



## *The Barossa Council*

### **MINUTES OF THE MEETING OF THE BAROSSA COUNCIL**

held on Tuesday 19 October 2021 commencing at 9.00am  
in the Council Chambers, 43-51 Tanunda Road, Nuriootpa.

#### **1. THE BAROSSA COUNCIL**

##### **1.1 WELCOME**

Mayor Bim Lange declared the meeting open at 9.00am

##### **1.2 MEMBERS PRESENT**

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

##### **1.3 LEAVE OF ABSENCE**

Nil

##### **1.4 APOLOGIES FOR ABSENCE**

Nil

##### **1.5 MINUTES OF PREVIOUS MEETINGS – FOR CONFIRMATION:**

**MOVED** Deputy Mayor Johnstone

That the Minutes of the Council meeting held on Tuesday 21 September 2021 at 9.00am and the Special Council meeting held on Wednesday 6 October 2021 at 6.15pm, as circulated, be confirmed as true and correct records of the proceedings of those meetings.

**SECONDED** Cr Hurn

**CARRIED 2018-22/565**

##### **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 de Vries

That the Mayor's report be received.

**SECONDED** Cr Wiese-Smith

**CARRIED 2018-22/566**

## **3. COUNCILLORS' REPORTS**

Nil

## **4. CONSENSUS AGENDA**

## **5. CONSENSUS AGENDA ADOPTION**

### **5.1 ITEMS FOR EXCLUSION FROM CONSENSUS AGENDA**

### **5.2 RECEIPT OF CONSENSUS AGENDA**

**MOVED** Cr Miller

That the information items contained in the Consensus Agenda be received and that any recommendations contained therein be adopted.

**SECONDED** Cr de Vries

**CARRIED 2018-22/567**

### **5.3 DEBATE OF ITEMS EXCLUDED FROM CONSENSUS AGENDA**

Nil

## **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**

Nil

**7.2 OFFICE OF THE MAYOR AND CEO****7.2.1****ANNUAL CLOSURES OF COUNCIL OFFICES, LIBRARIES, BAROSSA VISITOR CENTRE AND COUNCILS DEPOTS OVER CHRISTMAS AND NEW YEAR PERIOD 2021****21/69578****MOVED** Cr Haebich

That Council:

- 1) Endorses the operations of Council in accordance with the table (in the body of the report) over the 2021/22 Christmas/New Year period noting that the relevant services will be closed during the outlined periods but that arrangements for urgent, emergency and other after-hours support will be in place and that all services shall reopen with normal operating hours on Tuesday 4 January 2022, and;
- 2) Instructs the Chief Executive Officer to publish the amended operating hours in the local papers and relevant Council Facebook sites and on the website.

**SECONDED** Cr Hurn**CARRIED 2018-22/568****PURPOSE**

Each year Council endorses limited closure and skeleton service provision for the Nuriootpa Office, Nuriootpa Library and Branch Office/Libraries, Barossa Visitor Centre and Council Depots over the Christmas/New year period.

**REPORT**

In accordance with Council past policy position, Council operates basic services between Christmas and New Year, with staff taking accrued leave during this period.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1 Council Operations Service Details - Christmas 2021

Supporting references

Nil

## COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

### Community Plan



#### How We Work - Good Governance

### Corporate Plan

- 6.6. Define and deliver on agreed Customer Service Standards for Council service delivery.
- 6.9. Provide access to Council's plans, policies and processes and communicate with the community in plain English.
- 6.10. Embed a culture of continuous improvement across Council, with tools, processes and systems being used to achieve business efficiencies and customer service improvements.

### Advocacy Plan

Nil

### Legislative Requirements

Local Government Act 1999

## FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

### Financial and Resource

Resources will be maintained to ensure continuity of services for Council's Barossa Visitor Centre, Libraries and Council Depot services. The resources required for the existing service levels during the Christmas to New Year period are within the adopted budget. Any significant events that Council needs to respond to and provide support, resources and rectify any assets, will be reported to Council as per previous incidents/events.

### Risk Management

Council provides services on standby as required for essential services, ensuring any risk issues are considered as appropriate for each service provided.

## COMMUNITY ENGAGEMENT

Appropriate notices will be published in the local papers advising of the closures together with notices on Council's website, d'Vine advertisement, eNewsletter, social media platforms, messages on hold and Council noticeboards and offices.

### **7.2.2**

#### **MONTHLY FINANCE REPORT AS AT 30 SEPTEMBER 2021**

**21/72647**

**MOVED** Cr de Vries

That Council receive and note the Monthly Finance Report as at 30 September 2021.

**SECONDED** Deputy Mayor Johnstone**CARRIED 2018-22/569****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 September 2021) is attached. The report has been prepared comparing actuals to the Original adopted budget 2021/22.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1 Monthly Finance Report Council September 2021

Policy

Budget & Business Plan and Review Policy

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**Community Plan

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.
- 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.

Advocacy Plan

Nil

Legislative Requirements

Local Government (Financial Management) Regulations 2011, Regulation 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.

<b>COMMUNITY ENGAGEMENT</b>
-----------------------------

Community Consultation was part of the original budget adoption process in June/July 2021, as per legislation. This report is advising Council of the monthly finance position compared to that budget.

**7.2.3****REVOCATION OF INFORMAL GATHERINGS POLICY****21/74068****MOVED** Cr de Vries

That Council:

- 1) Revokes the Informal Gatherings Policy as at **Attachment 1**.
- 2) Supports the revocation with the understanding that the administration will abide by the relevant legislation as required under the *Statutes Amendment (Local Government Review) Act 2021* and the *Local Government (General) Regulations 2013* in regards to Information or briefing sessions.

**SECONDED** Cr Wiese-Smith**CARRIED 2018-22/570**

<b>PURPOSE</b>
----------------

To seek Council's endorsement to revoke its Informal Gatherings Policy as previously required under Section 90(8) of the *Local Government Act 1999*; setting out requirements relating to Informal Gatherings and Discussions. The newly ratified *Statutes Amendment (Local Government Review) Act 2021* deletes section 90(8) to (8e) inclusive and inserts a new section 90A: Information or briefing sessions. The lengthy regulations relating to Designated Informal Gatherings are now removed, along with the requirement for councils to have a policy that complies with those regulations.

<b>REPORT</b>
---------------

Background

Section 90(8) of the *Local Government Act 1999* previously set out requirements relating to Informal Gatherings and Discussions.

With this requirement by legislation, Council's Informal Gatherings Policy as at **Attachment 1** was endorsed by Council in February 2016 with further reviews taking place in 2017, 2018 and 2020.

Through the extensive Local Government Reform process, it was determined that the requirements of the Informal Gatherings were overly prescriptive, confusing and

impacting the ability of Council Members to discuss matters between themselves without fear of being in breach of the legislative requirements.

*The Statutes Amendment (Local Government Review) Act 2021* deletes section 90(8) to (8e) inclusive and inserts a new section 90A: Information or briefing sessions. The lengthy regulations relating to Designated Informal gatherings have been removed, along with the requirement for Councils to have an Informal Gatherings Policy.

### Discussion

The reforms contained within the *Statutes Amendment (Local Government Review) Act 2021* are being proclaimed for commencement in different stages to enable time for the Local Government sector and the relevant authorities to prepare for the changes.

Commencement of section 52 of the *Statutes Amendment (Local Government Review) Act 2021*, repealing references to Informal Gatherings in section 90(8) to (8e) and inserting the new section 90A to the *Local Government Act 1999* has now been proclaimed as of 20 September 2021.

### **Extract of section 90A—Information or briefing sessions:**

- (1) A council, or the chief executive officer of the council, may hold or arrange for the holding of a session (not being a formal meeting of a council or council committee required to be held under this Chapter) to which more than 1 member of the council or a council committee is invited to attend or be involved in for the purposes of providing information or a briefing to attendees (an **information or briefing session**).
- (2) A matter must not be dealt with at a council information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal meeting of the council or a council committee.
- (3) A council information or briefing session must be conducted in a place open to the public during any period in which a matter that is, or is intended to be, on the agenda for a formal meeting of the council or a council committee is discussed at the session.
- (4) However, the council or chief executive officer may order that an information or briefing session be closed to the public to the extent (and only to the extent) that the council or chief executive officer (as the case requires) considers it to be necessary and appropriate for a matter of a kind referred to in subsection (3) to be discussed in a session closed to the public in order to receive, discuss or consider in confidence any information or matter listed in section 90(3) (after taking into account any relevant consideration under that subsection).
- (5) If an order is made under subsection (4), the council or chief executive officer (as the case requires) must, as soon as reasonably practicable after the making of the order, make a record of—
  - (a) the grounds on which the order was made; and
  - (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
  - (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter publicly at the information or briefing session would be contrary to the public interest.
- (6) If an information or briefing session is organised or held by a council or chief executive officer of a council, the following provisions apply:
  - (a) sections 90(5), (6) and (7a) apply to the information or briefing session as if it were a meeting of the council or council committee;
  - (b) a prescribed matter cannot be dealt with at an information or briefing session; and
  - (c) a reference to a meeting or meetings in sections 94 and 95 includes a reference to an information or briefing session or sessions.
- (7) A council or the chief executive officer of the council must comply with any requirements of the regulations relating to the following:
  - (a) the publication of prescribed information as soon as practicable after resolving or determining to hold an information or briefing session;
  - (b) the publication of prescribed information as soon as practicable after the holding of an information or briefing session.

Associated regulations or transitional provisions

Regulation 4 of the *Local Government (General) (Review) Variation Regulations 2021*, revokes the previous requirements relating to Informal Gatherings and inserts a new requirement for certain information to be published on a website determined by the CEO after an Information or briefing session has been held.

Regulation 4 of the *Local Government (General) (Review) Variation Regulations 2021* revokes the previous requirements set out in Regulation 8AB of the General Regulations, and for the purposes of new section 90A(7)(b) inserts a requirement for the following information to be published on a website determined by the CEO as soon as practicable after the holding of an information or briefing session:

- The place, date and time of the session;
- The matter discussed at the session;
- Whether or not the session was open to the public.

There are currently no regulations requiring the publication of information (as in an agenda) before the holding of an information or briefing session.

**8AB—Information or briefing sessions**

For the purposes of section 90A(7)(b) of the Act, the following information must be published on a website determined by the chief executive officer as soon as practicable **after** the holding of an information or briefing session:

- (a) the place, date and time of the session;
- (b) the matter discussed at the session;
- (c) whether or not the session was open to the public.

However, Councils may, in their discretion, publish information before the information or briefing session (as in an agenda) in addition to publishing the required information after the session is held, as a means of facilitating greater transparency and attendance at information and briefing sessions by members of the public.

This change commenced 20 September 2021.

A related amendment to Schedule 5 of the *Local Government Act 1999* also commenced 20 September 2021 which details that a copy of an order made to close an information or briefing session to the public must be made available by Councils.

Record Keeping

Section 90A(5) requires that when an order is made to close an information or briefing session to the public a record of that order must be made.

Orders made by the CEO, of the closing of the session to the public, may be recorded in writing and maintained in accordance with the council's record keeping system.

There is no obligation for councils to make documents provided to council members at information or briefing sessions available to the public.

Summary and Conclusion

The deletion of section 90(8) to (8e) from the *Local Government Act 1999* removes the obligation for Council to have a policy on the holding of Informal Gatherings or



discussions. Whilst the obligation has now been removed, there may be some confusion regarding the application of an endorsed Informal Gathering Policy if it is not formally revoked.

*For the avoidance of doubt, administration seeks that Council revoke its Informal Gathering Policy but continue to publish information (as in an agenda) before the Information or briefing session in addition to publishing the required information after the session is held, as a means of facilitating greater transparency and attendance at information and briefing sessions by members of the public.*

#### **ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1 Informal Gatherings Policy - approved by Council on 21 April 2020

Supporting references

[Statutes Amendment \(Local Government Review\) Act 2021](#)

[Local Government \(General\) Regulations 2013](#)

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

Community Plan



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.

Advocacy Plan

Nil

Legislative Requirements

Local Government Act 1999

Statutes Amendment (Local Government Review) Act 2021

Local Government (General) Regulations 2013.

#### **FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

There are no financial or resource implications associated with the revocation of the Informal Gathering Policy.

#### **COMMUNITY ENGAGEMENT**

Nil

## 7.2.4

**PROPOSED COMMUNITY ENGAGEMENT CHARTER AND DRAFT MODEL COMMUNITY ENGAGEMENT POLICY**

21/75770

**MOVED** Cr Miller

That Council receive and note the Proposed Community Engagement Charter as at **Attachment 1** and Draft Model Community Engagement Policy as at **Attachment 2** and not proceed with a further submission.

**SECONDED** Deputy Mayor Johnstone**CARRIED 2018-22/571****PURPOSE**

To provide Council with an opportunity to submit feedback on the proposed Community Engagement Charter and Draft Model Community Engagement Policy as developed under the Local Government reforms to create new community engagement provisions under the *Local Government Act 1999*.

**REPORT**Background

As a result of the amendments to the *Local Government Act 1999* (the Local Government Act), a large number of prescriptive statutory provisions, relating to public consultation will be deleted. This includes the removal of many obligations to:

- Place public notices in newspapers about council decisions.
- Place notices in the South Australian Government Gazette (the Gazette).
- Conduct public consultation in a specific manner (eg the obligation to facilitate a one-hour public meeting each year on a council's draft annual business plan).

Introduction

In preparation for these changes the LGA Secretariat facilitated a working group comprised of council community engagement specialists, drawn from the Local Government Community Engagement Network. This working group produced a proposed Community Engagement Charter (CEC) and a model Community Engagement Policy.

Both the proposed CEC and model Community Engagement Policy have been reviewed by Norman Waterhouse Lawyers, who incorporated changes intended to protect councils from the significant legal risks that arose after the 'Coastal Park' decision of the South Australian Supreme Court. In that case, because the council was found to have consulted in a manner differing from its written policies, the subsequent council decision was overturned by the court.

The LGA Secretariat acknowledges that the documents are less community-friendly in their use of language as a consequence of the legal advice. However, a greater priority is to give councils confidence that their community engagement and decision-making process are consistent with the new legal obligations and will withstand legal challenge.

It is important to note that whilst the LGA intends to propose a CEC to the Minister for consideration, the ultimate decision with respect to the content of the CEC will rest with the Minister.

### Discussion

The proposed new arrangements will significantly reduce the prescriptive requirements contained in the current Local Government Act. Councils will still need to engage their communities in respect of many council decisions. However, councils will have far greater flexibility to tailor their approach to the particular decision and the community impact of the decision.

Changes to community engagement provisions were controversial in the Parliament and only passed with a narrow margin. If the new arrangements are not deemed (by the public and MPs) as sufficient, then Parliament may decide to legislate for additional mandatory requirements.

For this reason, the LGA proposed CEC contains some mandatory engagement requirements that go beyond the requirements in the Local Government Act, itself.

The approach taken in the proposed CEC is as follows:

A small number of important sections in the Local Government Act are deemed to be 'Category A' decisions. These are decisions where community engagement is required by the Local Government Act and the existing consultation requirements are prescriptive. The list included in the proposed CEC is set out below.

For each Category A decision, the CEC provides a menu of engagement options from which councils may choose. Councils must choose at least one option from the menu. Councils are entitled to take additional engagement steps at their discretion, provided that at least one of the menu items is selected.

The LGA requests councils review the list of Category A decisions carefully and provide feedback on whether the list is appropriate both in terms of the decisions included and resources, capacity and circumstances necessary to comply with the mandatory requirements.

<b>Category A Statutory Processes</b>
<ul style="list-style-type: none"> <li>• Section 12 – Composition and wards</li> <li>• Section 13 – Status of a council or change of various names</li> <li>• Section 50A – Public consultation policies</li> <li>• Section 92 – Access to meetings and documents – code of practice</li> <li>• Section 122 – Strategic management plans</li> <li>• Section 123 – Annual business plan and budget</li> <li>• Section 151 – Basis of rating</li> <li>• Section 156 – Basis of differential rates</li> </ul>

Category B decisions are those where community engagement is required by the Local Government Act, but councils have discretion as to how they conduct this.

The proposed CEC empowers each council to make choices, which will then be set out in the council's Community Engagement Policy. By conducting community engagement consistent with the proposed CEC and the model policy, we are advised that Councils will minimise the risks of a successful legal challenge.

Next Steps

To implement the new community engagement changes, the following steps must be taken:

1. Based upon member council feedback, the LGA Board will make a submission to the Minister, on a proposed CEC. The Minister is not required to accept the sector's submissions. One possible outcome is for the Minister to approve a CEC with additional mandatory steps, not supported by the sector.
2. Once the CEC is approved, councils can deliberate on their respective Community Engagement Policy. The LGA's model policy will be available to assist councils in their deliberations.
3. Councils must consult their communities on their proposed Community Engagement Policy. Councils will use the current 'public consultation' provisions in the Local Government Act to gauge their community's views on the new community engagement policy.
4. Based upon community feedback and other considerations, councils will finalise and adopt their Community Engagement Policy.
5. The new provisions relating to the CEC and mandatory council Community Engagement Policy will commence on a date to be determined. At the time of writing, this is expected to be mid-2022.

Officers have reviewed the documents and provide the following commentary:

1. They are sufficiently conducive to general operations of The Barossa Council;
2. The Policy document provides the ability to tailor our processes to match expectations of our community, such as utilising print media in circumstances where it may no longer be required by law;
3. They meet the intent of the statutory requirements.

On the above basis and the fact the CEC will be adopted by the Minister taking account of the Local Government sectors view, no formal submission is recommended.

Summary and Conclusion

The LGA requests councils review the list of Category A decisions carefully and provide feedback on whether the list is appropriate both in terms of the decisions included and resources, capacity and circumstances necessary to comply with the mandatory requirements.

<b>ATTACHMENTS OR OTHER SUPPORTING REFERENCES</b>
---

- |              |   |
|--------------|---|
| Attachment 1 | Proposed Community Engagement Charter         |
| Attachment 2 | Draft Model Community Engagement Policy - LGA |

Supporting references

Nil

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**Community Plan

## How We Work - Good Governance

Corporate Plan

- 6.1. Ensure that the community has access to information regarding the discussions held and decisions made by Elected Members.
- 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.

Advocacy Plan

Nil

Legislative Requirements

Nil

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

There are no financial implications.

**COMMUNITY ENGAGEMENT**

There is no requirement for community engagement.

**7.2.5****LEGATUS CHARTER AMENDMENTS****21/77282****MOVED** Deputy Mayor Johnstone

That Council support the proposal Legatus Charter Amendments as presented at the Attachment.

**SECONDED** Cr de Vries**CARRIED 2018-22/572****PURPOSE**

Legatus is seeking endorsement of minor and administrative Charter amendments.

**REPORT**

Correspondence from the Legatus Chief Executive Officer has been provided to Council seeking minor amendments to the Charter for Legatus

The amendments are related to the timing issuing of invoices being aligned with the adoption of the budget and business plan and not the Annual General Meeting. The request is reasonable and logical in order to manage the liquidity of the organisation.

Further information and explanation are provided in the Attachment

The sought changes are administrative in nature and have no little bearing on the role of the organisation its efficiency or the guarantee provided by Councils to the subsidiary.

#### **ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1 Legatus Charter Variation Correspondence

#### Supporting references

Nil

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

##### Community Plan



How We Work - Good Governance

##### Corporate Plan

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

##### Advocacy Plan

Nil

##### Legislative Requirements

Section 43 Local Government Act

#### **FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

Nil

#### **COMMUNITY ENGAGEMENT**

Nil

#### **7.3 CORPORATE SERVICES AND BUSINESS INNOVATION**

Nil

**7.4 COMMUNITY SERVICES****7.4.1****UPDATE TERMS OF REFERENCE - TRANSPORT AND HOME ASSIST ADVISORY GROUP  
21/72087****MOVED** Cr de Vries

That Council approve the proposed changes to the Terms of Reference for the Barossa & Light Community Transport Advisory Committee; allowing cessation of quarterly meetings to be replaced by ad-hoc meetings as required as at **Attachment 1**.

**SECONDED** Cr Troup**CARRIED 2018-22/573****PURPOSE**

To present proposed changes to the Terms of Reference for the Barossa & Light Community Transport Advisory Committee; allowing cessation of quarterly meetings to be replaced by ad-hoc meetings as required. **Attachment 1**.

**REPORT**Background

The Transport and Home Assist Advisory Group, in various forms, has been in place since 1992. The original group was a governing committee with decision making powers and was integral in establishing the transport and home assist programmes.

By 2014 Community Transport and Home Assist were established Council programmes and covered by Council governance. The committee became an advisory group with no decision-making powers. Since 2014 the advisory group have met quarterly under an updated Terms of Reference – **attachment 2**.

At the February 2021 meeting the retirement of a long serving group member prompted discussion about the future of the group and the potential need for a review.

Process and Proposed Changes

A discussion paper – **attachment 3** - was drawn up by the Coordinator Community Transport and Home Assist and presented for discussion at the May 2021 advisory group meeting. It was discussed by the members in attendance, including Cr Boothby.

There was discussion on how the changes in the Aged Care Sector and funding bodies has created more infrastructure around the Transport and Home Assist programmes, both within Council and externally, as the services have become established and embedded. This has led to some diminishing of the purpose and focus of the Advisory Group making the meetings less relevant as support and decision making happens elsewhere.

It was agreed that a regular quarterly meeting of the group is not necessary at this time.

It was proposed that the Terms of Reference be amended; the structure of the group should remain in place for the term of the existing Advisory Group (which aligns with the term of Council). That meetings, if required, can be called by the Coordinator of Community Transport and Home Assist or any member of the group through the Coordinator Community Transport and Home Assist and that information sharing can continue via other avenues. See Advisory Group meeting minutes May 2021 - **attachment 4**.

#### ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1	Community Transport and Home Assist Advisory Group - DRAFT Terms of Reference - September 2021
Attachment 2	Community Transport and Home Assist Advisory Group - Terms of Reference
Attachment 3	Discussion paper - Review of the Transport and Home Assist advisory group - May 2021
Attachment 4	Community transport and home assist advisory group - Minutes - 20 May 2021

#### Supporting references

Nil

#### COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

##### Community Plan



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.

##### Advocacy Plan

Nil

##### Legislative Requirements

Nil

#### FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil

#### COMMUNITY ENGAGEMENT

Wider community engagement not required under legislation or Council's Public Consultation Policy.

**Cr Boothby entered the meeting at 9:10am**



## 7.4.2

**2021/2022 OUTDOOR POOL SEASON - TEMPERATURE THRESHOLD**

21/75457

**MOVED** Cr Schilling

That Council

- 1) Approve that the Nuriootpa War Memorial Swimming Pool and the Williamstown Swimming Pool will open on days where the forecast temperature for Nuriootpa/Williamstown (according to www.bom.gov.au) at 5pm the day prior is 25 degrees or above, with Opening Hours:

**General Use:**

Nuriootpa Only - Monday to Friday: 6.00am to 10.00am

Both Pools - Monday to Friday: 3.30pm to 7.00pm

**Weekends:**

Saturday 10.00am to 7.00pm

Sunday 12 noon to 7.00pm

**School Holidays weekdays:** 6.00am to 10.00am and 12 noon to 7.00pm

Weather Policy: The pool will remain open an additional hour to 8pm if the forecast temperature for Nuriootpa/Williamstown (according to www.bom.gov.au) at 5pm the day prior is 34 degrees or above. Extended opening times are at the discretion of management

**Public Holidays:** 12 noon to 7.00pm

And that Lap Swimming be available regardless of temperature at Nuriootpa War Memorial Swimming Pool with the following Opening Hours:

Monday – Friday: 6.00am to 10.00am

Saturday: 8.00am to 12 noon

Sunday: No lap swim during the mornings

And that Council approve the following Reciprocal Rights for Members of Barossa Aquatic and Fitness Centre to access either outdoor pool any time the outdoor pools are open.

- 2) Approve a budget variation of \$24,500 to the 21-22 financial year budget as this is an increase in current budgeted service level.
- 3) Note that the change of service levels has not been assessed against the Budget and Business Plan Review Policy by staff due to timeframe of the presented alternate service option and any budget variation maybe subject to further review.
- 4) Note it will increase Councils deficit and require additional cash allocation to fund the service level increase and that the relevant reserve be utilised to account for the deficit arising from the service level increase.

**SECONDED** Cr de Vries**CARRIED 2018-22/574**

**PURPOSE**

To approve the outdoor pools, Nuriootpa War Memorial and Williamstown Swimming Pools opening hours for the 2021/2022 season

**REPORT**Background and Introduction

During the 2020/2021 summer season, Council trialled the opening of both the Nuriootpa War Memorial and Williamstown Swimming Pools (the Pools) every day, regardless of temperature. It was noted at the time by the Nuriootpa War Memorial Swimming Pool Working Group (NWMSPWG) that the previous temperature thresholds were confusing to the community to understand if the pool was going to be open or not, and that impacted the overall visitation to the pool.

At the 17 November 2020 Council Meeting it was resolved that

**MOVED** Cr Wiese-Smith that Council:

1. Support the additional opening hours at the Nuriootpa War Memorial Swimming Pool as documented in the report for an additional cost of up to \$26,549 ex GST.
2. Support the additional opening hours at the Williamstown Swimming Pool as documented in the report for an additional cost of up to \$25,000.
3. Instruct the Chief Executive Officer to complete second quarter budgets adjustments for 2020/21 accordingly as recommendation (1) and (2) supported or otherwise.
4. Communicate and promote the new opening hours via Council's website and social media.

**Seconded** Cr Troup

**CARRIED** 2018-22/306

Previous to that, the Nuriootpa War Memorial Swimming Pool (Nuriootpa Pool) was open when the temperature forecast for Nuriootpa the day before was predicted for 26 degrees and above. The Williamstown Swimming Pool (Williamstown Pool) was open when the temperature forecast for Williamstown the day before was predicted for 27 degrees and above.

To support the additional hours, approximately \$50,000 ex GST was allocated across both pools for increased wages cost.

Discussion

End of 2020/2021 season visitation reports for both outdoor pools are provided at Attachment 1 for Nuriootpa Pool and Attachment 2 for Williamstown Pool. A visit is counted for every attendance at the pools and does not equate to number of unique people that attended the pools.

Overall visitation numbers to the Nuriootpa and Williamstown pools for 2020/2021 season are summarised below.

<b>Pool</b>	<b>Overall Visitation Number</b>
Nuriootpa	7,618
Williamstown	2,401

A high level analysis of the temperature versus visitation data shows that on days with temperatures lower than 25 degrees, visitation numbers were generally lower. Generally, less than 30 swimmers for each pool.

For the additional costs applied to the Nuriootpa Pool budget (\$26,549 ex GST) and Williamstown Pool (\$25,000 ex GST), the benefit to the community is limited when the temperature is below 25 degrees.

It is therefore recommended by Officers that a temperature threshold of 25 degrees and above be implemented on an ongoing basis for both pools. Being a consistent number for both pools, it is felt that this will be better understood by the community and that wages are not invested when there are minimal visitation numbers at the pool during cooler weather. The NWMSPWG are supportive of this threshold.

Lap swimming will not be affected and be open weekday and Saturday mornings regardless of temperature.

The opening hours will be as below:

**General Use:**

Nuriootpa Only - Monday to Friday: 6am to 10am

Both Pools - Monday to Friday: 3.30pm to 6pm

**Weekends:** Saturday 10am to 6pm Sunday 12 noon to 6pm

**School Holidays weekdays:** 6am to 10am and 12 noon to 6pm

**Weather Policy:** The pool will remain open an additional hour if the forecast temperature for Nuriootpa/Williamstown (according to [www.bom.gov.au](http://www.bom.gov.au)) is 34 degrees or above at 5pm the day prior. Extended opening times are at the discretion of management

**Public Holidays:** 12 noon to 6pm

Large group bookings, birthday parties and events by negotiation with Centre Manager.

Summary and Conclusion

A high level assessment of 2020/2021 visitation and temperature data has been completed. Officers recommend that a temperature threshold be re-implemented at 25 degrees and above for both the Nuriootpa Pool and Williamstown Pool.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1	Nuriootpa Pool Visitation - Temperature Threshold - Report 2020/21
Attachment 2	Williamstown Pool Visitation - Temperature Threshold - Report 2020/21

Supporting references

Nil

<b>COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS</b>
---

Community Plan

Community and Culture



Health and Wellbeing

Goal

5. We are a strong community that is welcoming, safe and enjoys a quality lifestyle that celebrates our local identities, diversities, cultures and histories including our Aboriginal heritage.
10. Our region enjoys the benefits of sustainable community groups, networks and facilities that encourage everybody to participate in the community.

Strategies

- 5.2. Create places where people want to live and plan for the future in a coordinated, affordable, appropriate and proactive way.
- 5.3. Create vibrant public spaces that provide places for creative development, cultural interaction and social connections.
- 10.3. Build on the capacity of community members to participate in cultural, creative, recreational, sporting and learning opportunities.

Corporate Plan

- 2.1. Deliver sound community infrastructure and public space planning activities which incorporate place-making principles and take into account the future needs of the community.
- 4.6. Support the growth and sustainability of sporting, recreational and community clubs and organisations through provision of shared infrastructure, grants and opportunities to shape future use and development.

Advocacy Plan

Nil

Legislative Requirements

Nil

<b>FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS</b>
---

Existing and approved budgets will allow for opening hours as documented in the report. Resource and Risk Management considerations will be managed by Belgravia Leisure as pool managers and operators.

<b>COMMUNITY ENGAGEMENT</b>
-----------------------------

Monthly meetings have been held during the off season with the Nuriootpa War Memorial Swimming Pool Working Group.

Opening hours will be advertised via Council's website and facebook page and Belgravia Leisure as pool managers will arrange advertising in local papers.

**7.5 THE BIG PROJECT****7.5.1****TANUNDA RECREATION PARK - REQUEST FOR TREE REMOVAL - TANUNDA BOWLING CLUB INC****21/76274****MOVED** Cr Haebich

That Council:

- 1) Receives and notes the written request dated 30 September 2021 from the Tanunda Bowling Club (the Club) for the removal of 2 (two) pine trees in the Tanunda Recreation Park to avoid ongoing shedding of leaf/pine needle debris on the bowling greens.
- 2) Due to the inconvenience caused to the Tanunda Bowling Club by trees (1) and (3), Council approve their removal in line with similar trees already nominated for destruction and approve a budget increase for this purpose of \$5,000. Such removal will improve the ambience of the redevelopment and solve the issues raised by the Bowling club.

**SECONDED** Cr Schilling**FORMAL MOTION****MOVED** Cr Wiese-Smith

That the item 7.5.1- Tanunda Recreation Park - Request for tree removal - Tanunda Bowling Club Inc. lie on the table.

**SECONDED** Deputy Mayor Johnstone**LOST**

The debate recommenced and the Motion was put.

**LOST**Cr Haebich called for a **DIVISION**

The motion was set aside.

**The division was taken with:****FOR** the motion - Cr Barrett, Cr Haebich, Cr Hurn, Cr Schilling**AGAINST** the motion - Deputy Mayor Johnstone, Cr Angas, Cr Boothby, Cr de Vries, Cr Miller, Cr Troup, Cr Wiese-Smith

The Mayor declared the motion

**LOST**

**PURPOSE**

For Council to make a decision on the request from the Tanunda Bowling Club to remove 2 (two) trees in the Tanunda Recreation Park that are outside the scope of planned removal for current Big Project related works.

**REPORT**Background

The Tanunda Bowling Club Incorporated has made a formal, written request to Council via the Project Director – The Big Project for the removal of 2 trees in the Tanunda Recreation Park.

These trees do not fall within the areas or budget designated for tree removal under the current Big Project related works, namely: the Tanunda Oval widening project and the Tanunda 2<sup>nd</sup> (Junior Oval) and Playground Relocation works.

Introduction

Council received a formal request from the President of the Tanunda Bowling Club Incorporated (the Club) to remove to pine trees adjacent to the Club's bowling greens on the 30 September 2021. Refer **Attachment 1**.

The location of the 2 trees is indicated on the plan provided as **Attachment 2**.

The reason the Club is seeking to have the trees removed is that they shed significant pine needles and debris onto the artificial greens that generates significant, ongoing maintenance work for Club volunteers.

Discussion

The Club has raised concerns verbally about the amount of debris coming from the trees on a number of occasions with officers over a long period of time. At a recent meeting with the Club and Cr Haebich regarding the forthcoming Big Project related works, the matter was raised again with the Project Director – The Big Project. It was suggested to the Club representatives that as the 2 trees in question were outside of the areas of work covered by the current Big Project works, Officers did not have the authority to make a decision on their removal and that the matter could be raised formally with a specific request to Council.

In parallel with this, Officers have been progressing an updated assessment of the condition of trees in the area of the new playground development. The last assessment was done in 2017 as part of the master planning works and Officers wanted to ensure that there was no deterioration in the condition of trees in the playground zone that would present undue risk to the public after construction.

In anticipation of a potential request from the Club, Officers asked the arborist to also review the current condition of trees #1 and #3 (reference 2017 tree assessment report) so that up to date status could be available to Council if needed.

In 2017 the condition of the 2 trees was assessed as follows:

Tanunda Oval, Tanunda		Barossa Council						
Address & Location:		Tanunda Oval, Elizabeth Street, Tanunda						
Tree No.	Genus & Species	Common Name	Height	Circ @1m	Crown Spread			
					N	E	S	W
1	<i>Pinus halepensis</i>	Aleppo Pine	21.3	2.98	9	8	6	8
Age Class		Mature		Structure		Fair		
Health		Fair		Recommendations		No Works Required		
Address & Location:		Tanunda Oval, Elizabeth Street, Tanunda						
Tree No.	Genus & Species	Common Name	Height	Circ @1m	Crown Spread			
					N	E	S	W
3	<i>Pinus canariensis</i>	Canary Island Pine	19.9	1.7	3	3	3	3
Age Class		Semi Mature		Structure		Good		
Health		Good		Recommendations		No Works Required		

At the time of writing this Agenda Report, the formal updated assessment has not been received from the arborist. It may be available by the time of the 19 October 2021 Council Meeting.

A verbal indication received by Works Department Officers present at the assessment site visit was as follows:

“The report will likely state the trees are in a good and safe condition – actually quite good specimens. Only reason for removal would be leaf drop on the bowling greens.”

This supports Officers position that there is no basis for removal on the current data and therefore, Officers have no basis to remove them.

In responding to the request from the Club, Officers provided the opportunity for Club representatives to make a deputation to Council if a formal application was made. At the time of writing the report, a deputation request is not understood to have been received.

#### Summary and Conclusion

- A request has been received by the Tanunda Bowling Club to remove 2 pine trees in Tanunda Recreation Park that are dropping debris on the bowling greens. Whilst there was some discussion in relation to replacement planting in the event of the trees being removed, there is no reference to this in the letter received from the Club.
- The trees are outside the scope and budget of tree removal works associated with the oval widening, 2<sup>nd</sup> oval development and new playground works.
- The available data indicates the trees are in sound and safe condition.
- On that basis Officers have no basis to remove them and are presenting the matter to Council for determination.

#### **ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

- |              |   |
|--------------|---|
| Attachment 1 | Request Tanunda Bowling Club - Tree Removal - Tanunda Recreation Park - September 2021  |
| Attachment 2 | Tanunda Recreation Park Tress - request for removal Tanunda Bowling Club - October 2021 |

Supporting references

Nil

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**Community Plan

How We Work - Good Governance



Natural Environment and Built Heritage

Corporate Plan

- 6.8. Provide opportunities for the community to contribute to the ongoing care, improvement and use of Council's community facilities.
- 1.2. Work toward developing township streetscapes, entrances and open spaces that are attractive, welcoming and maintained to an agreed level of service.

Advocacy Plan

Nil

Legislative Requirements

The Local Government Act 1999

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**Financial:

The current budget for tree removal in the oval widening, 2<sup>nd</sup> oval and playground associated works does not extend to trees outside of those areas. It is estimated that the financial cost of removing the 2 trees would be in the order of \$3 to \$4k ex GST.

Resource:

No significant resource considerations for Council. If the removal of the trees was supported the work could be incorporated into the existing program of works with minimal impact on the program.

Risk:

Under the Principles of the Local Government Act 1999 to be observed by Council, there is an obligation to uphold and promote:

- Responsiveness to the needs, interests and aspirations of individuals and groups within its community (section 8(b)).
- Facilitation of sustainable development and the protection of the environment and ensure a proper balance within its community between economic, social, environmental and cultural consideration (section 8(f)).
- Seek to ensure that council resources are used fairly, effectively and efficiently (section 8h).
- Achieve and maintain standards of good public administration (section 8(j)).

Observance of those relevant principles impacts the reputation of Council in consideration of matters such as this.



The Legacy Policy relating to the management of trees primarily considers street trees and situation where they present a danger to the public. The development of an updated Tree Management Policy is not yet completed and therefore, policy guidance for Council is limited.

## COMMUNITY ENGAGEMENT

Significant tree removal was one of the matters considered by the community during the community consultation processes undertaken on the draft master plan for the Tanunda Recreation Park in 2017 and project planning and budgeting has taken into account tree replacement. No specific consultation has been undertaken regarding this request from the Tanunda Bowling Club. A link to the agenda report will be sent to the Club and the Tanunda Recreation Park Committee for information.

### 7.6 WORKS AND ENGINEERING

Nil

### 7.7 DEVELOPMENT AND ENVIRONMENTAL SERVICES

#### 7.7.1

#### DOGS BY-LAW 2021

21/77278

**MOVED** Cr Wiese-Smith

That Council:

- 1) Revise the draft Dog By-Law and make amendments to section 5 of the By-Law (Dog Free Areas), deleting 5.4 and amending section 6 (Dogs On Leashes) to require dogs be on a leash and under effective control at all times when within five metres of a children's playground or skate park.
- 2) Recommence the consultation process with the Board and Community, making clear the points which are seeking feedback.
- 3) Bring the matter back to a Council meeting following public consultation.

**SECONDED** Cr de Vries

**LOST**

Cr Wiese-Smith called for a **DIVISION**

The motion was set aside.

**The division was taken with:**

**FOR** the motion - Cr Angas, Cr Boothby, Cr de Vries, Cr Troup, Cr Wiese-Smith

**AGAINST** the motion - Deputy Mayor Johnstone, Cr Barrett, Cr Haebich, Cr Hurn, Cr Miller, Cr Schilling

The Mayor declared the motion

**LOST**

**MOVED** Deputy Mayor Johnstone

That Council:

- 1) Pursuant to section 246 of the *Local Government Act 1999*, having considered the By-law 5 – Dogs 2021, there being at least two-thirds of the members of the Council present, having satisfied the consultation requirements, considered all submissions and recommendations made on the By-law and having regard to the reports prepared on the National Competition Policy; makes the By-law 5 – Dogs 2021 as at **Attachment 1** to this report in exercise of powers contained in the *Acts Interpretation Act 1915*, *Dog and Cat Management Act 1995* and *Local Government Act 1999*.
- 2) Endorses the report to the Legislative Review Committee in relation to the By-law, as at **Attachment 3** to this report.
- 3) Endorses the report prepared on the National Competition Policy in relation to the By-law, as at **Attachment 4** to this report.
- 4) Authorises the Chief Executive Officer to:
  - 4.1 Sign the by-law, as adopted by Council;
  - 4.2 Sign the Legislative Review Committee Report for the by-law, as adopted by Council;
  - 4.3 Arrange for the By-law and all other necessary documentation to be provided to the Legislative Review Committee.
  - 4.4 Publish a notice of the making of the By-law in a newspaper circulating within the area, in accordance with Section 249(7) of the *Local Government Act 1999*;
  - 4.5 Arrange for the By-law to be published in the Government Gazette.
- 5) Pursuant to section 246(5) of the *Local Government Act 1999*, resolves to set the expiation fee for alleged offences against the Dogs By-law at \$187.50, being 25% of the maximum penalty defined in the *Local Government Act 1999*.

**SECONDED** Cr Miller

**CARRIED 2018-22/575**

Cr Weise-Smith called for a **DIVISION**

The motion was set aside.

**The division was taken with:**

**FOR** the motion - Deputy Mayor Johnstone, Cr Angas, Cr Barrett, Cr de Vries, Cr Haebich, Cr Hurn, Cr Miller, Cr Schilling

**AGAINST** the motion - Cr Boothby, Cr Troup, Cr Wiese-Smith

The Mayor declared the motion

**CARRIED 2018-22/576**

**PURPOSE**

To consider and endorse a dogs by-law.

**REPORT**Background

At the July 2021 meeting of Council, a suite of draft by-laws were endorsed for a period of community consultation. Community consultation seeking feedback on the proposed by-laws has been undertaken.

The full suite of Draft By-laws, together with associated reports, submission from the community and a public consultation report was presented to Council at the 21 September 2021 meeting. At that meeting, six of the seven by-laws were endorsed.

Introduction

Council determined not to make By-law 5 – Dogs 2021 at the meeting on 21 September 2021, and requested that the matter be presented and discussed further at the Council Workshop on 6 October 2021 before being considered further.

Following the Council Workshop, the by-law is again presented to Council with no amendments made to the previously endorsed draft by-law. Council is asked to consider and formally endorse the by-law and associated documents.

Discussion

As previously reported, only two written submissions were received during the consultation period. Neither of the two submissions received related to the proposed dogs by-law.

In accordance with its legal requirements, Council consulted with the Dog and Cat Management Board (the Board) in relation to the proposed by-law. A letter from the Board is provided as **Attachment 5**, no recommendations were made by the Board.

The *Local Government Act 1999* states that in order to make a by-law, there must be at least two-thirds of the members of the Council present and the resolution must be supported by an absolute majority of the members of the Council.

In general, by-laws can provide useful mechanism to regulate and resolve local matters which are not captured in primary legislation.

In order to satisfy the National Competition Policy, Council and must be satisfied that the benefits of the by-laws outweigh any potential restriction on competition. The by-law, report on the National Competition Policy and report to the Legislative Review Committee have been prepared by Council's Solicitors with extensive experience in the preparation and making of by-laws.

The by-law has been identified as one which will not have the potential to restrict competition.

Should Council endorse the recommendations, the by-law and reports will be forwarded to Council's solicitors for presentation to the Legislative Review Committee.

Summary and Conclusion

Following endorsement of the draft Dogs By-law 2021 and a consultation period involving the Dog and Cat Management Board and the community, Council is now asked to consider to make the by-law, and for the by-law and associated documentation to be presented to the Legislative Review Committee and published in the Government Gazette.

**ATTACHMENTS OR OTHER SUPPORTING REFERENCES**

Attachment 1	By-Law 5 - Dogs 2021
Attachment 2	Certificate of Validity - By-Law 5 - Dogs 2021
Attachment 3	Legislative Review Committee Report - By-law 5 - Dogs 2021
Attachment 4	National Competition Policy Report - By-law 5 - Dogs 2021
Attachment 5	Dog and Cat Management Board - Response - Draft by-laws
Attachment 6	Dog and Cat Management Board - Template Dogs By-law
Attachment 7	Copies of Newspaper Advertisements - Public Consultation - Draft By-laws 2021
Attachment 8	Summary Report - Online Community Engagement - Draft Bylaws 2021

Supporting references

Agenda Report 7.7.3: By-Laws 2021 – Council Meeting 21 September 2021

**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**Community Plan

How We Work - Good Governance



Community and Culture



Health and Wellbeing



Infrastructure

Corporate Plan

- 6.1. Ensure that the community has access to information regarding the discussions held and decisions made by Elected Members.
- 6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.
- 2.3. Support and promote community involvement and networks and provide opportunities for participation in local decision making.
- 4.7. Address nuisance and environmental risk such as animals, vermin, pest control, illegal dumping on public land and fire prevention.
- 3.2. Ensure Council's parks, gardens and playgrounds are accessible, relevant, and safe and maintained to an agreed level of service.

Advocacy Plan

Nil

Legislative Requirements

Dog and Cat Management Act 1995

Local Government Act 1999

Acts Interpretation Act 1915

**FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS**

Should the by-law be endorsed, a review and audit of signage on Council reserves will be undertaken. There will be a cost to Council to upgrade signage. A budget allocation exists within the Business Unit.

Council has three officers authorised to administer the by-laws, in addition to a range of other duties. Any significant changes to the by-law or the introduction of park-specific requirements, may have an impact on the administration and enforcement capacity within the Business Unit and may provide some confusion within the community.

Maintaining a simplistic model will ensure a more efficient use of resources, particularly in-light of approaches which focus on community education rather than enforcement. A simplistic model will also provide certainty within the community.

The *Local Government Act 1999* provide a maximum penalty (if set before the courts) for a breach of a council by-law is currently \$750. Councils are permitted to set an expiation fee of up to 25% of the maximum fee. Council's expiation fee for breaching a by-law has been \$187.50 for many years and continuing this fee is recommended.

It is worth noting that with impending changes to the *Local Government Act 1999*, the maximum penalty is set to be increased to \$1,250. Thereby allowing councils to set higher expiation fees for breach of by-laws if desired.

The by-law was drafted having regard to the template provided by the Board, and seeks to reduce interactions between children and unfamiliar dogs, reduce the risk of incidents and also soiling of playground equipment.

Council has consulted the community on the by-law, as attached. Council's Solicitors have advised that any changes will require the process to recommence which includes preparation and adoption of a revised draft, re-advertising and re-consulting with the Board and the Community, before considering any submission and finally considering to make the by-law. Additional legal and advertising costs may also be incurred.

Legislation provides that the by-law must be published in the Government Gazette, the by-law will commence four months after the date on which they are published in the Gazette, unless disallowed by Parliament. Council's existing by-laws are set to expire in January 2022, meaning that the additional timeframes required will result in the current by-law lapsing in the process.

<b>COMMUNITY ENGAGEMENT</b>
-----------------------------

A community engagement period commenced on 18 August 2021 and concluded on 8 September 2021.

Public notices advising the community of the proposed by-laws and inviting written submissions were placed in three local newspapers on Wednesday 18 August 2021, being The Leader, The Bunyip and The Courier. Copies of the public notices are provided as **Attachment 7**.

Copies of the full suite of draft by-laws, together with a summary document was made available at all Council branch offices and online via [yoursay.barossa.sa.gov.au](http://yoursay.barossa.sa.gov.au).

The consultation was promoted on Council's website as well as two Facebook posts during the consultation period, which provided direct links to Council's online community engagement platform. As summary of the online engagement is provided as **Attachment 8**.

Only two written submissions were received from the community. There were no submissions made on the draft Dogs By-Law.

#### **8. CONFIDENTIAL AGENDA**

Nil

#### **9. URGENT OTHER BUSINESS**

Nil

#### **10. NEXT MEETING**

Tuesday 16 November 2021 at 9.00am

#### **11. CLOSURE**

Mayor Lange declared the meeting closed at 10.17am

Confirmed at Council Meeting on 16 November 2021

Date:.....

Mayor:.....