



The Barossa Council

MINUTES OF THE MEETING OF THE BAROSSA COUNCIL

held on Tuesday 21 May 2019 commencing at 9.00am in the Council Chambers, 43-51 Tanunda Road, Nuriootpa

1.1 WELCOME

Mayor Bim Lange declared the meeting open at 9.00am and welcomed Miss Melissa Helyar to the meeting. Melissa, a Tourism Services Officer, was nominated by Barossa Visitor Centre for the Young Ambassador Program held during the recent Vintage Festival and won the Young Ambassador Excellence Award.

Mayor Lange congratulated Melissa on the award.

1.2 MEMBERS PRESENT

Mayor Michael (Bim) Lange, Deputy Mayor Cr John Angas, Crs Tony Hurn, Cathy Troup, David Haebich, Leonie Boothby, Dave de Vries, Kathryn Schilling, Richard Miller, Don Barrett and Carla Wiese-Smith

1.3 LEAVE OF ABSENCE

Cr Johnstone

1.4 APOLOGIES FOR ABSENCE

Nil

1.5 MINUTES OF PREVIOUS MEETINGS – FOR CONFIRMATION

MOVED Cr Haebich that the Minutes of the Council meeting held on Tuesday 16 April 2019 at 9.00am, as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded Cr Barrett

CARRIED 2018-22/178

MOVED Cr de Vries that the Minutes of the Confidential Council meeting held on Tuesday 16 April 2019 at 11.04am, as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded Cr Miller

CARRIED 2018-22/179

MOVED Cr Wiese-Smith that the Minutes of the Special Council meeting held on Wednesday 15 May 2019 at 5.30pm, as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded Cr Troup

CARRIED 2018-22/180

1.6 MATTERS ARISING FROM PREVIOUS MINUTES

Nil

1.7 PETITIONS

Nil

1.8 DEPUTATIONS

Nil

1.9 NOTICE OF MOTION

Nil

1.10 QUESTIONS – WITH OR WITHOUT NOTICE

Nil

2. MAYOR**2.1 MAYOR'S REPORT****MOVED** Cr Hurn that the Mayor's report be received.**Seconded** Cr Angas**CARRIED 2018-22/181****3. COUNCILLOR REPORTS**

Nil

4. CONSENSUS AGENDA**5. ADOPTION OF CONSENSUS AGENDA****5.1 ITEMS FOR EXCLUSION FROM THE CONSENSUS AGENDA**

Nil

5.2 RECEIPT OF CONSENSUS AGENDA**MOVED** Cr de Vries that the information items contained in the Consensus Agenda be received and that any recommendations contained therein be adopted.**Seconded** Cr Miller**CARRIED 2018-22/182****5.3 DEBATE OF ITEMS EXCLUDED FROM THE CONSENSUS AGENDA****6. VISITORS TO THE MEETING / ADJOURNMENT OF MEETING****6.1 VISITORS TO THE MEETING**

Nil

6.2 ADJOURNMENT OF COUNCIL MEETING

Nil

7. DEBATE AGENDA**7.1 MAYOR – DEBATE****7.1.1****ANNUAL PERFORMANCE REVIEW OF CHIEF EXECUTIVE OFFICER (CEO)****E1200**

Pursuant to S120(1) of the Local Government Act 1999, Mr Martin McCarthy, Chief Executive Officer disclosed a conflict of Interest in the matter 7.1.1 – *Annual Performance Review of the Chief Executive Officer (CEO)*, as it relates to his employment conditions and performance.

Mr McCarthy advised the meeting of his conflict of interest and left the meeting at 9.13am.

MOVED Cr Wiese-Smith that Council undertakes the 2019 annual review of the Chief Executive Officer's performance and remuneration internally with the assistance from the Manager, Organisational Development and Risk utilising the current internal survey tool and reporting templates and appoints Mayor Lange, Deputy Mayor Angas and Councillors Hurn, de Vries and Haebich to the Chief Executive Officer Performance Review Committee.

Seconded Cr Miller

CARRIED 2018-22/183

PURPOSE

The annual review of the Chief Executive Officer's performance is due by the June meeting of Council. A committee is required to be appointed to coordinate the review in accordance with the Contract of Employment.

REPORT

Introduction

The Local Government Act, along with the Chief Executive Officer's employment contract, requires that the performance of the CEO be regularly assessed being at least annually.

Discussion

The annual review of the CEO's performance is now due to commence with the anniversary date being 4 June each year. In fact this year is somewhat behind schedule therefore those nominating to the committee and all members will need to complete surveys and attend any necessary meetings as a priority.

For the past five reviews Council has elected to undertake the review process utilising internal expertise and our survey tool rather than outsourcing to a management consultant. The internal process has been supported by internal Human Resource expertise. Council under the contract of employment can engage a relevant external agency to undertake the review, there are many consultants that can undertake the work if necessary and if Council elect to do so I will seek quotes from three suppliers and consult with the CEO, as is required by the contract.

As part of the contract of employment with the CEO the Performance Review Committee conducts the review and shall consist of the Mayor, Deputy Mayor and up to three Councillors, or, where agreed with the CEO, additional members.

The Council needs to determine if it will conduct the review internally supported by an officer as it has for the past five years or engage an independent consultant which will require further allocation of budget; the CEO needs to concur with the officer or consultant so appointed. The annual review of the CEO's remuneration package can be included in this process but in any case must be done within one month of the performance review. I understand the CEO is happy to have both processes undertaken together by the Performance Review Committee.

If the internal process is selected by Council (and I have attached the internal survey which would provide for the continuation of longitudinal data) the process commences with a meeting of the committee with the internal support officer to review the survey questions, timeframes and other administrative matters. The process then proceeds in the following general manner:

1. Members, direct reports to the CEO and any other officers (internal or external) agreed between the Committee and CEO undertake the survey;
2. The Committee and CEO review survey results including year to year comparisons and address any areas of material difference in performance outcomes;
3. The CEO will present to the Committee a summation of the year and suggested targets for the following year which the Committee will review and provide further input;
4. CEO will present (if remuneration also part of the Committees responsibility) to the Committee remuneration assessment for review; and
5. The finalisation is completed with a full report to Council to review the yearly report of CEO, any other relevant documentation, remuneration assessment, targets and survey results.

As Mayor I may also provide a summary of the process and performance findings.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Copy of Internal Survey Questionnaire

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCommunity Plan

How We Work – Good Governance - Accountable

Legislative Requirements

Chapter 7, Part 1 Local Government Act 1999
Section 107 Local Government Act

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Requires only internal resources if undertaking internal process. There is no budget allocation for an external review as the prior Council was satisfied with the internal process, if Council wish to engage an external provider a budget adjustment would be necessary. An estimated cost for such an external review would be in the order of \$8,000 - \$12,000.

COMMUNITY CONSULTATION

Consultation is not required under policy or legislative requirements.

Mr McCarthy returned to the meeting at 9.15am.

7.2.1 CHIEF EXECUTIVE OFFICER - DEBATE**7.2.1.1****APPLICATION FOR A PERIOD OF ANNUAL LEAVE FOR CHIEF EXECUTIVE OFFICER****E1200**

Pursuant to S120(1) of the Local Government Act 1999, Mr Martin McCarthy, Chief Executive Officer, disclosed a conflict of interest in the matter 7.2.1.1 – Application for a Period of Annual Leave for the Chief Executive Officer as it relates to his taking annual leave and decisions which will impact him directly – a personal benefit / detriment.

Mr McCarthy advised the meeting of his conflict of interest and left the meeting at 9.15am.

MOVED Cr Hurn that Council approve the application of the Chief Executive Officer for the following annual leave period:

- (1) Commencing on Monday, 21 October 2019 and concluding on Friday, 8 November 2019 noting his first day back at work shall be Monday, 11 November 2019;
- (2) Authorise the Mayor to manage all leave applications of the Chief Executive Officer without providing a debate report to Council; and
- (3) Note the Mayor shall appoint an Acting Chief Executive Officer pursuant to clause 102(c) of the Local Government Act for periods of absence of the Chief Executive Officer.

Seconded Cr Wiese-Smith

CARRIED 2018-22/184

PURPOSE

To seek authorisation for annual leave and appointment of an acting Chief Executive Officer.

REPORTIntroduction

Leave applications for the Chief Executive Officer (CEO) that are more than 5 days are currently required to be submitted to Council for approval. With the period of leave extending greater than this the application is hereby submitted.

In most circumstances leave applications of the CEO's are managed directly with the Mayor, whilst very low risk the fact that leave for the CEO is publicly available does increase the risk to the CEO's personal property. It would seem that a simpler way is to authorise the Mayor to deal with all future applications and acting appointments as contemplated by Section 102 of the Local Government Act.

Discussion

I hereby request a period of annual leave which shall total a period of 15 days commencing on Monday, 21 October 2019 and concluding on Friday, 8 November 2019 noting his first day back at work shall be Monday, 11 November 2019.

Whilst the Chief Executive Officer is on leave an officer must be authorised to act in the position. The Local government Act provides for the Mayor to make this appointment and with the proposal to authorise the Mayor to management all future leave of the CEO he too can make the necessary appointments under the Act.

Summary and Conclusion

Current annual leave entitlements are 52.64 days and forecast to be 65.04 days at the time of taking the sought leave. A period of leave has been sought by the Chief Executive Officer in accordance with Council policy and industrial arrangements.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



How We Work – Good Governance

Corporate Plan

6.16 Provide contemporary internal administrative and business support services in accordance with mandated legislative standards and good practice principles.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Budgets are set taking into account leave requirements for employees.

COMMUNITY CONSULTATION

Community consultation is not required.

Mr McCarthy returned to the meeting at 9.16am.

7.2.1.2

REGIONAL DEVELOPMENT AUSTRALIA BAROSSA GAWLER LIGHT ADELAIDE PLAINS INC (RDAB) FUNDING AGREEMENT

B6096

MOVED Cr de Vries that Council endorse the Local Government Funding Agreement 2019-2022 between The Barossa Council, Light Regional Council, Town of Gawler and Adelaide Plains Council and Regional Development Australia Barossa Gawler Light Adelaide Plains Inc as provided at the attachments and authorise the Chief Executive Officer to execute the agreement.

Seconded Cr Boothby

CARRIED 2018-22/185

PURPOSE

Seek approval to execute a new three year funding agreement with RDAB.

REPORT

Introduction

RDAB is partly funded by The Barossa Council along with other local government partners, Town of Gawler, Light Regional Council and the District Council of Mallala. Both State and Commonwealth Government also provide funding through different mechanisms. The current funding agreement is due to expire on 30 June 2019.

Discussion

Regional Development Australia network is the supported policy arm and regional economic development provider of the three tiers of government. This is an important regional forum providing access to regional economic development services including access to State and Commonwealth funding initiatives. RDAB also provide extensive support to local businesses through one on one activities and via the business to business network.

Both the State and Commonwealth Governments have continued to provide financial support to RDAB for the delivery of economic and community development services.

I have received the attached new Funding Agreement with RDAB for a three year period. The document represents the prior arrangement from 2016 with no material changes. The agreement is appropriate.

Summary and Conclusion

As an important partner in regional development the RDAB agreement is consistent with Council's business plan and budget and Community Plan

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Funding Agreement

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Business and Employment

- 5.1 Work closely with State Government, Federal Government and stakeholders to support economic growth, development and job creation.
- 5.7 Collaborate with industry leaders to ensure informed decision making and Council representation in relation to economic growth, planning and development.
- 5.8 Ensure advice and support for small business is available.

Legislative Requirements

Section 7 of the Local Government Act – to promote its area and to provide an attractive climate and locations for the development of business, commerce, industry and tourism.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The agreement is consistent with current budget settings.

COMMUNITY CONSULTATION

No community consultation is required

7.2.1.3

REVOCAION OF COMMUNITY LAND CLASSIFICATION – MOUNT PLEASANT & DISTRICT GOLF CLUB B9002

Author: Governance Advisor

Pursuant to S75 of the Local Government Act 1999 Cr Don Barrett disclosed a perceived conflict of interest in the matter 7.2.1.3 *Revocation of Community Land Classification – Mount Pleasant & District Golf Club* as during the public consultation period of the revocation of community land classification of the Mt Pleasant and District Golf Club his wife, Mrs Susanne Barrett posted on Facebook regarding the revocation of that

community land. Cr Barrett advised that the views expressed by Mrs S Barrett are entirely hers and have had no bearing on his decision making process regarding this matter.

Cr Barrett advised Council that he had declared the perceived conflict of interest to the meeting so that his relationship with Mrs S Barrett was there for all to see and his intention was to remain in the Chamber and vote on the matter.

MOVED Cr de Vries

- (1) That Council note and consider the feedback from community members and the Department of Environment and Water's approval to revoke the Community Land status over the Crown land portion of the Land (described in item 2 below), in accordance with the conditions of the consent made on behalf of the Minister, which are attached to this Report.
- (2) Pursuant to section 194 of the *Local Government Act 1999*, that Council continue the process to revoke the Community Land classification over the land occupied by the Mount Pleasant & District Golf Club, which is comprised of:
 - (i) Certificate of Title Volume 5903 Folio 355
Described as Allotment comprising of Pieces 12, 13 and 14 Deposited Plan 24931 in the area named Mount Pleasant, Hundred of Talunga
 - (ii) Certificate of Title Volume 5903 Folio 356
Described as Allotment 100 Filed Plan 218873 in the area named Mount Pleasant, Hundred of Talunga
 - (iii) Portion of Crown Record Volume 5905 Folio 821 – Allotment 17
Described as Allotment 17 Deposited Plan 24931 in the area named Mount Pleasant, Hundred of Talunga
- (3) That the Chief Executive Officer prepare a report and submit it to the Minister for Transport, Infrastructure and Local Government seeking approval to revoke the Community Land classification of the said land parcels.
- (4) That should the revocation be approved by the Minister for Transport, Infrastructure and Local Government, the matter be referred back to Council for final resolution in accordance with section 194(3)(b) of the *Local Government Act 1999*.
- (5) That should Council give final approval for the revocation of the Community Land status, that Council endorse the subsequent gifting of the Council-owned land identified in this report from Council to the Mount Pleasant & District Golf Club Inc., in accordance with Council's resolutions of 19 March 2019 and 16 May 2017, noting that:
 - (a) The terms of the gifting of the Council-owned land from Council to the Mount Pleasant Golf Club Inc. will be negotiated between the parties following the revocation of the Community Land status of the land upon which the Mount Pleasant & District Golf Club is located;
 - (b) Council is not expected to be a party to any future transfer of the Crown land portion of the golf club land. It is expected that if the Crown approves the transfer of the Crown land to Mount Pleasant & District Golf Club Inc., the dedication of the Crown land as 'Parklands' will need to be withdrawn;
 - (c) The gifting of the Council owned land parcels is for nil consideration, however noting that any GST, stamp duty or other fees and charges associated with the transfer will not be the responsibility of Council, but that Council may pay all necessary and reasonable legal costs of the transfer;
 - (d) The future use of the land is not expected to change, with the exception of the Mount Pleasant & District Golf Club Inc. possibly seeking to expand the use of the golf club to other community uses, to optimise revenue capacity;

- (e) That when negotiating the gifting of the Council owned land to Mount Pleasant & District Golf Club Inc., officers will endeavour to put in place a legal mechanism that secures the use of the land for the community, and reverts the land back to the community through Council in the event that the land use changes or the Mount Pleasant and District Golf Club Inc. ceases to exist.

Seconded Cr Wiese-Smith

CARRIED 2018-22/186

PURPOSE

Council is now asked to consider community feedback in response to its proposal to revoke the Community Land classification over the land on which the Mount Pleasant & District Golf Club is located, for the purposes of the future gifting of the land to the Mount Pleasant & District Golf Club Inc. ("MPDGC"). Should Council agree to proceed with revocation, the matter should then be referred to the Minister for Transport, Infrastructure and Local Government to consider in accordance with the *Local Government Act 1999*.

REPORT

Background

On 19 March 2019, Council resolved as follows:

MOVED Cr de Vries

- (1) That Council, being satisfied that the proposal has extensive community benefit and satisfies the requirements of Council's *Disposal of Land and Other Assets Policy*, resolves to undertake a public consultation process pursuant to section 194(2) of the *Local Government Act 1999* (the "Act") and Council's Public Consultation Policy, to indicate its proposal to revoke the Community Land status over the land occupied by the Mount Pleasant and District Golf Club, which is comprised of:
 - (i) Certificate of Title Volume 5903 Folio 355
Described as Allotment comprising of Pieces 12, 13 and 14 Deposited Plan 24931 in the area named Mount Pleasant, Hundred of Talunga
 - (ii) Certificate of Title Volume 5903 Folio 356
Described as Allotment 100 Filed Plan 218873 in the area named Mount Pleasant, Hundred of Talunga
 - (iii) Portion of Crown Record Volume 5905 Folio 821 – Allotment 17
Described as Allotment 17 Deposited Plan 24931 in the area named Mount Pleasant, Hundred of Talunga
- (2) That the Chief Executive Officer finalises and makes publicly available the consultation report prepared in accordance with Section 194(2)(a) of the *Local Government Act* on the proposal at Recommendation 1 (see draft consultation report at *Attachment 3*); publishes a notice in the Herald, Leader and Courier newspapers and on Council's website; writes to adjacent property owners, alerting the community to the consultation process and consultation report and invite written submissions; and
- (3) That the public consultation period shall be for 21 days as prescribed by Section 194(2)(b) of the *Local Government Act* and clause 4.4 of Council's Public Consultation Policy.
- (4) That at the conclusion of the public consultation process, the Chief Executive Officer prepare a report on all submissions made regarding the proposal ("Submission Report") and provide the report to the Department for Environment and Water for review, in accordance with the conditions of the consent made on behalf of the Minister, for the revocation of the community land status over the Land (as per the Department's letter at *Attachment 4*).
- (5) Upon the Department of Environment and Water reviewing the Submission Report, and determining whether it is satisfied or not satisfied that the Submission Report has met the conditions of the consent made on behalf of the Minister, for the revocation of the community land status over the Land, that the Chief Executive Officer refer the Submission Report and the Department of Environment and Water's position to Council for consideration.

Seconded Cr Boothby

CARRIED 2018-22/136

Introduction

In accordance with the above resolution, officers provide the following for Elected Members' consideration:

- Public Consultation Report: Revocation of Community Land Status at Attachment 1
- Copies of public notices in the Herald, Leader and Courier newspapers, media release and posts on Council's website, Our Better Barossa consultation platform and Facebook at Attachment 2
- Map of landowners adjacent to the Mount Pleasant & District Golf Club who were sent a letter outlining the proposal at Attachment 3
- Copy of letter sent to the identified adjacent landowners (including the MPDGC) at Attachment 4
- Summary table of responses from the community via email, Facebook and the Our Better Barossa consultation platform at Attachment 5
- Copy of all correspondence from the community (email addresses redacted) at Attachment 6
- Copy of thank you email sent to those who provided feedback and email addresses at Attachment 7
- Copy of letter from Department for Environment and Water on behalf of the Minister for Environment and Water, approving Council seeking the revocation of the Community Land status over the Crown land portion of the land parcels which comprise the land upon which the Mount Pleasant & District Golf Club is located (Crown Record Volume 5905 Folio 821), pursuant to the *Local Government Act 1999*, at Attachment 8

Discussion

In accordance with the Public Consultation Report: Revocation of Community Land Status (at Attachment 1), a public notice was placed in each of the Herald, Leader and Courier newspapers on Wednesday, 27 March 2019 (at Attachment 2). The public notices advised that the Public Consultation Report would be made available for download via Council's website and in hard copy at its principal office – although the report was also made available at Council's branch offices.

Letters were written to owners of land adjacent to the Mount Pleasant & District Golf Club (including MPDGC), inviting submissions on the Public Consultation Report by 5pm Wednesday, 17 April 2019, i.e. for a period of 21 days in accordance with section 50(4) of the *Local Government Act* and Council's Public Consultation Policy (copies of letter at Attachment 4 and see also Attachment 3 for map of landowners).

Further promotion of the consultation was undertaken via Council's website, Our Better Barossa consultation platform, Facebook post and in a media release sent to the Courier, Herald and Leader (at Attachment 2).

The 8 submissions received are presented for Elected Member convenience in summary form (at Attachment 5) and for completeness, copies of all correspondence from the community members, with contact details redacted (at Attachment 6). Submissions were received via email, the Our Better Barossa platform, and via Facebook. A thank you email and invitation to attend the Council meeting, as per the template in Attachment 7 was sent to each person who provided an email address with their submission.

A copy of the summary of submissions and copies of all submissions received (i.e. Attachments 5 and 6) were provided to the Department of Environment and Water, in accordance with the conditions of the consent provided with respect to the revocation of the community status over the Crown land. The Department's response is presented at Attachment 8, which approves Council seeking the revocation of the Community Land status over the Crown land portion of the land parcel which comprise the land upon which the Mount Pleasant & District Golf Club is located (i.e. Crown Record Volume 5905 Folio 821). It is important to note that the consent provided on behalf of the Minister of Environment and Water only relates to the Crown land portion of the land parcels which comprise the land upon which the Mount Pleasant & District Golf Club is located.

After considering all the community feedback and the approval from the Department of Environment and Water, the Elected Body must now consider whether or not to approve the

Public Consultation Report and attachments for referral to the Minister for Transport, Infrastructure and Local Government for approval.

Should the Public Consultation Report be referred to the Minister for Transport, Infrastructure and Local Government, and he approves revoking the Community Land status over the identified parcels, the matter will be referred back to the Elected Body for final endorsement in accordance with section 194(3)(b) of the *Local Government Act 1999*.

Once Council provides final endorsement for the revocation of the Community Land status over the land, the Chief Executive Officer will negotiate the necessary arrangements for the gifting of the Council-owned land parcels to the MPDGC, noting that:

- The terms of the gifting of the Council-owned land from Council to the Mount Pleasant Golf Club Inc. will be negotiated between the parties following the revocation of the Community Land status of the land upon which the Mount Pleasant & District Golf Club is located;
- Council is not expected to be a party to any future transfer of the Crown land portion of the golf club land. It is expected that if the Crown approves the transfer of the Crown land to Mount Pleasant & District Golf Club Inc., the dedication of the Crown land as 'Parklands' will need to be withdrawn;
- The gifting of the Council owned land parcels is for nil consideration, however noting that any GST, stamp duty or other fees and charges associated with the transfer will not be the responsibility of Council, but that Council may pay all necessary and reasonable legal costs of the transfer;
- The future use of the land is not expected to change, with the exception of the Mount Pleasant & District Golf Club Inc. possibly seeking to expand the use of the golf club to other community uses to optimise revenue capacity;
- That when negotiating the gifting of the Council owned land to Mount Pleasant & District Golf Club Inc., officers will endeavour to put in place a legal mechanism that secures the use of the land for the community, and reverts the land back to the community through Council in the event that the land use changes or the Mount Pleasant and District Golf Club Inc. ceases to exist.

Summary and Conclusion

The Council is asked to consider and approve the officer recommendation and refer the matter of revocation to the Minister for Transport, Infrastructure and Local Government.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 - Public Consultation Report: Revocation of Community Land Status

Attachment 2 - Copy of public notices in the Herald, Leader and Courier newspapers, media releases and posts of Council's website, Our Better Barossa consultation platform and Facebook

Attachment 3 - Map of landowners adjacent to the Mount Pleasant & District Golf Club who were sent a letter outlining the proposal

Attachment 4 - Copy of letter sent to the identified adjacent landowners

Attachment 5 - Summary table of responses from the community via email, Facebook and the Our Better Barossa consultation platform a

Attachment 6 - Copy of all correspondence from the community (including responses to Facebook posts)

Attachment 7 - Copy of thank you letter sent to those who provided feedback and email addresses

Attachment 8 - Copy of letter from Department for Environment and Water on behalf of the Minister for Environment and Water, approving Council seek the revocation of the Community Land status over the Crown land

Attachment 9 – Extract of Council meeting agenda item **7.2.1.3 Public Consultation: Revocation of Community Land Status – Mount Pleasant and District Golf Club Inc.** and attachments; and associated Minutes

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS



How We Work – Good Governance

Corporate Plan

3.3 Ensure Council's sporting, recreational and leisure building facilities and associated programs meet the current need of the community to an agreed level of service.

Legislative Requirements

Local Government Act 1999, section 50 and 194

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

There is no further financial or resource implications in finalising this report for referral to the Minister for Transport, Infrastructure and Local Government, as the process is undertaken as part of officers' existing roles. The financial costs associated with the placement of public notices as part of the public consultation process was \$863.60 (including GST) and was sourced from existing budgets.

Risk is mitigated by complying with the relevant section of the *Local Government Act* as to the revocation of community land status, Council's *Public Consultation Policy* and *Disposal of Land and Other Assets Policy*; and by ensuring that the Minister for Environment and Water has approved that Council seek revocation of the community land status over the Crown land.

COMMUNITY CONSULTATION

Community consultation has occurred in accordance with section 194 of the *Local Government Act* and Council's *Public Consultation Policy*.

7.2.1.4

ANNUAL REVIEW OF DELEGATIONS

B8824

Author: Governance Advisor

MOVED Cr de Vries

- (1) That Council has reviewed its delegations for the time being in force in accordance with Section 44(6) of the *Local Government Act 1999* and has confirmed that the following amendments are required to its Delegations Register at this time:
- a. Delegations made under the Electricity Act 1996 and Electricity (Principles of Vegetation Clearance) regulations 2010
- (i) In exercise of the powers contained in Section 44 of the *Local Government Act 1999*, Council hereby delegates to the person occupying the office of Chief Executive Officer of the Council, the powers and functions under the Electricity Act 1996 and Electricity (Principles of Vegetation Clearance) regulations 2010 which are specified in Appendix 5 of Attachment 1 to this Report;
- (ii) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation;
- b. Delegations made under the Gas Act 1997
- (i) In exercise of the powers contained in Section 44 of the *Local Government Act 1999*, Council hereby delegates to the person occupying the office of Chief Executive Officer of the Council, the powers and functions under the Gas Act 1997 which are specified in Appendix 15 of Attachment 1 to this Report;
- (ii) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation;
- c. Delegations made under the Liquor Licensing Act 1997

- (i) In exercise of the powers contained in Section 44 of the *Local Government Act 1999*, Council hereby delegates to the person occupying the office of Chief Executive Officer of the Council, the powers and functions under sections 128E(1) and (2), 128F, and 128H(3), (5), (6) and (7) of the *Liquor Licensing Act 1997*, which is specified in Appendix 18 of Attachment 1 to this Report by way of track changes to the Instrument of Delegation under the *Liquor Licensing Act 1997*;
- (ii) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation;
- d. Delegations under the Local Government Act 1999
- (i) In exercise of the powers contained in Section 44 of the *Local Government Act 1999*, Council hereby delegates to the person occupying the office of Chief Executive Officer of the Council, the powers and functions under sections 198(1), 28(1), 28(3), 31(2) and 31(10) of the *Local Government Act 1999*, as specified in Appendix 19 of Attachment 1 to this Report by way of track changes to the Instrument of Delegation under the *Local Government Act*;
- (ii) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation;
- (2) That the Instruments of Delegation which make up Council's Delegations Register, as set out at Attachment 1 of this Report are confirmed and remain in force in accordance with this resolution.

Seconded Cr Miller

CARRIED 2018-22/187

PURPOSE

Council is asked to undertake an annual review of the Delegations Register in accordance with section 44(6) of the *Local Government Act 1999*.

REPORT

Background

Council may only exercise those powers and functions which are conferred on it by legislation. The ways in which Council may exercise its powers and functions are:

- when the Elected Body itself exercises the power/function at a formally constituted meeting; and
- where the legislation enables it, a power or function may be delegated by an Instrument of Delegation and exercised in the name of a delegate.

Delegations assist Council by enabling the Elected Body to progress with the strategic element of local government and leave the daily operations and administration to the Council staff who have the relevant expertise and experience to deal with such matters – thus improving effectiveness and efficiency.

It is essential to good governance that the Elected Body considers the delegations it proposes to make and demonstrates it has turned its mind to each power and function contained in its Delegations Register.

Introduction

The Barossa Council's Delegations Register ("the Register") is reviewed:

- 1) once each financial year in accordance with Section 44(6) of the *Local Government Act 1999*, and

- 2) quarterly by way of best practice, and amended if the Local Government Association's Quarterly Reviews or urgent updates recommend that amended Instruments of Delegation be immediately adopted.

The review before Council today is the annual review of all Instruments of Delegation which comprise the current Delegations Register, in addition to quarterly updates identified by the LGA on its advice as detailed in this Report. With respect to the quarterly updates, the LGA has confirmed that new delegations should be in place as soon as possible. The LGA Table of Updates is attached to this report at **Attachment 2**.

Discussion

A. Electricity Act 1996 and Electricity (Principles of Vegetation Clearance) Regulations 2010; and the Gas Act 1997

The LGA has issued two new Instruments of Delegation, being under:

- the Electricity Act 1996 and Electricity (Principles of Vegetation Clearance) Regulations 2010; and
- the Gas Act 1997

which are attached to this report at **Appendix 5 and 15** respectively, of **Attachment 1**.

B. Liquor Licensing Act 1997

The LGA has issued a quarterly update, which has identified updates to powers and functions under sections 128E(1) and (2), 128F, and 128H(3), (5), (6) and (7) under Instrument of Delegation under the Liquor Licensing Act, as a result of legislative amendment. These powers relate to local liquor accords.

The amendments are set out by way of track changes and attached as **Appendix 18** of **Attachment 1** of this Report. The LGA's Table of Delegations Updates, which outlines the required changes is attached at **Attachment 2** of this Report.

C. Local Government Act 1999

Delegations under section 198(1) of the Local Government Act 1999

The Elected Body is asked to consider delegating the powers and functions under section 198(1) of the Local Government Act 1999 as specified in **Appendix 19** of **Attachment 1** of this Report by way of track changes to Council's Chief Executive Officer. The delegation would allow the Chief Executive Officer to make amendments to Community Land Management Plans, where public consultation is not required in accordance with the Act – i.e. where an amendment to a Community Land Management Plan has no impact or no significant impact on the interests of the community. However, where public consultation is required in order to amend a Community Land Management Plan, in accordance with the Act, a decision of Council will be required.

Delegations under sections 28(1), 28(3), 31(2) and 31(10) of the Local Government Act 1999

The LGA's quarterly update identified updates to powers and functions under sections 28(1), 28(3), 31(2) and 31(10) under the Instrument of Delegation under the the *Local Government Act*, as a result of legislative amendment. These powers relate to boundary reform proposals.

The amendments are set out by way of track changes and attached as **Appendix 19** of **Attachment 1** of this Report. The LGA's Table of Delegations Updates, which outlines the required changes is attached at **Attachment 2** of this Report.

Accordingly, it is recommended that the Elected Body:

- 1) adopt the Instrument of Delegation under the Electricity Act and delegate the powers and functions under the Act as specified in Attachment 1 to the Chief Executive Officer;
- 2) adopt the Instrument of Delegation under the Gas Act and delegate the powers and functions under the Act as specified in Attachment 1 to the Chief Executive Officer;
- 3) adopt the amendment to delegations under sections 128E(1) and (2), 128F, and 128H(3), (5), (6) and (7) of the *Liquor Licensing Act* and delegate the powers and functions under the Act as specified in Attachment 1 to the Chief Executive Officer;

- 4) adopt the amendment to the delegations under Sections 198(1), 28(1), 28(3), 31(2) and 31(10) of the *Local Government Act* and delegate the powers and functions under the Act as specified in Attachment 1 to the Chief Executive Officer; and
- 5) Confirm all remaining delegations as specified in Attachment 1 as remaining in force.

Summary and Conclusion

Council is now asked to review the Delegations Register as *attached*.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Instruments of Delegation which compile the Delegations Register

Attachment 2: LGA's Quarterly Table of Updates as at 31 March 2019

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS



How We Work – Good Governance

Corporate Plan

6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.

Legislative Requirements

Local Government Act 1999; Section 44(6)

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Failure to conduct an annual review will result in non-compliance with legislation, as an annual review per each financial year is required under Section 44(6) of the *Local Government Act 1999*.

The risk of having ineffective or invalid delegations is minimised as the delegations being considered have been recommended by Norman Waterhouse Lawyers (which prepared the Instruments for the LGA) and Wallmans Lawyers, which prepared the *Residential Parks Act 2007* Instrument. It is imperative that delegations are validly made as consequences of ineffective or invalid delegations include:

- the exercise of power may fail – i.e. the decision made may be liable to being overturned by a court or tribunal;
- the cost of a successful challenge to a decision made without lawful delegation will likely be borne by the Council; and
- where the unlawful exercise of the power has caused loss or damage the Council may be liable for such loss or damage.

COMMUNITY CONSULTATION

There is no legislative requirement to consult the community in this situation, nor, in the officers' opinions, do the particular circumstances require it as the delegations themselves are based on lawyer prepared LGA templates where there is no option for amendment through community feedback.

For transparency purposes, the community has access to the Delegations register on Council's website so it is made aware of the powers of the CEO as delegated by the Council, and also the powers of officers as sub-delegated by the CEO.

7.2.1.5

**THE BAROSSA COUNCIL QUARTER 3 – 2018/19 PERFORMANCE & ACTIVITY REPORT
19/25962**

Author: Manager Strategic Projects

MOVED Cr de Vries that Council receives and notes The Barossa Council Quarter 3 – 2018/19 Performance & Activity Report.

Seconded Cr Troup

CARRIED 2018-22/188

PURPOSE

To provide Council's Quarter 3 – 2018/19 Performance & Activity Report on measures adopted within the Barossa Council Corporate Plan 2016/17 to 2019/20.

REPORTBackground

Since November 2016, Council has been presented with Quarterly Performance Reports on measures adopted within the Corporate Plan.

Introduction

The Barossa Council Quarter 3 – 2018/19 Performance & Activity Report provides performance results against Corporate Plan measures as at 31 March 2019. The report also includes a suite of activity measures, providing a snapshot of activity undertaken over the quarter in the delivery of key internal and external Council services under each Community Plan Theme.

Discussion

With the ongoing implementation of Council's holistic enterprise level strategic planning and reporting software (Magiq), officers are continuing to refine counting rules and formulas for the extraction and analysis of data, which may result in the revision of previously reported results where the data has been refined or cleansed. Where this is the case, the report will include a disclaimer regarding the nature of any changes implemented and its impact on the data.

Additionally, where justification exists, performance targets may be amended to reflect a more realistic figure. As above, where this is the case, the report will include an explanation of the nature of and justification for any changes implemented and its impact on the data.

Summary and Conclusion

The Barossa Council Quarter 3 – 2018/19 Performance & Activity Report is presented for Council consideration.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

The Barossa Council Quarter 3 – 2018/19 Performance & Activity Report.

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCommunity Plan

How We Work – Good Governance

Corporate Plan

A6.3 Align operational strategy to strategic objectives and measure organisational performance to demonstrate progress towards achieving our goals.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Current resources are sufficient to provide ongoing quarterly reporting.

COMMUNITY CONSULTATION

Community consultation is not required under the Act or Council's Public Consultation Policy.

7.2.2 FINANCE - DEBATE**7.2.2.1****MONTHLY FINANCE REPORT (AS AT 30 APRIL 2019)**

B411

Author: Senior Accountant

MOVED Cr Hurn that the Monthly Finance Report as at 30 April 2019 be received and noted.

Seconded Cr Angas

CARRIED 2018-22/189

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 Report (as at 30 April 2019) is attached. The report has been prepared comparing actuals to the Original adopted budget 2018/19 and incorporating the adopted Revised Budgets for September and December.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Monthly Finance Report 30 April 2019

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 2018, as per legislation. This report is advising Council of the monthly finance position compared to that budget.

7.2.2.2

CONSIDERATION AND ADOPTION OF AUDIT COMMITTEE RESOLUTIONS

B9085

MOVED Cr Miller that Council, having reviewed the Minutes of the Audit Committee meeting held 21 March 2019, adopt the Resolutions contained therein.

Seconded Cr de Vries

CARRIED 2018-22/190

PURPOSE

The Minutes of the Audit Committee meeting held 21 March 2019 are presented for the consideration and adoption of 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: Minutes of the Audit Committee meeting held 21 March 2019

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCorporate 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

The consideration and adoption of recommendations of Council committees is a risk management tool.

COMMUNITY CONSULTATION

Not required under legislation or Council's Public Consultation Policy.

7.3 CORPORATE AND COMMUNITY SERVICES - DEBATE**7.3.1 DIRECTOR CORPORATE AND COMMUNITY SERVICES - DEBATE****7.3.1.1****THE BIG PROJECT (GENERATIONAL COMMUNITY INFRASTRUCTURE PROJECT) – QUARTERLY UPDATE REPORT – QUARTER 10 – FEBRUARY 2019 TO APRIL 2019**

B5601

MOVED Cr de Vries that Council receive and note the Quarter 10 Report: February 2019 to April 2019 inclusive, in respect of progress on "The Big Project" – Generational Community Infrastructure Project and incorporating summary of work completed Ref: 19/26904.

Seconded Cr Wiese-Smith

CARRIED 2018-22/191

PURPOSE

To provide a progress update to Council following completion of Quarter 10 (February 2019 to April 2019) of the implementation of "The Big Project" – Generational Community Infrastructure Project (the Project).

REPORT**Background**

At its Meeting on the 19 February 2019, Council resolved that:

MOVED Cr Boothby that Council receive and note the Quarter 9 Report: November 2018 to January 2019 inclusive, in respect of progress on "The Big Project" – Generational Community Infrastructure Project and incorporating summary of work completed Ref: 19/7163.

Seconded Cr Angas

CARRIED 2018-22/116

Introduction

As part of the governance arrangements for The Big Project (as referenced in item 2.4 of the February 2017 Council resolution), a quarterly update to report on progress to Council is required.

Discussion

A report on the progress items actioned during the Quarter 10 report period is provided as Attachment 1.

Summary and Conclusion

The focus of direct project activity has been around:

Angaston Railway Station

Conclusion of contract arrangements arising from the tender process for Stage 1 works (railway station and platform renovations). Site set up and commencement of works. Conclusion of remediation requirements for the remaining contaminated elements of the station platform, with approval for material to be excavated and incorporated into the fill for the remodelled/constructed platform and capped. Time lapse site camera installed on goods shed to document progress, provide a historic record of works and allow community to see progress. On track with revised program; however, the next phase of works to jack the station building itself and remediate foundations is difficult to assess in terms of timescale. It is evident from excavation works to date that much of the original foundation has either eroded or was not fully installed as per original drawings in the first place. The building is in essence resting on the ground. Some additional engineering assessment around the external waiting room area and inclusion of additional retaining features in this location are currently being assessed, with contingency available for these works.

Stage 2 works (Playground and Open Space areas) have progressed to 50% design documentation and were the subject of a report to Council and additional budget allocation at the 16 April 2019 Council Meeting - refer Minutes 2018-22/162. Conclusion of design work is anticipated by the end of June 2019 and then procurement of works packages. Communication of anticipated program extension is currently underway with the Department of Planning, Transport and Infrastructure in relation to the Open Space Grant funding associated with this project. An update was provided to the Disability Access and Inclusion Advisory Group meeting on the 1 May 2019 and Council's commitment to an inclusive regional facility continues to be a feature of design work.

An update meeting with the Project Reference Group was held during the report period.

Tanunda Recreation Park Acceleration

Still at planning and documentation stage. Service and Structural Engineering consultants appointed for all project elements and reports awaited to inform tender specifications. Tender processes anticipated during June and July 2019.

Regular updates to stakeholders via email and Facebook posts. Signage installed at entrances to Park to confirm upcoming works.

Project and Grant Funding

Grassroots Office Recreation and Sport; SANFL; SACA and Netball SA:

2 applications submitted during report period:

- Nuriootpa Centennial Park – mixed use change rooms - \$890k application (\$350k grant, 540k Council and stakeholder contributions)
- Tanunda Recreation Park – Oval Lighting Upgrade - \$412,500k application (\$206,250 grant, \$206,250 Council contribution)

Outcome of applications anticipated during May/June 2019.

Open Space Funding Application (PIRSA)

Application on behalf of partner Councils and Stakeholders for the Strategic Planning of the Adelaide Wine Capital Cycle Trail (the Regional Cycle Trail) submitted in February.

Feedback Building Better Regions Fund Round 3 – Culture Hub:

The Chief Executive Officer and Director Corporate and Community Services received feedback on the application via phone hook up with Assessment Manager from AusIndustry Support for Business Department on 30 April. The Overall assessments was:

- Strong Application – especially strength of business plan, cost benefits and feasibility report
- Had all the relevant constituent ingredients required of a submission
- Recommended as a strong project from the assessment phase but then decisions beyond that determined by government (the assessors have no input or knowledge of the selection process beyond the assessment stage)
- Evidence of strong community engagement
- Highly competitive
- Not assessed as being “shovel ready” as some other similar scale / quantum projects
- Good basis for future project funding opportunities and Council should continue to refine
- Not as much emphasis put on community benefits and economic return – opportunity to strengthen this for future applications

Project Prioritisation:

Subject of two Workshop sessions during the report period and a meeting of The Big Project Working Group to develop and refine Prioritisation Methodology and Matrix. Work to continue during next report period and to be the subject of future agenda report to Council.

Masterplanning Activities:

Stockwell Recreation Park Draft Master Plan adopted by Council during report period on 19 March 2019. Cost estimate to be obtained.

Lyndoch Recreation Park (part of Southern Barossa Hub) scheduled for master planning to recommence in early May 2019 following unsuccessful land acquisition process.

Adelaide Wine Capital Cycling Trail

Briefing session held for partner Council Mayors and CEOs 2 May 2019.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: The Big Project – Quarterly Update Report – Q10 (February 2019 to April 2019) Ref: 19/26904.

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Natural Environment and Built Heritage



Community and Culture



Infrastructure



Health and Wellbeing



Business and Employment



How We Work – Good Governance

Corporate Plan

3.3 Ensure Council's sporting, recreational and leisure grounds and playing arena 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.

Legislative Requirements

Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

No financial impacts; all expenditure is within allocated budget.

Prioritisation of projects for future funding by Elected Members will continue during the May to July 2019 report period. Previous prioritisation of projects to date has been based on specific funding application criteria.

Resource

The Director Community Projects returned to the substantive role of Director, Corporate and Community Services (DCCS) effective 1 July 2018. Big Project work is now being resourced jointly between DCCS (0.4 FTE) and Manager, Community Projects (0.5 FTE).

Risk Management

Ongoing risk assessments continue to be reviewed as Officers work as necessary through phases of The Big Project development and project specific implementation.

COMMUNITY CONSULTATION

A Communication plan and Community Consultation plan for the Project have been documented and are reviewed periodically with Communication and Marketing Officers, the Chief Executive Officer and periodically with The Big Project Working Party.

A Consultation plan for each individual component project is also developed and reviewed for approval as part of the separate Agenda reporting processes to Council.

Regular updates are provided to the community via press releases, d'Vine adverts and newsletters, radio interviews, website and social media content.

No direct project consultation during the report period.

Communication regarding the Tanunda Recreation Park acceleration works has commenced.

7.3.2 MANAGER COMMUNITY PROJECTS- DEBATE

7.3.2.1

CONSIDERATION AND ADOPTION OF COMMITTEE RESOLUTIONS

B3342

MOVED Cr de Vries that Council, having reviewed the Minutes of the Community Assistance Scheme Committee meeting held 1 May 2019 adopt the Resolutions contained therein.

Seconded Cr Troup

CARRIED 2018-22/192

PURPOSE

The Minutes of the Community Assistance Scheme Committee meeting held 1 May 2019 are presented for the consideration and adoption of 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: Minutes of the Community Assistance Scheme Committee meeting held 1 May 2019

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.
- 6.9 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.

7.3.2.2

REQUEST TO INSTALL BENCH SEAT AND MEMORIAL PLAQUE – BETHANY RESERVE, TANUNDA B9147

MOVED Cr Wiese-Smith that Council provides consent to Susan and Maurice Robinson for the installation of the requested bench seat and memorial plaque in the children's swing and play area at Bethany Reserve, Tanunda, subject to compliance with the *Memorials on Community Land Policy*.

Seconded Cr Haebich

CARRIED 2018-22/193

PURPOSE

To consider a request for the installation of a bench seat and memorial plaque at Bethany Reserve, Tanunda.

REPORT

Introduction

The installation of commemorative memorial symbols within Community Land requires the approval of Council. Council's *Memorials on Community Land Policy* is proved at [Attachment 1](#) for Member information.

Discussion

Barossa residents, Susan and Maurice Robinson, have written to Council requesting permission to install a bench seat with memorial plaque in the children's swing and play area at Bethany Reserve, Tanunda. (Refer [Attachment 2](#)) They wish to donate the bench seat to the community on behalf of their daughter, who passed away in 2017, a young mother who spent many hours with her children at the Reserve.

A copy of the Policy was provided to the Robinsons and advice as to the type of bench seat used elsewhere in Bethany Reserve, including approximate cost (refer [Attachment 3](#)). The Robinsons are agreeable to the proposed bench and cost and will organise the purchase and delivery to the Tanunda Works Depot for installation by Council staff.

They wish to include a small brass plaque on the bench, with the following words:

"Donated In Loving Memory of
Tania Christine Spehr (nee Robinson)
31/10/1976 - 26/9/2017"

Mr and Mrs Robinson feel that the seat will be appreciated by parents watching their children at play.

Council's Coordinator Operations has no objections to the proposal.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Memorials on Community Land Policy – HPE ref: 09/38782

Attachment 2: Request to install bench seat at Bethany Reserve – HPE ref: 16/67812

Attachment 3: Details of preferred bench seat

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



How We Work – Good Governance

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Mr and Mrs Robinson will pay all costs associated with the purchase of the bench seat and plaque.

A risk assessment of the proposal will be carried out prior to installation of the bench. Risks will be mitigated as installation will be carried out by Council staff.

It is noted that the Memorials on Community Land Policy requires review. A report will be brought to a future Council Meeting prior to 31 July 2019.

COMMUNITY CONSULTATION

Community Consultation is not required under legislation or Council Policy.

7.5.1. DEVELOPMENT SERVICES - DEBATE

7.5.1.1

BAROSSA ASSESSMENT PANEL

B9056

Author: Manager, Development Services

MOVED Cr Boothby that Council:

- (1) Appoint members of the current Barossa Assessment Panel for the period 1 July 2019 – 30 June 2020 as follows:
 - Presiding Member: Bruce Ballantyne
 - Independent Members: Deirdre Reiman, Grant Hewitt, Rob Veitch
 - Council Member: Cr Richard Miller
 - Council Deputy Member: Cr Russell Johnstone.
 Subject to the 'designated day' being declared by the governor for the commencement of the Accreditation Scheme.
- (2) Set the remuneration fee for members of the Barossa Assessment Panel (excluding the Council Members) for the period 1 July 2019 – 30 June 2020 as follows :

Presiding Member	\$500 per meeting
Members	\$300 per meeting.
- (3) Authorise the Director, Development and Environmental Services to advertise an Expression of Interest for members for the Barossa Assessment Panel pursuant to the *Planning, Development and Infrastructure Act 2016* and *Planning, Development and Infrastructure (General) Regulations 2017* for the next term of the Barossa Assessment Panel commencing on 1 July 2020 having regard to the need for accreditation (or eligibility for accreditation within a specified period) pursuant to this legislation.

Seconded Cr Wiese-Smith

CARRIED 2018-22/194

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 and implement the membership and accreditation requirements of this legislation as necessary.

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) and the Regulations thereunder.

Recent State legislative changes have now also introduced a scheme that necessitates that all Independent members of council Assessment Panels must be Accredited Professionals. Regulations for this Accredited Professionals Scheme were proclaimed on 7 February 2019 and became operational on 1 April 2019.

Assessment Panel members will not need to become accredited until the 'designated day' is declared by the Governor.

Introduction

Several classes (Level 1 – 4) for the accreditation of planning professionals has been introduced and a transition period of up to two years exists for the first Planning Level 1 Accredited Professionals – being the level required for Assessment Managers – to become fully accredited in accordance with prescribed criteria.

Independent members of the Barossa Assessment Panel will be required to become Planning Level 2 Accredited Professionals. A date for accreditation compliance has not been released for this level (yet to be proclaimed) but is likely to be required to observe a similar transition period (as for Level 1) of two years.

Members of a council Assessment Panel who are also elected members of the council are not required to become Accredited Professionals.

While the deadline for Panel member accreditation has not yet been confirmed it has been intimated it would occur prior to the commencement of the new Planning and Design Code (designated date). Therefore, as the current Barossa Assessment Panel appointments conclude on 30 June 2019, it would be appropriate to extend these appointments until that time; and subsequently opportune to include potential accreditation requirements as part of any future membership appointments.

Discussion

According to current information the Accredited Professionals Scheme has the following general eligibility criteria for Planning Level 2 accreditation for Independent Assessment Panel members:

- provide evidence that they are sufficiently qualified to make key decisions within the accreditation class they seek
- hold all necessary insurance (potentially covered by the Mutual Liability Scheme)
- pay an evaluation fee.

As an ongoing condition of accreditation, practitioners will need to:

- undertake specified Continuing Professional Development (CPD) units
- comply with the Accredited Professionals Code of Conduct
- maintain an appropriate level of insurance
- participate in annual compliance checks
- continue paying an accreditation renewal fee on an annual basis
- notify the Chief Executive of Department of Planning, Transport and Infrastructure of any change in professional circumstances.

Details in respect to the above stated accreditation requirements for Independent members are contained within a document entitled "Accredited Professional qualifications, experience and technical skills required by the Accreditation Authority under Regulation 5 of the *Planning, Development and Infrastructure (Accredited Professionals) Regulations 2019*" which is available on the SA Planning Portal.

Planning Level 2 accreditation requires:

either

- a 'relevant planning qualification' and a minimum 2 years full time or equivalent experience considered appropriate by the Accreditation Authority

or

- qualification in a planning-related field (e.g. architecture, engineering, environmental management, law, construction management, land surveying or other relevant fields) and membership of an allied industry body to the satisfaction of the Accreditation Authority together with 2 years full time or equivalent experience considered appropriate by the Accreditation Authority.

There is a Code of Conduct for all Accredited Professionals (see links below).

Summary and Conclusion

As a result of ongoing changes and the imminent expiration of the current membership of Council's Assessment Panel it has been recommended that the current Panel membership be extended for a further twelve months to the end of June 2020. It has also been recommended that in the intervening period an Expressions of Interest for future membership should be sought for Panel members who are or are able to be accredited professionals pursuant to the Accredited Professionals Scheme.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Much of the information for this report has been sourced from the SA Planning Portal current as at 17 April 2019. As updates are occurring at the Portal on a regular basis more information can be found here:

https://www.saplanningportal.sa.gov.au/planning_reforms/new_planning_tools/accredited_professionals_scheme

https://www.saplanningportal.sa.gov.au/resources/guides_and_templates/Guide_to_the_Accredited_Professionals_Scheme.pdf

https://www.saplanningportal.sa.gov.au/resources/guides_and_templates/Accreditation_Authority_Qualifications_Skills_and_Experience_Requirements_for_Accredited_Professionals.pdf

https://www.saplanningportal.sa.gov.au/resources/guides_and_templates/Accredited_Professionals_Scheme_Code_of_Conduct.pdf

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 staffing and support for Assessment Panels. In addition, it is responsible for all 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 however, Expressions of Interest will be sought through public notification in local papers and media that are accessible on a community wide basis.

7.5.1.2**APPOINTMENT - BUILDING FIRE SAFETY COMMITTEE****B5795**

Author: Manager, Development Services

MOVED Cr Boothby that Council appoint the following person to The Barossa Council Building Fire Safety Committee pursuant to Section 71(19)(a) of the Development Act, 1993:

- Mr Peter Xerri, Senior Assessment Officer - Building.

Seconded Cr Angas**CARRIED 2018-22/195****PURPOSE**

To appoint one replacement member to The Barossa Council's Building Fire Safety Committee under the Development Act, 1993.

REPORTBackground

The *Development Act 1993* designates the Council as the *Appropriate Authority* for investigating whether commercial building owners are maintaining a proper level of building fire safety for the protection of all occupants of their buildings.

Introduction

Section 71(19), of the Development Act sets out the membership requirements for an *Appropriate Authority*. The *Appropriate Authority* for this area is The Barossa Council Building Fire Safety Committee. This Committee contains the required membership of persons with prescribed qualifications, a member of the Metropolitan and Country Fire Service, and other persons with expertise in the area of fire safety.

Discussion

Due to the resignation of a former staff member (Tony Manuel) their position on the current Council Building Fire Safety Committee has become vacant. A replacement member from Council staff is therefore being recommended.

Consistent with previous appointments by Council, the replacement staff member being nominated is Peter Xerri who is Council's Senior Assessment Officer in Building and who holds prescribed qualifications.

All other previously appointed Committee representatives remain unchanged.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Nil

LEGISLATION/POLICY/COUNCIL STRATEGIC PLANCommunity Plan

Infrastructure



Health and Wellbeing



How We Work – Good Governance

Corporate Plan

- 3.9 Ensure Council facilities and assets are accessible, safe and maintained to an agreed level of service.
- 4.12 Enforce safe and healthy housing/commercial premises conditions that are within Council control or elevate to the State when required.
- 4.13 Ensure that Council services and facilities are fit for purpose including safety and access and these considerations are integrated into urban, asset and community planning.
- 6.5 Implement compliant and contemporary risk management initiatives.

Legislative Requirements

Section 71 of the Development Act, 1993

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The Building Fire Safety Committee operates within an ongoing allocated budget.

COMMUNITY CONSULTATION

The appointment of a replacement member does not require consultation under the Development Act or by Council's Public Consultation Policy.

8. CONFIDENTIAL MATTER – 9.29AM

8.1 DIRECTOR WORKS AND ENGINEERING – CONFIDENTIAL – 9.29AM

8.1.1

INFRASTRUCTURE DEED – DEPARTMENT OF PLANNING TRANSPORT AND INFRASTRUCTURE – THE BAROSSA COUNCIL – PERNOD RICARD WINEMAKERS PTY LTD – KROEMER CROSSING PROJECT

B7854 19/27771

The matter of the agenda item being Infrastructure Deed – Department of Planning Transport and Infrastructure – The Barossa Council - Pernod Ricard Winemakers Pty Ltd – Kroemer Crossing Project pursuant to Section 90(3) (j) (i) and (ii) of the Local Government Act 1999 ("the Act") being (i) information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council) and (ii) would, on balance, be contrary to the public interest.

There is strong public interest in enabling members of the public to observe Council's transparent and informed decision-making. This helps to ensure accountability, maintain transparency of public expenditure, facilitate participation, assist public awareness and allow for the scrutiny of information. Attendance at a Council meeting is one means of satisfying this interest. The public will only be excluded from a Council meeting when the need for confidentiality pursuant to Section 90(2) of the Act outweighs the public interest of open decision making.

In this matter, the 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 Council has been provided the agreement, by the State Government, in confidence and requested to keep in confidence. Disclosure at this time, on balance, could be detrimental to the public interest and success of the project.

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 an order be made that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Community Projects, Director Development and Environmental Services, Director Works and Engineering Services, Acting Director Corporate and Community Services and the Minute Secretary, in order to consider in confidence a report relating to Section 90(3)(j)(i)(ii) of the Local Government Act 1999 being (i) information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council) and (ii) would, on balance, be contrary to the public interest; 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 as Council has been provided the agreement, by the State Government, in confidence and requested to keep in confidence and the disclosure at this time, on balance, could be detrimental to the public interest and success of the project.

Seconded Cr Boothby

CARRIED 2018-22/196

RESUMPTION OF OPEN COUNCIL MEETING – 9.40AM

The open meeting of Council resumed at 9.40am.

In the matter *8.1.1 – Infrastructure Deed – Department Of Planning Transport And Infrastructure – The Barossa Council – Pernod Ricard Winemakers Pty Ltd – Kroemer Crossing Project:*

MOVED Cr Boothby

- (1) Confidential resolution.
- (2) That Council having considered this matter in confidence under Section 90(2) of the Local Government Act (the Act) pursuant to Section 90(3)(j)(i) of the Act being information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council), makes an order pursuant to Section 91(7) of the Local Government Act 1999, that the report, attachments and associated documents in relation to Confidential Item 8.1.1 of the Council Meeting held 21 May 2019 and titled Infrastructure Deed – Minister for Transport Infrastructure and Local Government – The Barossa Council – Pernod Ricard Winemakers Pty Ltd – Kroemer Crossing Project be kept confidential and not available for public inspection until the project funding is made public and that the Chief Executive Officer be delegated the power to review and revoke this order.
- (3) That Council having considered this matter in confidence under Section 90(2) of the Local Government Act (the Act) pursuant to Section 90(3)(j)(i) of the Act being information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council), makes an order pursuant to Section 91(7) of the Local Government Act 1999, that the minutes in relation to Confidential Item 8.1.1 of the Council

Meeting held 21 May 2019 and titled Infrastructure Deed – Minister for Transport Infrastructure and Local Government – The Barossa Council – Pernod Ricard Winemakers Pty Ltd – Kroemer Crossing Project other than the minutes relating to this confidentiality order, be kept confidential and not available for public inspection until the project funding is made public and that the Chief Executive Officer be delegated the power to review and revoke this order.

Seconded Cr Wiese-Smith

CARRIED CO2018/22-9

9. URGENT OTHER BUSINESS

10. NEXT MEETING

Tuesday 18 June 2019 at 9.00am.

11. CLOSURE OF MEETING

Mayor Lange declared the meeting closed at 9.41 am.

Confirmed at Council Meeting on 18 June 2019

Date:.....

Mayor:.....