |         |
| 41 Allowance for seating, bins, shading, etc near new toilet block / bush chapel (25) | Item | | 10,000 |         |
| 43 Upgrade play space including some provision for rope play or nature play which could benefit scouts activities (28) | Item | | 35,000 |         |
| 53 Allowance for fencing, bollards, traffic calming, etc to Scouts Area (26) | Item | | 25,000 |         |
| 87 Allowance for signage and graphics | Item | | 7,500 |         |
| **Fitments** | | | **$77,500** |         |

| AR Alterations and Renovations | |     |       |         |
| 39 Allowance for minimal works to upgrade existing bush chapel (24) | Item | | 10,000 |         |
| 42 Upgrade existing toilet block (27) | Item | | 10,000 |         |
| **Alterations and Renovations** | | | **$20,000** |         |

| XP Site Preparation | |     |       |         |
| 38 Allowance for minimal upgrade to existing grass area (23) | m² | 9,177 | 6.00 | 55,062 |
| **Site Preparation** | | | **$55,062** |         |

| XR Roads, Footpaths and Paved Areas | |     |       |         |
| 51 Allowance for compacted gravel road to access to Scouts including stormwater drainage to existing drain (26) | m² | 2,573 | 60.00 | 154,380 |
| 52 Infill existing drain to create access to Scouts including fill, reinforce concrete box culvert, headwalls, scour treatment, etc complete (26) | Item | | 35,000 |         |
| **Roads, Footpaths and Paved Areas** | | | **$189,380** |         |

| XL Landscaping and Improvements | |     |       |         |
| 46 Clear area to create grassed area including irrigation for Scouts (26) | m² | 1,523 | 20.00 | 30,460 |
| 89 Allowance for sundry landscaping and trees | Item | | 50,000 |         |
| **Landscaping and Improvements** | | | **$80,460** |         |

| XE External Electric Light and Power | |     |       |         |
| 86 Allowance for lighting - scope to be confirmed | Item | | 75,000 |         |
| **External Electric Light and Power** | | | **$75,000** |         |

| PR Preliminaries | |     |       |         |
| 74 Contractors Preliminaries and Supervision - 10% | Item | | 99,475 |         |
| **Preliminaries** | | | **$99,475** |         |
## B COULTHARD RESERVE

B1 RECREATION FACILITIES INCLUDING  
RELOCATION/CONSTRUCTION OF SCOUTS HALL IN THE RESERVE  
AND ACCESS POINT ACROSS THE DITCH (continued)  

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>MA Builders Margin</td>
<td>Item</td>
<td></td>
<td>43,767</td>
<td>$43,767</td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LL Locality Loading</td>
<td>Item</td>
<td></td>
<td>17,991</td>
<td>$17,991</td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CT Contingency</td>
<td>Item</td>
<td></td>
<td>47,366</td>
<td>$104,262</td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PF Professional Fees</td>
<td>Item</td>
<td></td>
<td>122,016</td>
<td>$122,016</td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ST Statutory Charges</td>
<td>Item</td>
<td></td>
<td>4,776</td>
<td>$4,776</td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RELOCATION/CONSTRUCTION OF SCOUTS HALL IN THE RESERVE AND ACCESS POINT ACROSS THE DITCH**

$1,339,689
## Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

### The Big Project - Barossa Valley

#### Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FT</strong> Fitments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50 No allowance for a dock or similar to enable paddle boats, etc (30)</td>
<td>Item</td>
<td></td>
<td>Excl.</td>
<td></td>
</tr>
<tr>
<td>55 Allowance for picnic area including tables, bins, shade sails, signage, etc (31/33)</td>
<td>No</td>
<td>4</td>
<td>15,000.00</td>
<td>60,000</td>
</tr>
<tr>
<td>62 Upgrade existing BBQ’s</td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>67 Allowance for sundry picnic benches, bins, signage, etc near Parking Bay, etc</td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Fitments</strong></td>
<td></td>
<td></td>
<td>$90,000</td>
<td></td>
</tr>
<tr>
<td><strong>SE</strong> Special Equipment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>66 Allowance for drinks fountains</td>
<td>No</td>
<td>7</td>
<td>6,000.00</td>
<td>42,000</td>
</tr>
<tr>
<td><strong>Special Equipment</strong></td>
<td></td>
<td></td>
<td>$42,000</td>
<td></td>
</tr>
<tr>
<td><strong>AR</strong> Alterations and Renovations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>48 Demolish islands to existing lakes (29)</td>
<td>No</td>
<td>2</td>
<td>6,500.00</td>
<td>13,000</td>
</tr>
<tr>
<td>57 Removal trees as per tree report</td>
<td>No</td>
<td>34</td>
<td>1,500.00</td>
<td>51,000</td>
</tr>
<tr>
<td>58 Remove deadwood to trees as per tree report</td>
<td>No</td>
<td>31</td>
<td>650.00</td>
<td>20,150</td>
</tr>
<tr>
<td>59 Reduce the size of branches that overhang high use areas as per tree report</td>
<td>No</td>
<td>4</td>
<td>450.00</td>
<td>1,800</td>
</tr>
<tr>
<td>61 Upgrade existing shed and other shade structures generally</td>
<td>Item</td>
<td></td>
<td></td>
<td>25,000</td>
</tr>
<tr>
<td><strong>Alterations and Renovations</strong></td>
<td></td>
<td></td>
<td>$110,950</td>
<td></td>
</tr>
<tr>
<td><strong>XP</strong> Site Preparation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>44 Import fill to separate lake to create amphitheatre including shaping (29)</td>
<td>m³</td>
<td>1,145</td>
<td>65.00</td>
<td>74,425</td>
</tr>
<tr>
<td>49 Re-line northern half of the lake with a clay base to enable the retention of water all year round (30)</td>
<td>m²</td>
<td>5,474</td>
<td>25.00</td>
<td>136,850</td>
</tr>
<tr>
<td><strong>Site Preparation</strong></td>
<td></td>
<td></td>
<td>$211,275</td>
<td></td>
</tr>
<tr>
<td><strong>XN</strong> Boundary Walls, Fencing and Gates</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60 No allowance for fencing to lake and amphitheatre - confirm if needed</td>
<td>m</td>
<td>355</td>
<td>Excl.</td>
<td></td>
</tr>
<tr>
<td><strong>Boundary Walls, Fencing and Gates</strong></td>
<td></td>
<td></td>
<td>Excl.</td>
<td></td>
</tr>
<tr>
<td><strong>XL</strong> Landscaping and Improvements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>47 Allowance for works to establish amphitheatre including access - scope to be advised - assumed grassed embankment (29)</td>
<td>m²</td>
<td>2,610</td>
<td>50.00</td>
<td>130,500</td>
</tr>
<tr>
<td>54 Allowance for minor upgrade of existing landscaping to establish picnic areas (31/33)</td>
<td>m²</td>
<td>7,511</td>
<td>6.00</td>
<td>45,066</td>
</tr>
<tr>
<td>63 Re-vegetate existing fence line 5-10m wide with native planting between Caravan Park and Coulthard Reserve (35)</td>
<td>m²</td>
<td>3,677</td>
<td>15.00</td>
<td>55,155</td>
</tr>
<tr>
<td><strong>Landscaping and Improvements</strong></td>
<td></td>
<td></td>
<td>$230,721</td>
<td></td>
</tr>
<tr>
<td><strong>XK</strong> External Stormwater Drainage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>83 Allowance for box culverts, headwalls, scour protection, gate, etc to form overflow to lake (between 29 and 30)</td>
<td>Item</td>
<td></td>
<td>35,000</td>
<td></td>
</tr>
<tr>
<td><strong>External Stormwater Drainage</strong></td>
<td></td>
<td></td>
<td>$35,000</td>
<td></td>
</tr>
</tbody>
</table>
## Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

### B COULTHARD RESERVE

#### B2 LAKE, NATURAL SETTING AND BOUNDARY (continued)

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PR Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td>128,091</td>
<td>Preliminaries $128,091</td>
<td></td>
</tr>
<tr>
<td><strong>MA Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td>56,358</td>
<td>Builders Margin $56,358</td>
<td></td>
</tr>
<tr>
<td><strong>LL Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td>23,166</td>
<td>Locality Loading $23,166</td>
<td></td>
</tr>
<tr>
<td><strong>CT Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td>60,992</td>
<td>Contingency $134,256</td>
<td></td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td>73,264</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PF Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td>157,116</td>
<td>Professional Fees $157,116</td>
<td></td>
</tr>
<tr>
<td><strong>ST Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td>6,150</td>
<td>Statutory Charges $6,150</td>
<td></td>
</tr>
<tr>
<td><strong>YY Special Provisions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>56 Provisional Sum allowance for works to Para River including improving of the quality &amp; flow of the river and bank erosion remediation (34)</td>
<td>Item</td>
<td>500,000</td>
<td>Special Provisions $500,000</td>
<td></td>
</tr>
</tbody>
</table>

**LAKE, NATURAL SETTING AND BOUNDARY**

$1,725,083
## Nuriootpa Centennial Park and Coulthard Reserve - Masterplan

### B COULTHARD RESERVE

#### B3 CAR PARKING AND MOVEMENT

Rates Current At April 2018

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fitments</strong></td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>87 Allowance for signage and graphics</td>
<td>Item</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>7,500</td>
<td></td>
</tr>
<tr>
<td><strong>XR Roads, Footpaths and Paved Areas</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>64 Allowance for mixture of new and upgrading of road (36)</td>
<td>m²</td>
<td>5,170</td>
<td>50.00</td>
<td>258,500</td>
</tr>
<tr>
<td>65 Allowance for bitumen parking bays (37)</td>
<td>m²</td>
<td>2,225</td>
<td>75.00</td>
<td>166,875</td>
</tr>
<tr>
<td>68 Formalise link between Northern Exit and Trail</td>
<td>m²</td>
<td>261</td>
<td>85.00</td>
<td>22,185</td>
</tr>
<tr>
<td>69 Upgrade existing trail network - retain links to Bush Gardens and wider regional trail network - extent of scope to be confirmed</td>
<td>Item</td>
<td></td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td><strong>Roads, Footpaths and Paved Areas</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>External Electric Light and Power</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>86 Allowance for lighting - scope to be confirmed</td>
<td>Item</td>
<td></td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td><strong>PR Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>74 Contractors Preliminaries and Supervision - 10%</td>
<td>Item</td>
<td></td>
<td>60,905</td>
<td></td>
</tr>
<tr>
<td><strong>Preliminaries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MA Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>76 Contractors Overheads and Margin - 4%</td>
<td>Item</td>
<td></td>
<td>26,797</td>
<td></td>
</tr>
<tr>
<td><strong>Builders Margin</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>LL Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%</td>
<td>Item</td>
<td></td>
<td>11,015</td>
<td></td>
</tr>
<tr>
<td><strong>Locality Loading</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CT Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>73 Design Development Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>29,000</td>
<td></td>
</tr>
<tr>
<td>77 Construction Contingency - 5%</td>
<td>Item</td>
<td></td>
<td>34,836</td>
<td></td>
</tr>
<tr>
<td><strong>Contingency</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>PF Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 Professional Fees - 10%</td>
<td>Item</td>
<td></td>
<td>74,706</td>
<td></td>
</tr>
<tr>
<td><strong>Professional Fees</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>ST Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>79 Statutory Fees and Charges (including CITB Levy) - 0.4%</td>
<td>Item</td>
<td></td>
<td>2,924</td>
<td></td>
</tr>
<tr>
<td><strong>Statutory Charges</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CAR PARKING AND MOVEMENT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>$820,243</strong></td>
</tr>
</tbody>
</table>

### Notes

- **Fitments**
  - 87 Allowance for signage and graphics

- **XR Roads, Footpaths and Paved Areas**
  - 64 Allowance for mixture of new and upgrading of road (36)
  - 65 Allowance for bitumen parking bays (37)
  - 68 Formalise link between Northern Exit and Trail
  - 69 Upgrade existing trail network - retain links to Bush Gardens and wider regional trail network - extent of scope to be confirmed

- **External Electric Light and Power**
  - 86 Allowance for lighting - scope to be confirmed

- **PR Preliminaries**
  - 74 Contractors Preliminaries and Supervision - 10%

- **MA Builders Margin**
  - 76 Contractors Overheads and Margin - 4%

- **LL Locality Loading**
  - 75 Locality loading assuming that there will be a mixture of local and Adelaide based trades - 1.5%

- **CT Contingency**
  - 73 Design Development Contingency - 5%
  - 77 Construction Contingency - 5%

- **PF Professional Fees**
  - 80 Professional Fees - 10%

- **ST Statutory Charges**
  - 79 Statutory Fees and Charges (including CITB Levy) - 0.4%
7.3.2 DEBATE AGENDA – MANAGER COMMUNITY PROJECTS

7.3.2.1 FEES AND CHARGES REGISTER – 2018/2019 – ANGASTON TOWN HALL

B7181

PURPOSE
To approve the recommended fees for hiring of Angaston Town Hall that was deleted in error from the 2018/19 Fees and Charges Register.

RECOMMENDATION
That the proposed fees for hiring of Angaston Town Hall be adopted and included in the 2018/19 Fees and Charges Register:
- Angaston Town Hall only - $160
- Angaston Town Hall Complex - $200

REPORT
Discussion
Due to an administrative error, some of the hire fees for Angaston Town Hall were deleted from the 2017/18 Fees and Charges Register. Council is required to approve the fees prior to them being charged in 2018/19.

<table>
<thead>
<tr>
<th>Fee</th>
<th>2017/18</th>
<th>2018/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Angaston Town Hall only</td>
<td>$150</td>
<td>$160</td>
</tr>
<tr>
<td>Angaston Town Hall Complex</td>
<td>$185</td>
<td>$200</td>
</tr>
</tbody>
</table>

NB: there is a separate fee payable for the hire of the Angaston Town Hall Annexe only and this has already been adopted with the other Fees and Charges in June 2018.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Policy
Budget & Business Plan and Review Policy

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS
Corporate Plan

How We Work – Good Governance

6.2 Ensure that Council’s policy and process frameworks are based on principles of sound governance and meet legislative requirements.

6.3 Align operational strategy to strategic objectives and measure organisational performance to demonstrate progress towards achieving our goals.

6.4 Ensure that decisions regarding expenditure of Council’s budget are based on an assessment of whole of life costs, risks associated with the activity and advice contained within supporting plans.
6.9 Provide access to Council’s plans, policies and processes and communicate with the community in plain English.

6.16 Provide contemporary internal administrative and business support services in accordance with mandated legislative standards and good practice principles.

Legislative Requirements
Local Government Act 1999 – Section 188 (1)

<table>
<thead>
<tr>
<th>FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial</strong></td>
</tr>
<tr>
<td>To ensure that Council is able to recover its costs in relation to user paid services provided to the community.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMMUNITY CONSULTATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>The newly approved fees for Angaston Town Hall will be available for the Community to access on Council’s website.</td>
</tr>
</tbody>
</table>
COUNCIL
WORKS AND ENGINEERING SERVICES

ACTING DIRECTOR’S REPORT

17 JULY 2018

7.4.1 DEBATE AGENDA – ACTING DIRECTOR WORKS AND ENGINEERING SERVICES

7.4.1.1
2018 BAROSSA MARATHON – ROAD CLOSURE REQUEST
B7475 18/46577

PURPOSE
A request has been received from the South Australian Road Runners Club Inc as organisers of the 2018 Barossa Marathon Running Festival for the closure of a number of roads in Tanunda for the staging of the 2018 Barossa Marathon, which is to be held on Sunday 19 August 2018.

RECOMMENDATION
That the Commissioner of Police be advised that The Barossa Council endorses the closure of:-

Magnolia Road, Tanunda between Neldner Road and Research Road, and
Research Road, Tanunda between Magnolia Road and Angaston Road, and
Nuraip Road, Nuriootpa between Research Road and Light Pass Road, and
Light Pass Road, Light Pass between Nuraip Road and Penrice Road, and
Penrice Road, Light Pass between Stockwell Road and Research Road, and
Research Road, Nuriootpa between Penrice Road and Angaston Road

from 7.30am to 12 noon on Sunday 19 August 2018 for the purpose of the 2018 Barossa Marathon.

REPORT
Discussion
The Barossa Marathon is a walking and running event incorporating 42.2km, 21.1km, 10km and 5km events, the first event was held in 2012.

Event organisers are satisfied with the course designed for recent events and have elected to continue to replicate that same course for the 2017 event, the only alteration being that the 2018 event will commence on Magnolia Road and finish in the grounds of Faith Lutheran College.

In response to community concerns raised about the hard closure of the Light Pass Road and Angaston Road intersection, it will be requested that organisers control that intersection by a “stop and go” crossing for the 2018 event.
Makesafe Traffic Management (SA) has been engaged by organisers to prepare the event Traffic Management Plan and to also implement and monitor the road closures on race day.

**Summary and Conclusion**
The proposed road closure is pursuant to Section 33 of the Road Traffic Act 1961.

Council officers deem the closure necessary as a risk mitigation strategy to maintain the safety of participants and the general public.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**
List any attachments in the order of the attachments. 
List any other references such as web sites for additional reading / background.

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**
Community Plan
Identify Theme/s (utilising the icons)
- Community and Culture
- Health and Wellbeing
- Business and Employment

2.1 Initiate and support activities which encourage participation and pride in the Barossa Council area.
2.6 Support a vibrant and growing arts, cultural, heritage and events sector.
4.2 Create opportunities for people of all ages and abilities to participate in the community.
5.13 Support economic development through events

Legislative Requirements
Local Government Act 1999
Road Traffic Act 1961

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**
Financial and Resources -
The cost and implementation of the road closure is to be met by organisers.

Risk management –
Council officers deem the closure necessary as a risk mitigation strategy to maintain the safety of participants and the general public.

**COMMUNITY CONSULTATION**
The community will be advised of the proposal by public advertisements to be placed in The Herald and The Leader and also via placement of the SAPOL notice on Council’s website.
7.5.1. DEBATE AGENDA – DEVELOPMENT SERVICES REPORT

7.5.1.1

BAROSSA ASSESSMENT PANEL
B7492

Author: Manager, Development Services

PURPOSE

To seek Council resolution to continue membership of the Barossa Assessment Panel pursuant to the Planning, Development and Infrastructure Act 2016 and Planning, Development and Infrastructure (General) Regulations 2017.

RECOMMENDATION

That Council:
(1) Appoint members of the current 2017/2018 Barossa Assessment Panel for the period 1 July 2018 – 30 June 2019 as follows:
   Presiding Member: Bruce Ballantyne
   Independent Members: Deirdre Reiman, Grant Hewitt, Rob Veitch
   Council Member: Cr Richard Miller, Council Deputy Member: Cr Mark Grossman;
   unless intervening Legislation regarding accreditation of members affects the term of appointment in which case it shall expire.
(2) Set the remuneration fee for members of the Barossa Assessment Panel (excluding the Council Members) for the period 1 July 2018 - 30 June 2019 as follows:
   Presiding Member $500 per meeting
   Members $300 per meeting
(3) Delegate to the Director, Development and Environmental Services the authority to fill any membership vacancy on the Barossa Assessment Panel that may occur.

REPORT

Background

Council must appoint the members of the Barossa Assessment Panel in accordance with the provisions of the Planning, Development and Infrastructure Act 2016 (the PDI Act).
Introduction

The membership of the council’s previous Assessment Panel concluded on 30 June 2018.

Discussion

An Accreditation Scheme for Assessment Panels is being drafted which seeks to achieve certain qualifications and/or levels of experience for Panel members. This would then be applied on a state-wide basis. While it has been intimated the member scheme may be finalised by the end of this year with implementation due by the middle of next year, no confirmation of this timeline is available.

Until the requirements of the Accreditation Scheme are fully known it is considered appropriate to continue with the previous Assessment Panel membership.

Summary and Conclusion

It is recommended that the council’s previous Assessment Panel be appointed until the details of the State Government’s Accreditation Scheme for Panel members are known.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Not required.

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

Natural Environment and Built Heritage

Corporate Plan

1.11 Provide transparent, efficient and effective development assessment processes and regulatory activities.

Legislative Requirements

Planning, Development and Infrastructure Act 2016
Planning, Development and Infrastructure (General) Regulations 2017
Development Act 1993
Development Regulations 2008

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial Management

Council is responsible for the costs and other liabilities associated with the activities of the Barossa Assessment Panel. The Assessment Panel will operate in accordance with the existing budget allocation, which may be reviewed as necessary dependent on vacancy and subsequent appointment requirements.
Risk Management

If Council does not resolve to appoint its own Assessment Panel the Minister for Planning can establish a local Assessment Panel which will make decisions on the Council’s behalf, at the Council’s cost.

In addition, if the Minister has reason to believe that the Assessment Panel appointed by Council has consistently failed to comply with a requirement under the PDI Act, the Minister may request the State Planning Commission to conduct an inquiry under the PDI Act.

COMMUNITY CONSULTATION

Not required.
7.5.2. DEBATE AGENDA – ENVIRONMENTAL SERVICES REPORT

7.5.2.1

REFORM OF THE NATURAL RESOURCE MANAGEMENT ACT

Author: Director, Development and Environmental Services

PURPOSE
To provide Council with an overview of the proposed reform of the Natural Resource Management Act, and seek support for the LGA’s response on the three key areas that the State Government should consider when undertaking its reform.

RECOMMENDATION
That Council
(1) Acknowledge that the Marschall Liberal Government intends to repeal the Natural Resources Management Act 2004 and replace it with a new Landscape South Australia Act.
(2) Supports the position of the Local Government Association in its submission on the three key areas that need to be considered as part of the reform, and
(3) Endorse that the CEO provide the additional comments, as outlined in this report, to the LGA in response to the discussion paper by the 20 July 2018.

REPORT

Background

The State Governments intends to repeal the Natural Resources Management Act 2004 and replace it with a new Landscape South Australia Act.

In the lead up to the recent State Election the Marshall Liberal Government stated that it will make “NRM reform a foundation of our environmental and regional policies through decentralisation of decision making and empowerment of communities.”

The manifesto “Natural Resources Management – Empowering Communities” outlines the broader element of the reform (Attachment 1).

Introduction

The Minister for Environment and Water, David Speirs MP has informed the Local Government Association that the State Government is seeking to develop the Landscape SA legislation in collaboration with key stakeholders and as a starting point is seeking from the LGA three key areas which Local Government would like to see addressed in the new legislation.
Discussion

Brief history of the NRM Act

Despite criticisms labelled against the NRM Act, it was a previous State Liberal Government that initially proposed an Integrated Natural Resources Management Act. During 2000, the Olsen Liberal Government committed itself to establishing a clear direction and process to achieve integrated natural resources management. The proposed Legislation was not intended to replace existing Legislation but to facilitate a consistent and efficient legal framework for managing natural resources. The Bill was tabled in Parliament in October 2001, but the Bill lapsed with the proroguing of Parliament in January 2002.

In 2002 the incoming Rann Labor Government committed to make administrative and legislative changes to reform both institutional arrangements and legislation for natural resources management.

The resulting Natural Resources Management Act 2004 replaced the following:
- Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986
- Soil Conservation and Land Care Act 1989

The institutional arrangements were brought together to establish the eight regional NRM Boards, with the operational provisions of the three Acts being moved across with minimal updating.

The NRM Act is based on ecologically sustainable development, and a set of key principles that are to be taken into account in connection with achieving the objects. This was a common approach in legislation being written at the time (i.e. New Zealand’s Resource Management Act 1991 was the first statutory planning regime to incorporate the principle of sustainability).

These principles require decision-making processes to integrate economic, environmental, social and equity considerations, to treat the conservation of biological diversity and ecological integrity as fundamental to environmental, social and economic welfare. It also established a duty to act responsibly in the management of the State’s natural resources for the present and future generations.

NRM Reform 2018

In 2017, the Liberal Party undertook a state-wide survey which indicated that 70% of respondents (>750 responses) were not satisfied with the current NRM system. The Marshall Liberal Government’s “NRM – Empowering Communities” provides a response to the shift in community confidence in the current system.

The intent of the reform is to reduce the level of red tape, and focus on practical programs and on-ground works delivered within existing resources.

The proposed Act will create nine Landscape Boards to replace existing NRM boards. The regions covered by the Landscape Boards will be:

- Alinytjara Wilurara
- Arid Lands
Effectively, the current Adelaide and Mount Lofty Ranges NRM region (which includes a large portion of the Barossa; a small area is located in SA Murray-Darling Basin) will be abolished. The regional areas that it serves will be covered by the two new Boards established to serve the Hills and Fleurieu region and the Plains and Valleys region.

In addition, a Green Adelaide Board will deliver natural resource management functions in metropolitan Adelaide. It will have seven priorities:

- coastal management
- urban rivers and wetlands
- water sensitive urban design
- green streets and flourishing parklands
- fauna in the city
- controlling feral weeds and animals
- nature education

The larger portion of the Barossa is likely to be located in the Plains and Valleys region.

Boards are to have seven members. Three to be elected from the community, and four to be appointed by the Minister. The Chairperson is appointed from the Ministerial appointments.

Impact on Barossa hosted programs

The Barossa Council hosts the following NRM programs through Service Agreements with the Adelaide and Mount Lofty Ranges NRM Board:

- NRM Education
- Natural Resource Centres
- Land Management Program

The Government is committed to ensuring that levies collected in a region are to be spent in that region. Effectively, the revenue to be generated within the new regions (i.e. Plains and Valleys) will reduce significantly which may impact on the delivery of these programs. Currently, the Adelaide and Mount Lofty Ranges NRM Board delivers these programs based on the levy collected across its entire region.

The Government’s policy document indicates that the new Boards will be required to outsource aspects of priority actions identified in their 5 year Landscape Plans to the private and non-government sector. Local councils are also able to apply to undertake these works.

In addition, a new $2 million state-wide Grassroots Grants fund would give environmental groups and not-for-profits grants to help deliver environmental projects.
It may be that the current NRM programs will be restructured to fit the new delivery model.

**LGA Response to Reform**

As stated in the introduction, the Minister for Environment and Water is seeking input from the LGA on what elements of the current system need to be addressed by the reform.

To assist in providing feedback, a discussion paper has been prepared by the LGA that outlines:

1. The LGA current policy positions in respect to NRM and the collection of levies and taxes from other levels of government;
2. Local government concerns with the current NRM system; and
3. The three key areas which local government would like to see addressed.

At the July workshop, elected members were presented with an overview of the NRM Reform, including elements from the discussion paper. The discussion paper highlights the LGA’s concerns with current system:

- **NRM Levy collection system**
  The current NRM Levy collection system is not supported and the LGA has an established position which calls on the State Government to introduce legislative changes to either:

  1. completely remove this obligation from the Natural Resources Management Act 2004, or
  2. change the collection method so that councils pass on only what they receive and to increase the costs that can be recovered by councils to collect the levy.

- **Engagement with local councils and local communities**
  Anecdotal information provided to the LGA is that in recent years there has been a reduction in engagement with local communities and local councils by regional NRM Boards and departmental staff.

  This is difficult to substantiate, however, The Barossa Council has had a positive working relationship with the NRM Board and the community on environmental initiatives. 19 years of the Upper Torren Land Management project is testament to the success of engaging with land holders.

- **Transparency and Accountability**
  While in the past regional NRM Boards were required to consult annually on their Business and Operational Plans amendments to the NRM Act changed this to every three years unless the increase to the NRM Levy was greater than CPI. This has reduced the opportunity for local government and local communities to understand the annual operations of the NRM Boards.

- **Management of the States Natural Resources**
  Having to seek advice or approvals from the three separate Boards/Council (regional Natural Resource Management Boards, Coast Protection Board, and Native Vegetation Council) which are managed and resourced under the one department (DEW), in addition to the requirements from the Government
agencies (Department for Environment and Water, Primary Industries and Regions SA, and Department for Planning Transport and infrastructure) can be both time consuming and costly for both Local Government, business and the community.

- **Stormwater and Flood management**
  Current South Australian legislation relevant to stormwater management and flood management is ambiguous resulting in lack of clarity in relation to roles and responsibilities of both local government, state government and relevant state agencies. This ambiguity and lack of clarity leads to management gaps and increased risks to the community through lack of decision making and resourcing.

  This matter has also been a major point of discussion by the Gawler River Floodplain Management Authority, particularly in reference to who is responsible for the management and maintenance of watercourses.

- **Abundant Native Species and Pest Animal and Weed Management**
  Abundant Native Species – Through existing State Legislation the management of abundant native species has not been well managed. Local communities across South Australia have experienced issues with a range of abundant native species, including; kangaroos, little corellas, Ibis and the long nose fur seal etc.

  Local Government since the establishment of the NRM Act in 2004 have expressed concern at the apparent reduced focus and support provided by regional NRM Boards in respect to managing pest plants and animals.

  In response to the Minister, the LGA has provided the following three key areas that it believes the reform needs to address.

- **Management and Collaboration**
  Local Government is a significant landholder/manager within the State and acknowledges its responsibilities in managing the natural landscape. As a significant landholder/manager it is considered that Local Government must be more involved in setting objectives and outcomes at a state-wide level.

  In 2005, the LGA prepared a paper entitled “Strengthening South Australian Local Government Involvement in Regional Natural Resource Management Delivery – Options and Opportunities” as part of a NRM Forum held in September 2005. The forum acknowledged that “local government has a key and important part to play in regional NRM and that its meaningful inclusion and participation at all levels is critical for achieving successful regional NRM objectives and outcomes.”

- **Resourcing and Funding**
  Local Government recognises that priorities in respect to managing the landscape are not spread evenly across the state and a rethink of investment approach is needed. It is recommended that:

  1. the development of a state-wide annual Business Plan with priorities, actions and state-wide investment. This approach provides the impetus for a broader state-wide levy collection method rather than the current regional approach, which requires Local Government to collect the levy on behalf of the regional boards;

  2. should a regionally based funding model be retained, the State Government must take responsibility for collecting the levy rather than this being a responsibility of Local Government.

  3. a state based fund be established, similar to the current State NRM fund but managed by the State Landscape Council and not a State agency;
4. the State Government provide a minimum $1:1 contribution to support regional management of the state’s landscapes, with these funds administered through a State Landscapes Fund; and
5. the new legislation incorporates provisions for greater transparency and accountability of Regional Boards, with Boards being required to clearly identify the amount of the funds they receive directed to State agencies and spent on administration.

- Increased Inclusivity
  The Landscapes Act should be more inclusive Legislation and it is recommended that the Legislation includes provisions addressing:
  1. the management and control of abundant native species at a regional level by regional Boards;
  2. an increased focus on the management and control of pest animal and weeds; and
  3. the roles and responsibilities of organisations with responsibilities in the areas of stormwater and flood management.

A copy of the discussion paper is provided in Attachment 2.

The LGA is seeking feedback by 20 July 2018 with a response to the following questions:

1. Do you have any comments on the Local Government concerns with the current NRM system?
2. Are there any further concerns with the current system that have not been included?
3. The Minister has requested that the LGA identify three key areas which Local Government would like to see addressed in the new Legislation. Are the three areas identified above the key areas? If not what are the key areas you consider important?

A draft response to these have been prepared below.

1. **Do you have any comments on the Local Government concerns with the current NRM system?**

   It is considered that the discussion paper has adequately identified and addressed the concerns with the current system.

   The manifesto clearly indicated that a Liberal Government will not alter the collection system. The Minister has publicly stated that it remains the most cost effective mechanism. While The Barossa Council acknowledges the LGA position on the collection of the NRM Levy, it is recommended that the LGA should pursue improvements for the collection rather than seek to remove the obligation.

   The Barossa Council has been fortunate to host a number of NRM programs in association with the Adelaide and Mount Lofty Ranges NRM Board that have delivered successful engagement with local communities. There is a potential that the new landscape governance framework (splitting the Adelaide and Mount Lofty Ranges NRM region in to three) may diminish the success of these programs, as there will be a reduction in the revenue generated from the smaller, more rural Plains and Valleys region.
As a member of the Gawler River Floodplain Management Authority, Council fully supports the need to have stormwater management and flood management addressed in a more holistic manner. At present, there is a clear lack of leadership in the management of watercourses, leaving it up to local councils to work through the issue of gaining access to private land holdings in order to address regional flood mitigation works. The GRFMA actions in response to the 2016 flood of the Gawler River demonstrates the frustration in coordinating a solution with the support of Federal, State and private interests. There is a clear need for leadership, and having a single entity with responsibility would help achieve this.

2. Are there any further concerns with the current system that have not been included?

Council agrees that there is an opportunity to further consolidate the management of natural resources by incorporating the management of coastal protection and native vegetation. In addition, a ‘one stop’ approach to natural resource management would be welcomed, particularly in relation to the interconnection with the Planning system.

There is an opportunity with the reforms of both the Planning and NRM systems to introduce a ‘Resource Consent’ thereby reducing the potential number of approvals that are needed for the ‘use’ and ‘management’ of land within the State. The Planning, Development and Infrastructure Act remains ‘metro-centric’, hence there is a need to acknowledge that the long term management of land within our regional areas plays a significant role in the State’s economic prosperity.

The current regime of ‘referrals’ for certain development types could be streamlined with the introduction of a ‘Resource Consent’ that encompasses existing natural resource licensing and approval requirements. In addition, the current ambiguity of when an activity on land constitutes ‘development’ or a ‘water affecting activity’ needs to be addressed. The ability for councils to undertake operational works needs to be exempted from approvals through a more streamlined process.

3. The Minister has requested that the LGA identify three key areas which Local Government would like to see addressed in the new Legislation. Are the three areas identified above the key areas? If not what are the key areas you consider important?

Objectives and Principles:
In addition to the key issues identified, it is worth highlighting that the Objectives and Principles of the current Act provide a sound base for the management of our natural resources, and should not necessarily be lost by introducing new Legislation.

Council considers that the requirement for decision-making processes to integrate economic, environmental, social and equity considerations, and to treat the conservation of biological diversity and ecological integrity as fundamental to the management of our natural resources. It also considers that the duty to act responsibly in the management of the State’s natural resources for the present and future generations is paramount to any Environmental Legislation.

The Government should be encouraged to retain the essence of the Objectives and Principles in the new Landscape SA Act.
**Planning Reform:**
The previous State Government commenced the reform of the State Planning System, which received bipartisan support. The State Liberal Government has not indicated that they will make any major changes in the direction of the planning reform since taking office.

A provision in the Planning, Development and Infrastructure Act allow groups of councils to enter into Planning Agreements with the Minister for Planning. A Planning Agreement is a long-term arrangement that allows for Planning functions to be delegated to the regional groupings of councils, subject to agreed performance measures and targets. Once established the Joint Planning Board is responsible for the preparation and amendment of the Regional Plan.

The current Joint Planning Arrangements Pilot Project has identified that in addition to Planning functions, there are other potential Local and State Government functions that can be delegated to a Joint Planning Board, as indicted in the figure below.

Those regions participating in the Pilot Project have acknowledge the opportunity for NRM Boards to be a partner in the new Planning arrangements.

Given the NRM Reform, is there an opportunity to streamline the number of governance frameworks that exist? Is there value is councils establishing a Joint Planning Board and having a Landscape Board in the same locality, each preparing a regional level plan? Could there be better efficiency in having one Board that prepares one Regional Plan encompassing land use and land management requirements?

If this is not achievable, provision should be made in the Landscape SA Act to allow for a Landscape Board to delegate either Planning or Operational functions to a Joint Planning Board.

**Summary and Conclusion**
The State Government is to reform the NRM system by replacing the current NRM Act with a Landscape SA Act.

The Minister is seeking feedback from the LGA as to the three keys areas the reform should address from a local government perspective.

The LGA has prepared a Discussion Paper, and is seeking feedback by 20 July 2018 in order to provide a submission to the Minister for Environment and Water.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**
Attachment 1 – Natural Resources Management – Empowering Communities
COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

Natural Environment and Built Heritage

Corporate Plan

1.5 Maintain and seek to expand Council initiated native conservation and land management initiatives.

1.8 Partner with affiliated government, community and business organisations to support NRM programs and services, sustainable land practices and wastewater and stormwater reuse initiatives.

Legislative Requirements

Natural Resources Management Act 2004

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial Management
Nil

Risk Management
Nil

COMMUNITY CONSULTATION
Nil
NATURAL RESOURCES MANAGEMENT - EMPOWERING COMMUNITIES
We’re ready.

Over the last four years, we’ve been working hard developing our vision for the future of South Australia.

Not just policies, but a series of achievable milestones that have been crafted for the long-term benefit of our state.

*Our focus will be*

**MORE JOBS. LOWER COSTS. BETTER SERVICES.**

We’ve got a strong plan for real change.
WHAT WE’LL DO

If elected in March 2018, a Marshall Liberal Government will make NRM reform a foundation of our environmental and regional policies through decentralisation of decision making and empowerment of communities.

Our reforms will put people at the heart of management of our natural resources, recognising that those who work the land on a daily basis are best placed to sustain its environment.

Our approach will focus on building strong partnerships with land users, valuing their knowledge and understanding of the landscape. It is the role of government to work alongside land users, providing support, advice and a helping hand where needed.

REPEAL THE NATURAL RESOURCES MANAGEMENT ACT AND ESTABLISH LANDSCAPE SA

We will repeal the Natural Resources Management Act and replace it with the Landscape South Australia Act to reduce the level of red tape that has become synonymous with the current approach to managing our environment. Our reforms will focus on practical programs and on-ground works delivered within existing resources.

Our new legislation will identify soil quality, pest plant and animal control and water management as major priorities of natural resource management.

The new act will be introduced into parliament in our first year of government.
BOARDS

Our Landscape South Australia Act will create nine Landscape Boards to replace existing NRM boards. The regions covered by the Landscape Boards will be:

a. Alinytjara Wilurara
b. Arid Lands
c. Eyre Peninsula
d. Hills and Fleurieu (new)
e. Kangaroo Island
f. Northern and Yorke
g. Plains and Valleys (new)
h. SA Murray-Darling Basin
i. South East

The Adelaide and Mount Lofty Ranges NRM Board will be abolished. The regional areas that it serves will be covered by the two new boards established to serve the Hills and Fleurieu region and the Plains and Valleys region north of Adelaide.

- The Landscape SA Boards will be responsible for setting strategy and approving programs for the environmentally sustainable management of South Australia’s natural landscape.
- Each Landscape Board will have seven members, three of which will be directly elected by the community. Four members, including the Chair, will be appointed by the Environment Minister.
- The Landscape Boards will be at arms length from government, responsible for their own budgets and the employment of a general manager who will be responsible for employing and directing staff.
- Landscape Board staff will undertake environmental management in the region employing them and will only work in another region with the agreement of both boards involved.
- The Boards will establish a 5-year Landscape Plan for their regions identifying up to five priorities to be achieved by the Plan during that time. The plans will be simple and publicly accessible.
- Boards will be required to outsource aspects of these priorities to the private and non-government sector to create jobs and drive investment further. Local councils will also be encouraged to apply to undertake this work.
LEVIES

Natural resource management levies have become an additional cost of living pressure for households. In dealing with levies, a Marshall Liberal Government will:

• cap annual land and water levy rises at a rate set by an independent body (in the same way that a Marshall Liberal Government will cap council rates)
• establish the Grassroots Grants program, a $2 million statewide annual fund (in addition to existing NRM grants programs), administered at a board level for volunteer, community and not-for-profit groups to access
• commit that all levies (land and water) collected in a region will be spent in that region
• provide a publicly available budget outlining how levies will be spent in the forthcoming financial year and an end-of-financial-year report documenting actual expenditure
• continue to collect levies via council rates.
GREEN ADELAIDE

We often think of cities as places for people, but the best cities in the world are those which have thriving natural environments in their midst.

The abolition of the Adelaide and Mount Lofty Ranges NRM Board creates the opportunity to establish a new organisation which will work towards Adelaide being the most ecologically vibrant city in the world.

A Marshall Liberal Government will create Green Adelaide which will deliver natural resource management functions in metropolitan Adelaide, focusing on enhancing the city’s urban ecology and investing in the natural environment to improve overall community wellbeing.

Green Adelaide will have a seven member expert board appointed by the Environment Minister.

It will focus on building a strong connection between Adelaide residents and their natural environment and work to ensure there is a clear understanding of how and where levies are spent.

Green Adelaide will have seven priorities:

- coastal management
- urban rivers and wetlands
- water sensitive urban design
- green streets and flourishing parklands
- fauna in the city
- controlling feral weeds and animals
- nature education

Alongside the Landscape SA boards, Green Adelaide will co-administer the $2 million Grassroots Grants fund to give environmental groups and not-for-profits access to funding opportunities for on-ground works.
The natural resources management (NRM) system established by the State Labor Government in 2004 has lost the confidence of the South Australian public, particularly in our regional communities.

The system is heavy on compliance and light on building effective, working partnerships between government and the community.

A gradual centralisation of staffing, resourcing and decision making has eroded public confidence in the way NRM works.

Goodwill, essential when cooperation by multiple parties is needed, has drained away. While NRM levies have risen dramatically, environmental outcomes have declined.

The system is so broken that a major overhaul is required.

When Labor introduced the NRM system, it claimed it would enable ‘integrated’ natural resource management in South Australia.

Eight NRM regions were created across the State, each with its own board.

These reforms started with the best of intentions.

In replacing previous boards that had been responsible for soils, pest control and water catchment, Labor promised the new structure would lead to greater transparency, consultation, support for land managers and a balance between the environmental, economic and social values of our natural resources.

But over more than a decade what has evolved instead is a structure which is increasingly centralised and extremely bureaucratic, disenfranchising many local volunteer land care groups, while failing to maintain vital environmental programs.

The Liberal Party has undertaken statewide consultation during 2017 about the future of natural resource management, talking directly to those who work the land about how best to sustain our environment.

An online survey was made available to gauge community views.

More than 750 responses were received to questions about the NRM structure and funded programs, how land and water levies should be calculated and where the levy money should be spent.

The survey was supported by follow-up regional visits and forums to further measure community views.

Our consultation has confirmed significant dissatisfaction across the state over the structure of NRM boards and the lack of community input into decision making.

Respondents also expressed confusion about where and how their levies were being spent.

Our statewide survey revealed that:

- 70 percent of respondents were not satisfied with the current NRM system
- 70 percent believed NRM boards should be independent of the State Government
- 95 percent believed local communities should be able to nominate board members in their own region
- 50 percent believed their levies were too high
- 65 percent don’t even know how their levy funds are being spent (more than $45 million is now raised across South Australia in annual NRM levies).

It is clear from our consultation that people and communities in our regions want more of the decisions affecting them to be made by the people who live in and understand their communities.
Reforming Natural Resources Management

Background

The Minister for Environment and Water, David Speirs MP has informed the LGA of the State Governments intention to repeal the *Natural Resources Management Act 2004* and replace it with a new Landscape South Australia Act.

The Minister is seeking to develop the Landscape SA legislation in collaboration with key stakeholders and as a starting point is seeking from the LGA three key areas which local government would like to see addressed in the new legislation.

Current Policy Position

The current LGA Policy Manual contains the following principles and policies relating to natural resource management and the collection of levies:

Local Government and NRM

**Principles**

1. *Local Government has a long standing and ongoing commitment to environmental and natural resource management, enshrined in legislation and reinforced by community expectations.*

2. *Local Government recognises the need to work with State and Federal governments, the community, and business sector, to better address environmental and natural resource management issues including resource conservation, community access, ecologically sustainable development and climate change.*

3. *Local Government recognises that it needs to continue to adopt and promote environmentally responsible and sustainable approaches to carrying out its roles and responsibilities.*

**Policy**

1. *Local Government supports the concept of an Australia-wide network of conservation reserves, recognising the intrinsic value of such resources, their role in protecting Australia's unique flora, fauna and ecological systems and their importance to the Australian psyche and economy.*

2. *Designated conservation reserves, crown lands and transport corridors owned and managed by the State and or Federal Government should be adequately resourced to enable proper management and ensure adequate noxious weed and feral animal control, while balancing recreational access to ensure these areas are recognised and valued by the community.*

3. *Local Government supports rail, roadside and reserve vegetation programs.*

4. *Incentives and activities in relation to native vegetation retention and revegetation should be encouraged, subject to practical considerations concerning the provision and maintenance of community infrastructure.*

5. *Local Government supports a balance between the protection of native vegetation, planning and development and bushfire prevention strategies for the protection of communities.*
6. Local Government supports the concept of integrated Natural Resource Management (NRM) as a co-operative mechanism to develop and implement ecologically sustainable use of the State's natural resources and environment.

7. Local Government will work cooperatively with regional NRM boards in areas or matters of mutual interest or concern and actively seek opportunities for joint NRM planning and delivery of NRM projects where all parties will benefit.

8. Sharing of information, data, and other resources between NRM Boards and Councils will be based on mutually agreeable terms.

9. Local Government supports initiatives for ecologically sustainable management of the State’s natural resources, including programs related to the management and protection of land, coasts, estuarine, marine, water, vegetation and soil.

Revenue Collection for other Governments

1. Local Government must not be required to levy or collect revenues on behalf of other spheres of government unless the arrangements are acceptable to the Local Government Association, following consultation with Councils.

2. Where Local Government provides services for or on behalf of State or Federal Governments, those governments should meet all costs incurred in providing those services (or on a mutually agreeable commission basis), including those associated with administrative overheads.

3. Where Local Government is required to undertake revenue collection for another sphere of government or where Councils choose to include such revenue payments on their rates notices there must be clear indication that these are not Council charges. This is to provide transparency and accountability to ensure the community is aware that the revenue being collected is not being retained by Councils.

Local Government concerns with the current NRM System

NRM Levy collection system

Under the Natural Resources Management Act 2004 (the Act), local councils in South Australia are required to collect the NRM Levy on behalf of the NRM Boards. The legislation requires that the council pays to the NRM Board the quantum identified by the Minister for Environment and Water and gazetted on an annual basis.

Local councils receive a reimbursement for this activity as a regional NRM board is liable to pay to each of the constituent councils for the region an amount determined in accordance with the NRM regulations on account of the costs of the council in complying with the requirements of the Act.

The LGA has previously undertaken consultation with local councils in respect to the collection of the NRM Levy, the information sought included:

- Do councils consider that the financial provisions allow councils costs to be fully recovered? If not what are the additional costs to councils of collecting the levy? and
- What is the current total amount of NRM levies in arrears?

From the responses received an overwhelming 83% of councils considered that the reimbursement payed to councils by NRM Boards did not adequately meet the costs of collecting the NRM levy. The costs that councils consider are not covered by the collection fee included:

- losses as a result of valuation objections,
enquiries and complaint handling,
cost of forecasting and modelling,
accounting and reporting,
debt recovery costs,
cost of applying rebates, and
costs to configure financial systems

The NRM collection fee provided to councils by the NRM Board is based on a formula determined by regulation and is therefore fixed by the state government unlike the administrative costs of collecting the Emergency Services Levy. Many councils consider that they are subsidising the state government tax collection operation.

The current NRM Levy collection system is not supported and the LGA has an established position which calls on the State Government to introduce legislative changes to either:

1. completely remove this obligation from the Natural Resources Management Act 2004, or

2. change the collection method so that councils pass on only what they receive and to increase the costs that can be recovered by councils to collect the levy.

Engagement with local councils and local communities

While it is recognised that there are regional NRM Boards with local community representation to guide the development and implementation of regional NRM Plans, anecdotal information provided to the LGA is that in recent years there has been a reduction in engagement with local communities and local councils by regional NRM Boards and departmental staff. This appears to be related to the increasing role of regional NRM Boards and staff in government department related activities.

The focus of regional NRM Boards and staff have moved away from supporting local land owners and community groups with managing NRM issues on private land to a greater focus on state owned parks and reserves and undertaking government agency administrative responsibilities.

Transparency and Accountability

While in the past regional NRM Boards were required to consult annually on their Business and Operational Plans amendments to the NRM Act changed this to every three years unless the increase to the NRM Levy was greater than CPI. This has reduced the opportunity for local government and local communities to understand the annual operations of the NRM Boards.

In addition there are examples where the NRM levy has been directed and expended on areas which would be regarded as being of state government responsibility. These include costs incurred by state agencies in managing the state’s water licencing program and other water management costs, sand pumping along metropolitan coastal beaches, management responsibility of the Patawolonga Basin flood gates.

Management of the States Natural Resources

Currently local government and the community are faced with working with, responding to or addressing policy issues from three separate bodies with responsibilities in managing natural resources in the state, these being:

1. regional Natural Resource Management Boards,
2. Coast Protection Board, and
3. Native Vegetation Council
In addition to also having to address or respond to policy or licencing issues from a range of government agencies, including:

1. Department for Environment and Water,
2. Primary Industries and Regions SA, and
3. Department for Planning Transport and infrastructure

Having to seek advice or approvals from the three separate Boards/Council which are managed and resourced under the one department (DEW), in addition to the requirements from the government agencies can be both time consuming and costly for both local government, business and the community.

**Stormwater and Flood management**

Stormwater management and flood management are key considerations for local government both in regional and metropolitan area.

Current South Australian legislation relevant to stormwater management and flood management is ambiguous resulting in lack of clarity in relation to roles and responsibilities of both local government, state government and relevant state agencies. This ambiguity and lack of clarity leads to management gaps and increased risks to the community through lack of decision making and resourcing.

Regional NRM Boards and in particular the AMLR NRM Board have played a key role in supporting local government with managing stormwater and flooding through funding support for planning, mapping and infrastructure schemes (WSUD and MAR Schemes).

**Abundant Native Species and Pest Animal and Weed Management**

Abundant Native Species – Through existing state legislation the management of abundant native species has not been well managed. Local communities across South Australia have experienced issues with a range of abundant native species, including; kangaroos, little corellas, Ibis and the long nose fur seal etc. Regional Landscapes Boards have the opportunity to play a key role in managing abundant native species.

Pest animal and weed management – local government since the establishment of the NRM Act in 2004 have expressed concern at the apparent reduced focus and support provided by regional NRM Boards in respect to managing pest plants and animals. Local government would see that this should be a core activity and key focus of a regional board working closely with local communities to address pest animals and plants which have a significant economic and ecological impact on regions.

Notwithstanding that the local government sector should have no role in the collection of the levy and has identified a number of concerns with the current legislation, local government maintains its strong support for meaningful and lasting cooperation between councils, regional organisations and government agencies with responsibilities for managing the states natural landscape.
Three Key Areas

Management and Collaboration

Local government is a significant landholder/manager within the state and acknowledges its responsibilities in managing the natural landscape. As a significant landholder/manager it is considered that local government must be more involved in setting objectives and outcomes at a statewide level. It is therefore recommended that:

1. A state based management body be established which includes local government membership to provide greater direction as to where investment should occur at a state and local level. The state based council should be responsible for administering a state based fund to support the management of key landscape assets across the State, and.
2. to improve efficiencies and outcomes, the coast protection responsibilities under the Coast Protection Act and native vegetation responsibilities under the Native Vegetation Act should be incorporated into the Landscape SA Act and managed through regional boards rather than the multiples boards as currently exist.

Local Government is the level of government closest to the community, therefore it is recommended that:

1. there should be greater engagement and collaboration at the regional level with local government on the delivery of local outcomes. State government agencies and regional boards need to work more closely with local government to achieve sustainable outcomes.
2. local government and local communities need to be involved in developing and implementing regional and state deliverables.
3. The Landscapes SA Act should include clear provisions requiring regional boards to work closely with local government and local communities. This could include requirements for regional boards to establish committees or groups with local government members to advise the board.
4. a revised decentralised model of implementing the state and regional plans, with more autonomy and decision making provided at a regional level and regional organisations and state agencies working more closely with local government to achieve outcomes.

Resourcing and Funding

Local government recognises that priorities in respect to managing the landscape are not spread evenly across the state and a rethink of investment approach is needed. It is recommended that:

1. the development of a statewide annual business plan with priorities, actions and statewide investment. This approach provides the impetus for a broader statewide levy collection method rather than the current regional approach, which requires local government to collect the levy on behalf of the regional boards;
2. should a regionally based funding model be retained, the State Government must take responsibility for collecting the levy rather than this being a responsibility of local government.
3. a state based fund be established, similar to the current State NRM fund but managed by the State Landscape Council and not a state agency;
4. the State Government provide a minimum $1:1 contribution to support regional management of the state’s landscapes, with these funds administered through a State Landscapes Fund; and
5. the new legislation incorporates provisions for greater transparency and accountability of regional boards, with boards being required to clearly identify the amount of the funds they receive directed to state agencies and spent on administration.

**Increased Inclusivity**

The Landscapes Act should be more inclusive legislation and it is recommended that the legislation includes provisions addressing:

1. the management and control of abundant native species at a regional level by regional boards;
2. an increased focus on the management and control of pest animal and weeds; and
3. the roles and responsibilities of organisations with responsibilities in the areas of stormwater and flood management

**Feedback Sought**

1. Do you have any comments on the local government concerns with the current NRM system?

2. Are there any further concerns with the current system that have not been included?

3. The Minister has requested that the LGA identify three key areas which local government would like to see addressed in the new legislation. Are the three areas identified above the key areas? If not what are the key areas you consider important?
7.5.2 DEBATE AGENDA – ENVIRONMENTAL SERVICES REPORT

7.5.2.2

CONSIDERATION AND ADOPTION OF COMMITTEE RESOLUTIONS

B5476

Author: Director, Development and Environmental Services

PURPOSE

The Minutes of Council Section 41 Committees are presented for consideration and adoption of Council.

RECOMMENDATION

That Council having reviewed the Minutes of Barossa Bushgardens S41 Committee Meeting held 13 June 2018, that the Minutes be received and noted.

REPORT

The consideration and adoption of recommendations of Council Committees to Council requires assessment by Council to ensure compliance with Council obligations under section 6(a) of the Local Government Act. The relevant Minutes received in the past month are hereby presented for Council adoption.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Minutes - Barossa Bushgardens S41 Committee Meeting held 13 June 2018

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

Natural Environment and Built Heritage

Corporate Plan

Natural Environment and Built Heritage

1.1 Collaborate with relevant authorities to ensure a regional and holistic approach in the management of natural resources.

1.2 Support native eco systems that support native flora and fauna.

1.3 Ensure environmental and agricultural sustainability and historic significance of the region is retained.
Legislative Requirements
Local Government Act and Regulations
Development Act and Regulations

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Identified within the body of the Minutes, and is included within the endorsed Council Budget.

COMMUNITY CONSULTATION
Not required by Council.
1. **WELCOME**

The Chair welcomed everyone, and opened the meeting at 1:05pm.

2. **PRESENT**

K Jenkins, R Johnstone, D Armstrong, T Waldhuter, B Lillocrapp, T Hurn, E Morgan

Staff – G Mavrinac, N Rea, P Payne, C Kruger (Minute Secretary)

3. **APOLOGIES**

L Mason.

4. **GUESTS**

Elspeth Morgan (Carers and Disability Link).

5. **DECLARATION OF INTEREST BY MEMBERS**

R Johnstone declared that he is a community member of the NRM Board.

6. **CONFIRMATION OF MINUTES FROM PREVIOUS MEETING**

Moved: D Armstrong  
Seconded: T Waldhuter

That the minutes of the Barossa Bushgardens S41 Committee meeting held on Wednesday 11 April 2018 be received and confirmed.  
*CARRIED*
7. BUSINESS ARISING FROM PREVIOUS MINUTES (ACTION LIST)

Nil.

7.1 ACTION LIST

<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Resolution</th>
<th>Status/Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 January 2018</td>
<td>Review of Herbicide Use Policy and Weed Management Policy</td>
<td>Pending – to be finalised within four months.</td>
</tr>
<tr>
<td>17 January 2018</td>
<td>Seed collection site</td>
<td>Pending – awaiting further information from R Johnstone</td>
</tr>
<tr>
<td>17 January 2018</td>
<td>Develop Process and Responsibilities for regular water meter reading</td>
<td>Responsibilities for reading and recording meter readings finalised. Further</td>
</tr>
<tr>
<td></td>
<td></td>
<td>refinement to documentation of processes to be undertaken by P Payne</td>
</tr>
<tr>
<td></td>
<td></td>
<td>and T Waldhuter.</td>
</tr>
<tr>
<td>17 January 2018</td>
<td>Examine opportunities for seeking corporate sponsorship for Gator vehicle</td>
<td>Pending. Follow up to be made with neighbouring councils to ascertain</td>
</tr>
<tr>
<td></td>
<td></td>
<td>availability of second hand vehicle.</td>
</tr>
<tr>
<td>14 February 2018</td>
<td>Finance Report – N Rea to examine budget to ascertain if any Co-Op money</td>
<td>To be advised – N Rea to confirm out of session.</td>
</tr>
<tr>
<td></td>
<td>remains unspent</td>
<td></td>
</tr>
<tr>
<td>14 February 2018</td>
<td>Draft Memorandum of Understanding for Carers and Disability Link dementia</td>
<td>In process of finalisation – Executed Document to be presented to next S41</td>
</tr>
<tr>
<td></td>
<td>Friendly Garden to be presented to S41 Committee for approval</td>
<td>Committee Meeting.</td>
</tr>
</tbody>
</table>

Recommendation

That the Committee receive and note progress of decisions from previous meetings.

Decision

Moved: R Johnstone  Seconded: D Armstrong
That the recommendation be adopted.

CARRIED
8. CORRESPONDENCE

N Rea provided a verbal update of correspondence received and sent. Please refer to the attached copy of letters received from 1st Nuriootpa Scouts Group and Council’s Risk Services

Recommendation

That the Committee receive and note incoming and outgoing correspondence.

Decision

Moved: T Hurn
Seconded: T Waldhuter
That the recommendation be adopted.

CARRIED

9. RISK MANAGEMENT

9.1 Work Health and Safety

That the Committee receive and note the report.

Decision

Moved: T Waldhuter
Seconded: D Armstrong
That the recommendation be adopted.

CARRIED

10. REPORTS

10.1 Management Committee

Recommendation

That the Committee receive and note the report.

Decision
Moved: K Jenkins  
Seconded: R Johnstone  
That the recommendation be adopted.  
CARRIED

10.2 Finance

Recommendation

(1) That the Committee receive and note the report.
(2) Allocate remaining $180 of unspent funds from fence metalwork to upgrade of fence between gateway and road.

Decision

Moved: D Armstrong  
Seconded: B Lillecrapp  
That the recommendation be adopted.  
CARRIED

10.3 Nursery

T Hurn left the meeting at 2:33pm.

Recommendation

Decision

Moved: D Armstrong  
Seconded: R Johnstone  
(1) That the report be received and noted
(2) The Committee note the need for the operations of the Wholesale Nursery to be reviewed
(3) Recommendations in relation to irrigation as detailed in the report prepared by T Bateman be considered for implementation  
CARRIED

10.4 Natural Resource Centre

The Committee wish to acknowledge the valuable ongoing support given by Karen McDonald (Coordinator, Volunteering Services) and Council

P Payne left the meeting at 3:05pm
**Recommendation**

That the report be received and noted.

**Decision**

Moved: D Armstrong  
Seconded: R Johnstone

That the recommendation be adopted.  

CARRIED

10.5 Site Management

**Recommendation**

That the report be received and noted.

**Decision**

Moved: T Waldhuter  
Seconded: B Lillecrapp

That the recommendation be adopted.  

CARRIED

10.6 Tours

**Recommendation**

That the verbal report be received.

**Decision**

Moved: K Jenkins  
Seconded: R Johnstone

That the recommendation be adopted.  

CARRIED

10.7 Partner Projects

**Recommendation**

That the report be received and noted.

**Decision**

Moved: D Armstrong  
Seconded: B Lillecrapp
That the recommendation be adopted.

CARRIED

11. GENERAL BUSINESS.

K Jenkins advised the Committee that she will be resigning for the position of Chairperson of the Barossa Bushgardens S41 Committee, effective in November, in line with the Local Government elections.

12. NEXT MEETING

Wednesday 8 August 2018 commencing at 1.00pm.

13. CLOSURE OF MEETING

The Chair declared the meeting closed at 3:44pm.

Confirmed

Date: .................................. Chairman: ..............................................
The matter of the agenda item being a matter pertaining to the review of an employee’s performance and employment conditions pursuant to Section 90(3)(a) of the Local Government Act 1999 (“the Act”) being information that should be considered in confidence in order to ensure that private information as contemplated by the Section 90(9) being information that is personal as it relates to the employment conditions and performance of the Chief Executive Officer. The personal affairs definition under Section 90(9) will be limited to consideration of the necessary matters and no resolution may be made that restrict the release of information required under of Section 91(8) of the Act which is to release information on the remuneration and conditions of service will be disclosed in the public register of salaries, once set.

There is strong public interest in enabling members of the public to observe Council’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that the disclosure of private information of an individual would be unfair given the
matter pertains to employment details that would not be expected to be open other than by way of ensuring the requisite legislative disclosures.

On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweigh the factors in favour of the public interest of open decision-making.

**RECOMMENDATION**

That Council:

(1) Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public and officers be excluded from the meeting, in order to consider in confidence a report relating to Section 90(3)(a) of the Local Government Act 1999, relating to agenda item 8.1.1 Chief Executive Officer’s 2016/17 Performance and Conditions of Contract Review being information that must be considered in confidence in order to ensure that the Council does not disclose information that could reasonably be expected to release information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and

(2) Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential are that the disclosure of private information of an individual would be unfair given the matter pertains to employment details that would not be expected to be open other than by way of ensuring the requisite legislative disclosures.
The matter of the agenda item being a matter pertaining to the activities of negotiating an easement across private land for the purposes of storm water infrastructure and the receipt of relevant legal advice triggers various confidential interests pursuant to Section 90(3)(a), 90(3)(b)(i) and (ii), 90(3)(h), or 90(3)(l) of the Local Government Act 1999 ("the Act") being:

1. information that should be considered in confidence in order to ensure that Council would not disclose unreasonably private information concerning the personal affairs of any person (living or dead) being the personal details of the private land owner;
2. information the disclosure of which:
   (i) could reasonably be expected to confer a commercial advantage on a person to whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council as it would disclosure Councils negotiating basis; and
   (ii) would, on balance, be contrary to the public interest as it could result in a less optimum negotiated outcome for the community;
3. the receiving of legal advice from Councils solicitor in this matter Norman Waterhouse Lawyers; or
4. information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of Council due to the possibility that negotiations may fail which may result in Council seeking to take action or the private landowners seeking a claim against Council.
There is strong public interest in enabling members of the public to observe Council’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate public participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision-making.

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that the disclosure of private information of an individual would be unfair given the matter pertains to a person’s personal details and impact of easement negotiations and could result in a detrimental negotiating position for Council if disclosed which would impact on the public interest.

On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweigh the factors in favour of the public interest of open decision-making.

**RECOMMENDATION**

That Council:

(1) Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public and officers, except for the Chief Executive Officer, Directors (or Acting Directors) of Works and Engineering, Development and Environmental Services and Corporate and Community Services and the Minute Secretary be excluded from the meeting, in order to consider in confidence a report relating to Section 90(3)(a), 90(3)(b)(i) and (ii), 90(3)(h), or 90(3)(i) of the Local Government Act 1999 (“the Act”), relating to agenda item 8.2.1 Springwood Estate – Stormwater Easement Negotiation being information that must be considered in confidence in order to ensure that the Council does not disclose information that could reasonably be expected to release information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); information the disclosure of which (i) could reasonably be expected to confer a commercial advantage on a person to whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council, and would, on balance, be contrary to the public interest; legal advice; or information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of Council; and

(2) Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential.
8.3 CONFIDENTIAL AGENDA – CORPORATE AND COMMUNITY SERVICES

8.3.1 SANTOS TOUR DOWN UNDER 2019 – LICENCE AGREEMENT

The matter of the agenda item being a Report regarding a potential licence agreement to host a stage of the 2019 Santos Tour Down Under and pursuant to Section 90(3)(d)(i) of the Local Government Act 1999 ("the Act") being commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party, and (ii) would on balance, be contrary to the public interest.

There is strong public interest in enabling members of the public to observe Council’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision making.

In this matter, the reason that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest is that the information has been provided to Council as commercial in confidence. The matter has been requested to be kept confidential until such dates any embargo on the announcement regarding venues for the 2019 Santos Tour Down Under is lifted by Events South Australia.

On balance, the above reason which supports the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.
**RECOMMENDATION:**

That Council:

(1) Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate and Community Services, Director Development and Environmental Services, Director Works and Engineering, Manager Community Projects, Communications Officer and the Minute Secretary, in order to consider in confidence, a report relating to Section 90(3) (d) of the Local Government Act 1999 being commercial information of a confidential nature (not being a trade secret) the disclosure of which – (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and (ii) would, on balance, be contrary to the public interest.

(2) Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential as the information has been provided to Council as commercial in confidence.
CONFIDENTIAL REPORT
17 JULY 2018
COUNCIL MEETING
MANAGER COMMUNITY PROJECTS

8.3 CONFIDENTIAL AGENDA – CORPORATE AND COMMUNITY SERVICES

8.3.1 SANTOS TOUR DOWN UNDER 2019 – LICENCE AGREEMENT
The matter of the agenda item being a Report regarding a potential licence agreement to host a stage of the 2019 Santos Tour Down Under and pursuant to Section 90(3)(d)(i) of the Local Government Act 1999 (“the Act”) being commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party, and (ii) would on balance, be contrary to the public interest.

There is strong public interest in enabling members of the public to observe Council’s transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision making.

In this matter, the reason that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest is that the information has been provided to Council as commercial in confidence. The matter has been requested to be kept confidential until such dates any embargo on the announcement regarding venues for the 2019 Santos Tour Down Under is lifted by Events South Australia.

On balance, the above reason which supports the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.
RECOMMENDATION:
That Council:

(1) Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate and Community Services, Director Development and Environmental Services, Director Works and Engineering, Manager Community Projects, Communications Officer and the Minute Secretary, in order to consider in confidence, a report relating to Section 90(3) (d) of the Local Government Act 1999 being commercial information of a confidential nature (not being a trade secret) the disclosure of which – (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and (ii) would, on balance, be contrary to the public interest.

(2) Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential as the information has been provided to Council as commercial in confidence.
8.3.1
SANTOS TOUR DOWN UNDER 2019 – LICENCE AGREEMENT
B7306

PURPOSE
Following Council’s registration of interest for hosting a stage of the 2019 Santos Tour Down Under, as authorised by Council at its meeting held on 19 December 2017, advice has been received of acceptance of Stage 2 – Finish – Murray Street, Angaston on Wednesday 16 January 2019.

RECOMMENDATION 1
That Council:

(1) Endorses hosting Stage 2 of the Santos Tour Down Under 2019 event with a finish in Angaston on Wednesday 16 January 2019, and authorises the Chief Executive Officer to sign the Licence Agreement between the South Australian Tourism Commission and Council for a fee of $22,000 (GST inclusive).

(2) Having considered this matter in confidence under Section 90(2) of the Local Government Act (the Act) pursuant to Section 90(3)(b)(i) being information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct business, or to prejudice the commercial position of the council, makes an order pursuant to Section 91(7) and (9) of the Local Government Act 1999, that the minutes, report and attachments other than the minutes relating to the confidentiality order of the Confidential Council Meeting held on 17 July 2018 in relation to Confidential Item Number 8.3.1 and titled Santos Tour Down Under 2019 – Licence Agreement, be kept confidential and not available for public inspection until such date as any embargo on the announcement regarding venues for the 2019 Santos Tour Down Under is lifted.

REPORT
Discussion
Licence Agreement documentation between the South Australian Tourism Commission and Council has now been received for signing by Council. A contribution fee of $22,000 (GST inclusive) is to be paid by Council to SA Tourism Commission for the hosting of the Stage 2 finish at Angaston on Wednesday 17 July 2019.

Benefits to Council include:
- Acknowledgement as host council through use of logo on promotional collateral and media
• Block mounted stage map and corflute signs
• Promotion of associated community event/s
• Participation on race day

Council obligations:
• Grant to SATC right to use and occupy Murray Street Angaston (between Sturt Street & Moculta Road), Middle Street Angaston (between Murray St & Newcastle Street), Cross Street, Schilling Street (between Hill Street and Murray Street) and surrounding property/facilities for the event day (Wednesday 16 January 2019) in addition to selected areas for the duration of bump in and out,
• Supply and pay any costs or expenses for the supply of services (including access to on site power, public lighting, potable water, public toilet facilities, garbage and waste collection) to the property and facilities used by SATC, and in relation to the Race Event, Subsequent Stage(s) and/or women’s race,
• Pay any costs of road closures and traffic management and ensure are appropriate for approximately 140 riders, 40 team vehicles and 30 tour parade and other race convoy vehicles to participate in the Race Event, Subsequent Stage(s) and/or women’s race.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment 1 – Licence Agreement

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

2. Community and Culture

4. Health and Wellbeing

5. Business and Employment

2.1 Initiate and support activities which encourage participation and pride in the Barossa Council area.

2.6 Support a vibrant and growing arts, cultural, heritage and events sector.

4.2 Create opportunities for people of all ages and abilities to participate in the community.

5.13 Support economic development through events

Legislative Requirements
Local Government Act 1999
Road Traffic Act 1961

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The contribution fee of $22,000 (GST inclusive) is within the 2018/19 budget.

COMMUNITY CONSULTATION

Community notifications and opportunity for involvement will be conducted through the establishment of a Working Party comprising town representatives, emergency services, service providers, tourism and event organisers. Closer to the event, Council will develop a Communication Plan to guide communications to the broader community.