

**TERMS OF REFERENCE OF THE BAROSSA BUSHGARDENS COMMITTEE
ESTABLISHED PURSUANT TO SECTION 41 OF THE LOCAL GOVERNMENT ACT 1999**

1 ESTABLISHMENT OF COMMITTEE

- 1.1 The Barossa Council (hereinafter referred to as "The Council") at a meeting held on 6 March 2001 Minute Book Ref 2001/94 established the Barossa Bushgardens Committee (hereinafter referred to as "The Committee") pursuant to Section 41 of the *Local Government Act 1999* ("the Act").
- 1.2 The Committee is established to manage the Barossa Bushgardens property ("the Bushgardens") being the Part Section of Coulthard Reserve, Nuriootpa, a Crown Reserve over which the title is issued to Council being Lot 100 Penrice Road, Nuriootpa and which is contained in CR 5753/271, H 160600 (east of the watercourse), in accordance with the objectives set out under clause 2 of these Terms of Reference.
- 1.3 The Committee may be wound up at any time by resolution of the Council.
- 1.4 This Terms of Reference was adopted by Council on 21st December 2010.

2 OBJECTIVES OF THE COMMITTEE

The Committee is established to fulfill the following functions:

- 2.1 To develop and maintain the Bushgardens as:
 - 2.1.1 a model natural heritage resource for the Barossa and South Australia;
 - 2.1.2 a vital human resource where people are valued for their contribution, knowledge and skills;
 - 2.1.3 a place of learning, where knowledge is shared and practical skills are enhanced; and
 - 2.1.4 a model of sustainability through proactive seed collection, native plant propagation and garden development
- 2.2 To work in partnership with the community and Council in all aspects of the development outlined in clause 2.1.
- 2.3 To liaise with the Friends of Barossa Bushgardens for the specific purpose of supporting the objectives outlined in clause 2.1.
- 2.4 To keep statistical information as required by Council
- 2.5 To plan for future development and upgrade of Bushgardens' facilities for the members of the community in accordance with the *Crown Land Management Act 2009*. Council and committee will come to agreement in developing an annual maintenance plan in respect of facilities as part of the budget process.

- 2.6 To promote a community spirit in the district and to the public generally towards the Bushgardens.
- 2.7 To generate funds to fulfill the above objectives.
- 2.8 To do anything necessary, expedient or incidental to performing or discharging the functions of the Committee as listed herein or to achieving its objectives.
- 2.9 To read, comply with and, where appropriate, to seek clarification with respect to Council policies and processes relevant to the objectives.

3 MEMBERSHIP OF THE COMMITTEE

- 3.1 The Committee shall consist of:
 - 3.1.1 No less than four (4) and no more than (eleven) 11 independent members appointed by the Council; and
 - 3.1.2 One (1) Elected Member nominated by the Council.
- 3.2 The Committee shall, at its first meeting following the periodic election, appoint at a minimum:
 - 3.2.1 the Presiding Member (Chairperson) of the Committee (subject to clause 3.5); and
 - 3.2.2 two (2) members of the Committee who are authorised to sign official Council Purchase Orders and approve invoices relating to Committee expenditure.
- 3.3 Should there be more nominations than required then all voting shall be by secret ballot.
- 3.4 A member of Council is not precluded from being elected to the Committee by virtue of being a member of Council.
- 3.5 The Elected Member(s) on the Committee may hold any executive position (Treasurer, Secretary etc) except for the position of Presiding Member (Chairperson). This position is to be held by an independent member.
- 3.6 Subject to clause 1.3 of these Terms of Reference, membership of the Committee is for the current term of the Council *unless* a member resigns or is otherwise incapable of continuing as a member or is removed from office by the Council.
- 3.7 Committee members are eligible for re-appointment to the Committee at the expiration of their term of office.
- 3.8 The Committee may by a vote supported by a majority of members of the Committee make a recommendation to the Council to remove a member of the Committee from office where a member has failed (without the leave of the Committee) to attend three consecutive meetings of the Committee.

- 3.9 The Council may at its discretion, remove from membership any member of the Committee and appoint others in their place. Where Council determines to remove a Committee member from office under this clause, the principles of natural justice will be observed in that:
- 3.9.1 the Committee member will be informed of Council's intention to remove him/her from office;
 - 3.9.2 the Committee member will be provided with an opportunity to comment upon his/her proposed removal from office; and
 - 3.9.3 the Council will have regard to any submissions received from the Committee member before determining to remove him/her from office.
- 3.10 If a vacancy arises, the Committee will make a recommendation to the Council with respect to the appointment of a Committee member to fill the vacancy.
- 3.11 If any volunteer assists the Committee that person must be registered as a volunteer of the Council by completing The Barossa Council Volunteer Registration Form.
- 3.12 Training
- (i) Following their initial appointment to the Committee, all Committee members must undertake a formal induction session in accordance with Council's Induction Policy which welcomes them into their roles, highlights their responsibilities within the Committee and ensures compliance with relevant legislation, including Occupational Health and Safety and the Local Government Act, and financial responsibilities. These sessions will be held by Council on a six monthly basis.
 - (ii) Committee members are, from time to time, also expected to attend training related to the management and governance of Local Government committees.
- 3.13 Committee members will be entitled to reimbursement of approved expenditure in accordance with Council policies and processes.
- 3.14 Council will assign a Council Officer to provide advice and act as a contact point between Council and the Committee.

4 CHAIRPERSON

- 4.1 In addition to appointing a Chairperson under clause 3.2.1, the Council authorises the Committee to determine if there will be a Deputy Chairperson (to be known as the Deputy Chairperson) of the Committee and, if so, authorises the Committee to make the appointment to that position for a term determined by the Committee.
- 4.2 If the Chairperson of the Committee is absent from a meeting the Deputy Chairperson (if such position exists) will preside at that meeting. If there is no position of Deputy Chairperson, or both the Chairperson and the Deputy Chairperson of the Committee are absent from a meeting of the Committee,

then a member of the Committee chosen from those present will preside at that meeting until the Chairperson (or Deputy Chairperson, if relevant) is present.

4.3 The role of the Chairperson includes:

4.3.1 overseeing and facilitating the conduct of meetings in accordance with the Act and *the Local Government (Procedures at Meetings) Regulations 2000* (“the Regulations”);

4.3.2 ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner; and

4.3.3 where a matter has been debated significantly and no new information is being discussed to call the meeting to order and ask for the debate to be finalised and the motion to be put.

5 POWERS OF THE COMMITTEE

5.1 The Council has delegated to the Committee all of the relevant powers and functions of the Council necessary for the Committee to perform its functions as set out in these Terms of Reference. A copy of the Council's delegations to the Committee is Attachment 1.

5.2 The Committee may establish a sub-committee to assist in the exercise of its powers, objectives and responsibilities, however, it may not delegate its powers outlined in 5.1 to that sub-committee.

6 CONDUCT OF MEETINGS

6.1 The meetings of the Committee shall be held in accordance with the Regulations excepting that Part 2 is not applicable.

6.2 Insofar as the Act and/or Regulations or these Terms of Reference do not prescribe the process to be observed in relation to the conduct of a meeting of the Committee, the Committee may determine its own process.

6.3 Ordinary meetings of the Committee shall be held bi-monthly or as determined by the Committee. The day, time and place for such meetings shall be determined each year at the first ordinary meeting.

6.4 Quorum

6.4.1 A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.

6.4.2 A quorum for a meeting of the Committee is half of the current membership, rounding any fraction up to the nearest whole number, and adding one (1).

6.4.3 *Lack of Quorum*

(i) If, prior to the commencement of the meeting, the number of apologies received by the Chairperson (or their delegate as the case may be) indicates that a quorum will not be present at

that meeting,
or

- (ii) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present,

the Chairperson (or their delegate as the case may be) may adjourn the meeting to a specified day and time or continue the meeting without any motions being formally resolved.

- (iii) If the meeting is adjourned for a want of quorum, the Chairperson (or their delegate as the case may be) will record in the minutes the reason for the adjournment, the names of any members present (in the case of (ii)) and the date and time to which the meeting is adjourned.

- 6.5 All decisions of the Committee shall be made on the basis of the majority of the members present. All members of the Committee must (subject to a provision of the Act or Regulations to the contrary) vote on any matter arising for decision at a meeting of the Committee.
- 6.6 No Committee member shall vote or take part in debate who has an interest in any matters before the Committee that would contravene Sections 73, 74 and 75 of the Act (Conflict of Interest Provisions).
- 6.7 The Committee shall keep minutes of all meetings, which shall comply with Regulation 25 and shall include a record of the names of members present at each meeting and shall within five (5) days forward a copy of the minutes to the Committee's assigned Council Officer.
- 6.8 For the purposes of section 41(8) of the Act, the Council's reporting and other accountability requirements are satisfied by its posting of the minutes of each meeting of the Committee on the Elected Members' intranet and also on Council's website.
- 6.9 The Committee shall furnish to Council such information concerning the Committee's proceedings and activities as may be required.

7 GOVERNANCE

- 7.1 The Chairperson shall be responsible to the Council for the proper observance of these Terms of Reference. However, no Committee member shall be personally liable in respect of any transaction, act or omission of the Committee entered into, done or made in good faith.
- 7.2 Committee Members do not enjoy the protection against defamation actions afforded to State and Commonwealth Parliaments and must be careful not to make remarks that could result in an aggrieved person seeking to take action against them.
- 7.3 A recommendation by the Committee to the Council to amend the Terms of Reference must be made by majority of all Committee members.
- 7.4 Notwithstanding this Terms of Reference, all Committee Members shall observe the relevant requirements under the:

7.4.1 the *Local Government Act 1999*;

7.4.2 the *Local Government (Procedures at Meetings) Regulations 2000*;

and

7.4.3 The Barossa Council's Code of Conduct for Elected Members.

7.5 Members of the Committee who are not Elected Council Members are not required to complete a Register of Interest Return pursuant to Section 64 of the Act.

8 ATTACHMENTS

Attachment 1 - A copy of the Council's delegations to the Barossa Bushgardens Committee is attached.

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

32A.2	to achieve and maintain standards that reflect good administrative practices.	
33. Sources of Funds		
	The power pursuant to Section 133 of the Act to obtain funds as permitted under this or another Act and as may otherwise be appropriate in order to carry out the Council's functions under this or another Act, by –	
33.1	Left Blank Deliberately – Delegation does not Apply	
33.2	by leasing or hiring out property;	
33.3	by obtaining grants or other allocations of money other than by borrowing;	
33.4	by carrying out commercial activities;	
33.5	by recovering fees, charges, penalties or other money payable to the Council.	
34. Expenditure of Funds		
	The power to expend Council's approved budgeted funds, subject to the Council's policies, under the Local Government Act 1999 and any other Act, in the exercise performance or discharge of the Council's powers, functions or duties under the Local Government Act 1999 or any other Act, pursuant to Section 137 of the Act.	Refer to the conditions and limitations attached to the end of this document
35. Investment		
35.1	The power pursuant to Section 139(1) of the Act to invest money under the Council's control.	
35.2	The duty pursuant to Section 139(2) of the Act in exercising the power of investment, to:	
35.2.1	exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and	
35.2.2	avoid investments that are speculative or hazardous in nature.	

SCHEDULE OF CONDITIONS
CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
34	Up to \$20,000 for any one order subject to departmental budget allocation.
	Unlimited authority subject to Corp & Community Services and Executive Services departmental budget allocation.
	Unlimited authority subject to Works and Engineering Services departmental budget allocation.
	Up to \$10,000 for any one order subject to departmental budget allocation - Administrative and Customer Services and Executive Services function.
	Up to \$5,000 for any one order subject to departmental budget allocation - Financial Services and Executive Services function.
	Up to \$5,000 for any one order subject to departmental budget allocation - Financial Services and Executive Services function.
	Up to \$5,000 for any one order subject to departmental budget allocation - Information Technology function.
	Up to \$5,000 for any one order subject to departmental budget allocation - Barossa Visitor Information Centre Budget
	Up to \$5,000 for any one order subject to departmental budget allocation - Community Transport/Home Assist

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

	Up to \$500 for any one order subject to departmental budget allocation – Community Transport/Home Assist
	Up to \$5,000 for any one order subject to departmental budget allocation – Leisure Options function
	Up to \$500 for any one order subject to departmental budget allocation – Leisure Options function
	Up to \$5,000 for any one order subject to departmental budget allocation – Youth Services Budget
	Up to \$5,000 for any one order subject to departmental budget allocation – Library Services function
	Up to \$10,000 for any one order subject to departmental budget allocation – Planning Control function
	Up to \$5,000 for any one order subject to departmental budget allocation – Building and Health services function
	Up to \$50,000 for any one order subject to departmental Capital Works budget allocation
	Up to \$5,000 for any one order subject to departmental budget allocation – Works operation function
	Up to \$5,000 for any one order subject to departmental budget allocation- Individual Section 41 Committees function
	Up to \$2,000 for any one order subject to Organisational Development function
	Up to \$10,000 for any one order subject to departmental budget allocation – Operations function
	Up to \$2,000 for any one order subject to departmental budget allocation – Cemetery & Public Conveniences recurrent operations function
	Up to \$5,000 per month for any Purchasing Card purchases subject to the Executive Services function
	Up to \$2,000 for any one order subject to Uniform Administration function