MINUTES OF THE MEETING OF THE BAROSSA COUNCIL
held on Tuesday 17 July 2018 commencing at 9.00 am in the Council Chambers, 43-51 Tanunda Road, Nuriootpa

1.1 WELCOME
Deputy Mayor Michael (Bim) Lange declared the meeting open at 9.00 am.

1.2 MEMBERS PRESENT
Cr Michael (Bim) Lange, Deputy Mayor Crs Margaret Harris, Scotty Milne, John Angas, Tony Hurn, Mark Grossman, Leonie Boothby, Dave de Vries, and Michael Seager

1.3 LEAVE OF ABSENCE
Cr Richard Miller

1.4 APOLOGIES
Cr Christopher Harms
Mayor Bob Sloane

MOVED Cr Hurn that the apology received from Mayor Bob Sloane and Cr Christopher Harms be noted.
Seconded Cr Seager CARRIED 2014-18/1453

1.5 MINUTES OF PREVIOUS COUNCIL MEETINGS

MOVED Cr Harris that the Minutes of the Council meeting held on Tuesday 19 June 2018 at 9.00 am, as circulated, be confirmed as a true and correct record of the proceedings of that meeting.
Seconded Cr Milne CARRIED 2014-18/1454

MOVED Cr Grossman that the Minutes of the Special Council meeting held on Wednesday 27 June 2018 at 5.00 pm, as circulated, be confirmed as a true and correct record of the proceedings of that meeting.
Seconded Cr Seager CARRIED 2014-18/1455

1.6 MATTERS ARISING FROM PREVIOUS COUNCIL MEETING
Nil

1.7 NOTICE OF MOTION
Nil

1.8 QUESTIONS ON NOTICE
Nil

The Barossa Council 18/43405 Minutes of Council Meeting held on Tuesday 17 July 2018
2. MAYOR

2.1 MAYOR’S REPORT

<table>
<thead>
<tr>
<th>MOVED</th>
<th>Cr de Vries that the Mayor’s report be received.</th>
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<tr>
<td>Seconded</td>
<td>Cr Boothby</td>
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CARRIED 2014-18/1456

3. COUNCILLOR REPORTS

Nil

4. CONSENSUS AGENDA

5. ADOPTION OF CONSENSUS AGENDA

5.1 ITEMS FOR EXCLUSION FROM THE CONSENSUS AGENDA

Cr Milne - 4.2.1.3 – Notice of Annual General Meeting – Local Government Finance Authority of South Australia.

5.2 RECEIPT OF CONSENSUS AGENDA

<table>
<thead>
<tr>
<th>MOVED</th>
<th>Cr Angas that the information items contained in the Consensus Agenda with the exception of 4.2.1.3 – Notice of Annual General Meeting – Local Government Finance Authority of South Australia be received and that any recommendations contained therein be adopted.</th>
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<tr>
<td>Seconded</td>
<td>Cr Harris</td>
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CARRIED 2014-18/1457

5.3 DEBATE OF ITEMS EXCLUDED FROM THE CONSENSUS AGENDA

4.2.1.3

NOTICE OF ANNUAL GENERAL MEETING – LOCAL GOVERNMENT FINANCE AUTHORITY OF SOUTH AUSTRALIA

Cr Milne noted that the nominations to the Board of the Local Government Finance Authority of South Australia close on 17 August 2018 prior to the next Council meeting and suggested that Council support the nomination of the two sitting members Ms Annette Martin and Cr John W Frogley.

<table>
<thead>
<tr>
<th>MOVED</th>
<th>Cr Milne that Council support the nominations to the Local Government Finance Authority of South Australia of the two sitting members being Ms Annette Martin and Cr John W Frogley.</th>
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<tr>
<td>Seconded</td>
<td>Cr de Vries</td>
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<tr>
<th>MOVED</th>
<th>Cr Milne that the report 4.2.1.3 – Notice of Annual General Meeting – Local Government Finance Authority of South Australia be received.</th>
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<td>Seconded</td>
<td>Cr Angas</td>
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CARRIED 2014-18/1458

Correspondence, 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.

6. VISITORS TO THE MEETING/ADJOURNMENT OF MEETING

6.1 VISITORS TO THE MEETING

The Barossa Council 18/43405 Minutes of Council Meeting held on Tuesday 17 July 2018
9.30am Presentation of Youth Grant certificates to Felix Stokoe, Bradley Butler, Austin McDonald, Daniel Bussenschutt and Erin Young – Refer Minute page 2018/285.

6.2 ADJOURNMENT OF COUNCIL MEETING
Nil

7. DEBATE AGENDA

7.1 MAYOR - DEBATE
Nil

7.2 EXECUTIVE SERVICES – DEBATE

7.2.1 CHIEF EXECUTIVE OFFICER - DEBATE

7.2.1.1 ANNUAL REPORT ON THE INTERNAL REVIEW OF COUNCIL DECISIONS 2017-2018
B5726

MOVED Cr de Vries

(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.

Seconded Cr Boothby CARRIED 2014-18/1459

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.

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.

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<tr>
<th>COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS</th>
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<tr>
<td><strong>Corporate Plan</strong></td>
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<td><strong>Legislative Requirements</strong></td>
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<th>FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS</th>
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<td><strong>Finance and Resources</strong></td>
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<td><strong>Risk Management</strong></td>
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*The Barossa Council 18/43405  Minutes of Council Meeting held on Tuesday 17 July 2018*
COMMUNITY CONSULTATION
Not required under Legislation and Council’s Public Consultation Policy.

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

MOVED Cr de Vries 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.

Seconded Cr Milne CARRIED 2014-18/1460

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.

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.

7.2.1.3
HUMAN RESOURCE AND EXPENDITURE APPROVALS FOR CHIEF EXECUTIVE OFFICER
B7510
Author: Governance Advisor

Pursuant to S120(1) of the Local Government Act 1999, Mr Martin McCarthy, Chief Executive Officer, disclosed a conflict of interest in the matter 7.2.1.3 - Human Resource and Expenditure Approvals for Chief Executive Officer as the item relates to administrative practice for any Human Resource and Expenditure reimbursements.

Mr McCarthy advised the Council of the conflict of interest and left the meeting at 9.24 am.

MOVED Cr de Vries 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.

Seconded Cr Milne
CARRIED 2014-18/1461

INTRODUCTION
With the transition of Council’s 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.

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.

Mr McCarthy returned to the meeting at 9.25 am.
7.2.1.4
LAGATUS (FORMERLY CENTRAL LOCAL GOVERNMENT REGION) – NOTICE OF ANNUAL GENERAL MEETING AND CALL FOR OFFICE BEARERS
B7486 18/45509

MOVEd Cr Seager that Council receive and note the report and nominate Mayor Sloane for a Deputy Chair position with Legatus.
Seconded Cr Hurn CARRIED 2014-18/1462

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

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

COMMUNITY CONSULTATION
No consultation is required or necessary for this matter.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Nil

SECTION 270 LOCAL GOVERNMENT ACT – INTERNAL REVIEW OF A COUNCIL DECISION - REVOCATION OF COMMUNITY LAND CLASSIFICATION – BASEDOW ROAD, TANUNDA B8086

Author: Governance Advisor

MOVEd Cr de Vries that 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;

(1a) 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.

Seconded Cr Milne  CARRIED 2014-18/1463

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.

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 Sennet 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

| Attachment 1 | 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 |
| Attachment 2a | Council meeting agenda item 7.2.1.4 – Chief Executive Officer Report and attachments - Chateau Tanunda – Community land Proposal – 19 September 2017 |
| Attachment 2b | Extract of Minutes of the Ordinary Council Meeting - Council meeting agenda item 7.2.1.4 – Chateau Tanunda – Community land Proposal – 19 September 2017 |
| Attachment 3a | 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 |
| Attachment 3b | 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 |
| Attachment 4a | 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 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:
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 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 KellydJones 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.

7.2.1.6
LOCAL GOVERNMENT (RATE OVERSIGHT) AMENDMENT ACT 2018 (“the Bill”)
B7353

Mr Martin McCarthy, Chief Executive Officer advised that as a result of timing the initial reports to Council were developed prior to the LGA Special Meeting held on Friday 16 July 2018. Whilst the LGA Special Meeting did not see anything particularly new being raised it did solidify that the position that Council could consider is continue to negotiate and address the technical aspects of the Bill but from a position of objection to the current draft Bill, but support the intent.

An alternative recommendation has been drawn up which alters part two of the original recommendation.

MOVED Cr de Vries that 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) Acknowledge the intent of the Bill, but reject the current draft and 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.

Seconded Cr Milne

Deputy Mayor Lange advised that as it was the appointed time for visitors to the meeting, debate on the matter 7.2.1.6 - Local Government (Rate Oversight) Amendment Act 2018
(“the Bill”) would continue following the presentation of certificates to youth grant recipients.

**VISITORS TO THE MEETING – 9.30AM**

Deputy Mayor Lange presented Youth Grant certificates to the following:
- Felix Stokoe who represented the Adelaide United Football School at the Mediterranean International Cup held in Barcelona in March and April of this year,
- Bradley Butler who represented South Australia at the School Sport Australia Triathlon Championships in Penrith in April 2018.
- Austin McDonald who represented South Australia Country Basketball at the Southern Cross Challenge held in Wantirna, Victoria in January 2018.
- Erin Young who represented Athletics SA at the Australian Junior Athletics Championships in Sydney in March 2018.
- Daniel Bussenschutt who represented Athletics SA at the All Schools National Championships held in Adelaide in December 2017.

Deputy Mayor Lange thanked the recipients of Youth Grants for their attendance and congratulated them on their achievements.

Discussion resumed on the matter 7.2.1.6 – Local Government (Rate Oversight) Amendment Act 2018 (“the Bill”) at 9.41am.

**MOVED** Cr de Vries that 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. Acknowledge the intent of the Bill, but reject the current draft and 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.

**Seconded** Cr Milne

The motion was put and **CARRIED 2014-18/1464**

**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.
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
- Infrastructure
- Health and Wellbeing
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
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.

LATE REPORT
7.2.1.7
VALLEY ROAD ANGASTON RESEALING
B7907 18/47428

Pursuant to S73 of the Local Government Act 1999 Cr Lange disclosed a material conflict of interest in the late item 7.2.1.7 Valley road Angaston Resealing as he periodically receives a fee for services from the Lindner Group.

Cr Lange advised Council of the conflict of interest and left the meeting at 10.11am.

In the absence of the Deputy Mayor, Mr Martin McCarthy, Chief Executive Officer, called for nominations for a Councillor to act in the position of presiding member for the late item 7.2.1.7 Valley Road Angaston Resealing.

Cr David de Vries nominated himself to act in the position of presiding member.

MOVED Cr Hurn that Cr de Vries be appointed to act as presiding member for discussion on the late report 7.2.1.7 – Valley Road Angaston Resealing.
Seconded Cr Harris  CARRIED 2014-18/1465

Cr de Vries assumed the Chair at 10.12am.

MOVED Cr Boothby that Council having considered the requirements of the Local Government Act in terms of agenda notice consider the matter of 7.2.1.7 Valley Road Angaston Resealing urgent so as to achieve efficient and effective resealing of the road and accept the late report.
Seconded Cr Harris  CARRIED 2014-18/1466

MOVED Cr Hurn that Council having received and considered the request from the Lindner Group and noting a joint approach will improve the level of service for the section of Valley Road Angaston from the development to Neldner Avenue and return the road to full operating capacity quickly, approves a budget allocation of $25,000 on condition the Lindner Group funds $12,500 to reseal an area of approximately 750 square metres with a 40mm thick asphaltic hotmix pavement wearing course and perform the works as part of works scheduled to be undertake for Springton in July and August 2018.
Seconded Cr Milne  CARRIED 2014-18/1467

PURPOSE
Council has received correspondence the developers of the Angas Views land division which is included at the attachment.

This is a late report of a routine nature, but is of some urgency due to the need to reinstate Valley Road and the opportunity to undertake the work whilst other sealing is happening in the district thus lowering the cost of the work. Therefore Council will need to first consider if it will accept and debate the report, if it does not accept the report then a report will be put to the next ordinary meeting in August.

REPORT
Background
The Lindner Group has approval to develop approximately 55 allotments known as Angas Views. This requires the implementation of necessary infrastructure including reinstatement of Council assets.
Introduction
Works for Angas Views has been progressing recently however issues with rock have resulted in greater excavation on Valley Road than anticipated.

The reinstatement of the road to current standard would be with a two coat bituminous spray seal which cannot be applied in cool and wet conditions. Therefore the road would be reinstated with base material but could not be sealed until later in the year most likely October – December. An asphaltic hotmix seal can be applied at any time and will restore the level of service. However the cost of such a seal is significantly more.

The estimate cost for the two coat bituminous spray seal is $10,000 and the asphaltic hotmix cost in the order of $25,000 but has a much longer life and would upgrade that section of road and return it to its service level up to three months earlier.

The developer has offered to pay additional funds to Council for us to undertake the work. Council is about to commence sealing in Springton and to “piggy back” on the back of this work would see an immediate return of the service level and ensure costs are minimised due to the contractors presence in the district. However this work is unbudgeted and other than the reinstatement requirements there is no foreseeable reseal work required on Valley Road based on the asset data.

Summary
The offer to upgrade a section of road, return the road to full capacity in a quick and efficient matter warrants the consideration of Council.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES
Attachment - Correspondence from Lindner Group

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

COMMUNITY CONSULTATION
The development application underwent public notice, the need for undertaking consultation on the reinstatement of the road is not required or considered necessary as it relates simply to restoring service levels.

Cr Lange returned to the meeting at 10.14am and resumed the Chair.

7.2.2 FINANCE - DEBATE

7.2.2.1 MONTHLY FINANCE INTERIM REPORT (AS AT 30 JUNE 2018)

Author: Senior Accountant
MOVED Cr Milne that the Monthly Finance Interim Report as at 30 June 2018 be received and noted.
Seconded Cr Seager
CARRIED 2014-18/1468

PURPOSE
The Uniform Presentation of Finances report provides information as to the financial position of Council, including notes on material financial trends and transactions.

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.
7.3  CORPORATE AND COMMUNITY SERVICES – DEBATE

7.3.1  DIRECTOR CORPORATE AND COMMUNITY SERVICES

7.3.1.1  CONSIDERATION AND ADOPTION OF BAROSSA REGIONAL GALLERY COMMITTEE RESOLUTIONS
B7322

MOVED  Cr Harris 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.
Seconded  Cr Grossman  CARRIED 2014-18/1469

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.

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.

7.3.1.2  NURIOOTPA CENTENNIAL PARK AND COULTHARD RESERVE MASTER PLAN – COST ASSESSMENT REPORT
B6144

The Barossa Council 18/43405  Minutes of Council Meeting held on Tuesday 17 July 2018
MOVED Cr de Vries 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.
Seconded Cr Hurn CARRIED 2014-18/1470

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.

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 Offices 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%).
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

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial
No additional information

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.

7.3.2 MANAGER COMMUNITY PROJECTS - DEBATE

7.3.2.1 FEES AND CHARGES REGISTER – 2018/2019 – ANGASTON TOWN HALL
B7181

MOVED Cr Grossman 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
Seconded Cr Milne CARRIED 2014-18/1471
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.

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>
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<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>
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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)

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS
Financial
To ensure that Council is able to recover its costs in relation to user paid services provided to the community.

COMMUNITY CONSULTATION
The newly approved fees for Angaston Town Hall will be available for the Community to access on Council’s website.

7.4 WORKS AND ENGINEERING - DEBATE

7.4.1 ACTING DIRECTOR WORKS AND ENGINEERING SERVICES - DEBATE

7.4.1.1 2018 BAROSSA MARATHON – ROAD CLOSURE REQUEST
B7475 18/46577
MOVED Cr de Vries 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 Nurairp 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.
Seconded Cr Hurn CARRIED 2014-18/1472

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.

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)

ków Community and Culture

♥ Health and Wellbeing

⚠ Business and Employment

The Barossa Council 18/43405 Minutes of Council Meeting held on Tuesday 17 July 2018
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 DEVELOPMENT AND ENVIRONMENTAL SERVICES - DEBATE

#### 7.5.1. DEVELOPMENT SERVICES REPORT

**BAROSSA ASSESSMENT PANEL**

**B7492**

Author: Manager, Development Services

**MOVED** Cr Milne that Council:

1. Appoint members of the current 2017/2018 Barossa Assessment Panel for the period 1 July 2018 – 30 June 2019:
   - Presiding Member: Bruce Ballantyne
   - Independent Members: Deirdre Reiman, Grant Hewitt, Rob Veitch
   - 1 July 2018 for the term of the current Council:
   - 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.

**Seconded** Cr Hurn CARRIED 2014-18/1473

### 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.
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. ENVIRONMENTAL SERVICES REPORT - DEBATE

7.5.2.1 REFORM OF THE NATURAL RESOURCE MANAGEMENT ACT

Author: Director, Development and Environmental Services

MOVED Cr Seager that Council

(1) Acknowledge that the Marshall 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.

Seconded Cr de Vries

CARRIED 2014-18/1474

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.

REPORT

Background

The State Government 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 I).

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
- Eyre Peninsula
- Hills and Fleurieu (new)
- Kangaroo Island
- Northern and Yorke
- Plains and Valleys (new)
- SA Murray-Darling Basin
- South East

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 landholders.

- **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
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.

![Figure 1: The diagram above illustrates some of the functions that a joint planning board could undertake.](image)

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
Attachment 2 – Reforming Natural Resources Management

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

7.5.2.2 CONSIDERATION AND ADOPTION OF COMMITTEE RESOLUTIONS
B5476
Author: Director, Development and Environmental Services

MOVED Cr de Vries that Council having reviewed the Minutes of Barossa Bushgardens S41 Committee Meeting held 13 June 2018, that the Minutes be received and noted.
Seconded Cr Hurn
CARRIED 2014-18/1475

PURPOSE
The Minutes of Council Section 41 Committees are presented for consideration and adoption of Council.

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.

8. CONFIDENTIAL MATTER – 10.31AM

8.1 MAYOR – CONFIDENTIAL – 10.31AM

Pursuant to S120(1) of the Local Government Act 1999 Mr Martin McCarthy, Chief Executive Officer disclosed a conflict of interest in the matter 8.1.1 Chief Executive Officer’s 2017/18 Performance and Conditions of Contract as it relates directly to his annual performance outcomes, targets, remuneration and contract review and proposed amendments.

Mr McCarthy advised Council of the conflict of interest and based on legal advice he would remain in the meeting to answer any questions from members and would leave the meeting prior to any debate commencing.

Cr Harris left the meeting at 10.30am.

All other staff members left the meeting at 10.31am.

Mr Martin McCarthy left the meeting at 10.32am.

Cr Harris returned to the meeting at 10.33am

8.1.1 CHIEF EXECUTIVE OFFICER’S 2017/18 PERFORMANCE AND CONDITIONS OF CONTRACT REVIEW
E1200

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.

**MOVED** Cr de Vries 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.

**Seconded** Cr Boothby

**CARRIED 2014-18/1476**

**RESUMPTION OF OPEN COUNCIL MEETING – 11.12AM**

The open meeting of Council resumed at 11.12am.

In the matter 8.1.1 Chief Executive Officer’s 2017/18 Performance and Conditions of Contract Review

**MOVED** Cr de Vries that Council, having noted the performance results which show a performance outcome of 7.74 out of a possible 9, the Chief Executive Officer’s annual performance report, and the remuneration and conditions of contract request, congratulates Mr Martin McCarthy on the performance outcome and:

1. Confidential resolution.
2. Confidential resolution.
3. Confidential resolution
4. Confidential resolution
5. Having considered this matter in confidence under Section 90(2) of the Local Government Act 1999 (the Act), makes an order pursuant to Section 91(7), that the report, minutes, documents and attachments other than the minutes relating to this confidentiality order of the Confidential Council Meeting held on 17 July 2018 in relation to item 8.1.1 Chief Executive Officer 2017/18 Performance and
Conditions of Contract Review be kept confidential and not available for public inspection, except information required to be released pursuant to Section 91(8) of the Act, until the conclusion of the Chief Executive Officer’s employment and the said order be reviewed by Council annually on the basis it has received and discussed a matter pertaining to the employment and performance review and conditions of employment of the Chief Executive Officer as contemplated by Section 90 (3)(a) of the Act.

Seconded Cr Milne  
CARRIED CO2014/18-78

Mr Martin McCarthy and other staff members returned to the meeting at 11.13am.

8.2 CONFIDENTIAL MATTER – 11.13AM

8.2.1 CHIEF EXECUTIVE OFFICER – CONFIDENTIAL MATTER – 11.13AM

8.2.1 SPRINGWOOD ESTATE – STORMWATER EASEMENT NEGOTIATION

B2522

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)(i) 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 disclose 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 Council’s 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.

MOVED Cr de Vries 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.

Seconded Cr Hurn CARRIED 2014-18/1477

RESUMPTION OF OPEN COUNCIL MEETING – 11.19AM
The open meeting of Council resumed at 11.19am.

In the matter 8.2.1 - Springwood Estate – Stormwater Easement Negotiation:

MOVED Cr Milne

(1) Confidential resolution

(2) Confidential resolution

(3) Having considered this matter in confidence under Section 90(2) and 90(3)(a), 90(3)(b)(i) and (ii), 90(3)(h), and 90(3)(i) of the Local Government Act 1999 (“the Act”) of the Local Government Act 1999, makes an order pursuant to Section 91(7), that the agenda report, attachments and minutes other than the minute relating to this confidentiality order of the Confidential Council Meeting held on 17 July 2018 in relation to item 8.2.1 Springwood Estate – Stormwater Easement Negotiations be kept confidential and not available for public inspection and authorise the Chief Executive Officer to review and revoke the order.

Seconded Cr Boothby CARRIED CO2014/18-79
8.3 CONFIDENTIAL MATTER – 11.20AM

8.3.1 MANAGER COMMUNITY PROJECTS – CONFIDENTIAL – 11.20AM

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 outweights 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 public interest of open decision making.

MOVED Cr Boothby by 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.

Seconded Cr Hurn

CARRIED 2014-18/1478

RESUMPTION OF OPEN COUNCIL MEETING – 11.21AM

The open meeting of Council resumed at 11.21am.

In the matter 8.3.1 – Santos Tour Down Under 2019 – Licence Agreement:
MOVED Cr de Vries that Council:

(1) Confidential resolution.

(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.

Seconded Cr Grossman

CARRIED CO2014/18-80

9. REPRESENTATIVES ON COUNCIL COMMITTEES - REPORTS

Nil

10. OTHER BUSINESS

11. NEXT MEETING

Tuesday 21 August 2018 at 9.00am

12. CLOSURE OF MEETING

Deputy Mayor Lange declared the meeting closed at 11.22am.

Confirmed at Council Meeting – Tuesday 21 August 2018

Date:........................................... Mayor:....................................
CONFIDENTIAL MINUTES
OF THE SPECIAL MEETING OF THE BAROSSA COUNCIL
held pursuant to the provisions of Section 90(2) of the Local Government Act 1999 on
Tuesday 17 July 2018 commencing at 11.20am

MEMBERS PRESENT
Deputy Mayor Michael (Bim) Lange, Leonie Boothby, John Angas, Margaret Harris, Mark Grossman, Scotty Milne, Michael Seager, Tony Hurn and Dave de Vries

OFFICERS PRESENT
Mr Martin McCarthy, Chief Executive Officer, Steven Kaesler, Acting Director Works and Engineering Services, Mr Gary Mavrinac, Director Development and Environmental Services, Mrs Joanne Thomas, Director Corporate and Community Services and Ms Lorraine Walsh, Executive Assistant

LEAVE OF ABSENCE
Cr Richard Miller

APOLOGIES
Mayor Bob Sloane
Cr Christopher Harms

8.3 MANAGER COMMUNITY PROJECTS - CONFIDENTIAL

8.3.1 SANTOS TOUR DOWN UNDER 2019 – LICENCE AGREEMENT
B7306

MOVED Cr de Vries 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.

Seconded Cr Grossman  
CARRIED CO2014/18-80

CLOSURE OF CONFIDENTIAL MEETING
There being no further business the confidential meeting closed at 11.21am.

Confirmed at Council meeting Tuesday 21 August 2018

Date: ............................................                    Mayor: ..............................................