



The Barossa Council

MINUTES OF THE MEETING OF THE BAROSSA COUNCIL

held on Tuesday 18 August 2020 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.

1.2 MEMBERS PRESENT

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

1.3 LEAVE OF ABSENCE

Nil

1.4 APOLOGIES FOR ABSENCE

Cr Cathy Troup

MOVED Cr Hurn that Council receive and accept Cr Cathy Troup's apology.

Seconded Cr Johnstone

CARRIED 2018-22/211

1.5 MINUTES OF PREVIOUS MEETINGS – FOR CONFIRMATION

MOVED Cr Hurn that the Minutes of the Council meeting held on

- Tuesday 21 July 2020 at 9.00am
- Tuesday 21 July 2020 at 11.50am; and
- Special Council meeting held on Wednesday 5 August 2020 at 6.31pm,

as circulated, to be confirmed as true and correct records of the proceedings of those meetings.

Seconded Cr Barrett

CARRIED 2018-22/212

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 Boothby that the Mayor's report be received.

Seconded Cr de Vries

CARRIED 2018-22/213

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 Miller that the information items contained in the Consensus Agenda be received and that any recommendations contained therein be adopted except for item 4.2.1.1 Correspondence Seeking Change of Part of the Barossa Trail Name and item 4.5.2.2 Gawler River Floodplain Management Authority.

Seconded Cr Johnstone

CARRIED 2018-22/214

5.3 DEBATE OF ITEMS EXCLUDED FROM THE CONSENSUS AGENDA**4.2.1.1 Correspondence Seeking Change of Part of the Barossa Trail Name**

Cr de Vries sought clarification of the request and is Mr Hill-Smith proposing Grenache trail and had any other members discussed the matter with him.

Mayor Lange outlined that he had spoken with Mr Hill-Smith and it was a proposal but would require a rescission motion to proceed and he had been informed of that.

Cr Angas considered that a proposal at least be discussed in a future workshop and this was supported by Cr Wiese-Smith.

MOVED Cr Angas that the council receive and note 4.2.1.1 Correspondence Seeking Change of Part of the Barossa Trail Name and that the matter be scheduled for discussion at a future Council workshop.

Seconded Cr Johnstone

CARRIED 2018-22/215

4.5.2.2 Gawler River Floodplain Management Authority

Cr Barrett sought to understand why the Mayor had voted against the Storm Water Management Plan.

Mayor Lange indicated that he would like the charter revisited prior to making further decisions for a variety of reasons including what the purpose of the authority is, the potential risk and costs to Council and benefits in future.

Further correspondence would be forthcoming to Council regarding the costs for a Stormwater plan and at this time it will be brought to a Council workshop for discussion.

Cr Johnstone outlined the technical matters related to the flood plain protection and prior recalibration of the protection afforded by the Bruce Eastwick Dam.

Cr de Vries provided prior historical content to the decision of Council to become part of the Gawler River Floodplain Management Authority and that it appropriate to revisit the model.

Mr Martin McCarthy, Chief Executive Officer, outlined he provided advice to the Mayor prior to the meeting that is the subject of this consensus report and that it would be prudent to consider our fiduciary and risk considerations and benefit for our ratepayers. When Mayor Lange is voting in his role as a board member of the Authority he is not exercising a vote of Council.

MOVED Cr Barrett that the council receive and noted item 4.5.2.2 Gawler River Floodplain Management Authority report and further information provided.

Seconded Cr Wiese-Smith

CARRIED 2018-22/216

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**

Nil

7.2 EXECUTIVE SERVICES - DEBATE**7.2.1. CHIEF EXECUTIVE OFFICER - DEBATE**

7.2.1.1

QUARTERLY UPDATE TO DELEGATIONS REGISTER
B8826

Author: Governance Advisor

MOVED Cr de Vries

(1) Revocation of Delegations – Instrument of Delegation under the Natural Resource Management Act 2014, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005

(a) Council hereby revokes all delegations to the Chief Executive Officer of those powers and functions under the provisions of the *Natural Resource Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005*, and set out at Attachment 1 of this report.

(2) Delegations made under the Landscape South Australia Act 2019 and Landscape South Australia (General) Regulations 2020

(a) 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 the Chief Executive Officer of the Council, the powers and functions under the *Landscape South Australia Act 2019 and Landscape South Australia (General) Regulations 2020*, as set out in Attachment 2 of this report.

(b) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with sections 44 and 101 of the *Local Government Act 1999*.

(3) Delegations made under the Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005

(a) 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 the Chief Executive Officer of the Council, the powers and functions under section 105F(9) of the *Fire and Emergency Services Act*, which is specified in an extract contained in Attachment 3 of this report.

(b) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with sections 44 and 101 of the *Local Government Act 1999*.

(4) Delegations made under the South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013 and South Australian Public Health (General) Regulations 2013

(a) 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 the Chief Executive Officer of the Council, the powers and functions under Sections 92(5),

95(15) and 96(3) of the *South Australian Public Health Act 2011* which are specified in the extract contained in Attachment 4 of this report.

- (b) Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with sections 44 and 101 of the *Local Government Act 1999*.

Seconded Cr Hurn

CARRIED 2018-22/217

PURPOSE

Council is asked to:

- revoke the *Instrument of Delegation under the Natural Resource Management Act 2004* and associated Regulations, as this Act has been repealed and replaced by the *Landscape South Australia Act 2019*;
- delegate to the CEO, the new Instrument of Delegation under the *Landscape South Australia Act 2019* and Regulations as specified in Attachment 2; and
- delegate the amended powers to the Chief Executive Officer which are now available under the *Fire and Emergency Services Act 2005* and the *SA Public Health Act 2011*;

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 or function at a formally constituted meeting; and
- When the legislation enables it, a power or function may be delegated pursuant to an Instrument of Delegation and exercised in the name of a delegate.

Used well, delegations greatly assist Council by enabling the Elected Body to progress with the strategic element of local government and leave the day-to-day operations and administration to the staff who have the relevant expertise and experience to deal with such matters – thus improving effectiveness and efficiency.

Introduction

The Barossa Council's Delegations Register is reviewed each financial year in accordance with Section 44(6) of the *Local Government Act 1999*, and by way of best practice, quarterly and amended in the Local Government Association's ("LGA") Quarterly Reviews of urgent updates recommend that amended Instruments of Delegation be immediately adopted. Council's most recent annual review of delegations occurred in May earlier this year.

The review before Council today is as a result of a quarterly update on advice from the LGA which has identified updates to the delegations templates, and confirms that new delegations should be in place as soon as possible.

Attachment 5 is the LGA's Table of Delegations Updates, which outlines the required changes to powers and functions of its Instruments of Delegation under:

- the *Natural Resource Management Act 2014*, *Natural Resources Management (General) Regulations 2005* and *Natural Resources Management (Transitional Provisions - Levies) Regulations 2005*;
- *Fire and Emergency Services Act 2005* and *Fire and Emergency Services Regulations 2005*;
- *South Australian Public Health Act 2011*, *South Australian Public Health (Legionella) Regulations 2013*, *South Australian Public Health (Wastewater) Regulations 2013* and *South Australian Public Health (General) Regulations 2013*; and
- *Landscape South Australia Act 2019* and *Landscape South Australia (General) Regulations 2020*

Discussion

1. Natural Resource Management Act and Associated Regulations

The *Natural Resource Management Act 2004* (the "NRM Act") has been repealed by the *Landscape South Australia Act 2019* (the "Landscape SA Act"). As a result, the delegations under the NRM Act are no longer valid, and the Elected Body is asked to consider revoking all delegations under the Instrument of Delegation under the NRM Act. The Instrument of Delegation under the NRM Act is attached at Attachment 1 for the Elected Body's reference.

2. Landscape South Australia Act 2019 and Regulations

The LGA has prepared a new Instrument of Delegation under the *Landscape South Australia Act 2019* (the "Landscape SA Act"), which sets out Council's powers under the *Landscape SA Act* and *Landscape South Australia (General) Regulations 2020*.

The LGA recommends that Council make delegations under the new Instrument at its next review. Council is asked to delegate all powers under the *Landscape SA Act* to the CEO as set out in the attachment, and authorise the CEO to make sub-delegations as required.

The Instrument of Delegation under the *Landscape SA Act* and *Landscape South Australia (General) Regulations 2020* is attached as Attachment 2 to this report.

3. Fire and Emergency Services Act 2005

Section 105F(9) of the *Fire and Emergency Services Act 2005* (the "Fire and Emergency Services Act") has been amended, and the LGA has advised that Council should update its instrument of delegation at the next review.

The *Instrument of Delegation under the Fire and Emergency Services Act and Regulations* has now been updated to reflect the abovementioned change. An extract of the Instrument showing the amendment by way of track changes, is attached as Attachment 3 to this report.

4. SA Public Health Act 2011 and associated Regulations

Sections 92(5), 95(15) and 96(3) of the *South Australian Public Health Act 2011* (the "SA Public Health Act") have been amended, and the LGA has advised that Council should update its instrument of delegation at the next review.

The *Instrument of Delegation under the South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013 and South Australian Public Health (General) Regulations 2013* has now been updated to reflect the abovementioned amendments. An extract of the Instrument showing the amendment by way of track changes, is attached as Attachment 4 to this report.

Summary and Conclusion

Council is now asked to receive, adopt and delegate to the CEO, the new and amended provisions as set out in this report.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

<u>Attachment 1 -</u>	The Instrument of Delegation under the <i>Natural Resource Management Act</i> and associated Regulations (Ref: 20/41441)
<u>Attachment 2 -</u>	Proposed Instrument of Delegation under the <i>Landscape SA Act and Regulations</i> (Ref: 20/41318)
<u>Attachment 3 -</u>	Proposed amendments to the Instrument of Delegation under the <i>Fire and Emergency Services Act</i> and associated Regulations (Ref: 20/41316)
<u>Attachment 4 -</u>	Proposed amendments to the Instrument of Delegation under the <i>SA Public Health Act</i> and associated Regulations (Ref: 20/41315)
<u>Attachment 5 -</u>	LGA's Table of Delegations Updates (Ref: 20/41309)

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCommunity 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.

Legislative Requirements

Local Government Act 1999

Development Act 1993 and Development Regulations 2008

Development (Waste Reform) Variation Regulations 2019

State Records Act 1997

Community Titles Act 1996

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

There are no financial considerations.

Resource

Facilitation of these delegations to the Chief Executive Officer will be undertaken according to officer's existing duties.

Risk

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). 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
- the cost of a successful challenge to a decision made without lawful delegation will likely be borne by the Council
- 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 officers' opinions, do the particular circumstances require it as the delegations themselves are based on prescribed LGA templates where there is no option for amendment through community feedback.

For transparency, the community has access to the delegations register on Council's website so is made aware of the powers of the Chief Executive Officer as delegated by the Council, and also the powers of officers as sub-delegated by the Chief Executive Officer.

7.2.2 DEBATE AGENDA – FINANCE**7.2.2.1****MONTHLY FINANCE REPORT (AS AT 31 JULY 2020)**

B411

Author: Senior Accountant

MOVED Cr Johnstone that the Monthly Finance Report as at 31 July 2020 be received and noted.

Seconded Cr Haebich

CARRIED 2018-22/218

PURPOSE

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

REPORTDiscussion

The Monthly Finance Report (as at 31 July 2020) is attached. The report has been prepared comparing actuals to the Original adopted budget 2020/21.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Monthly Finance Report 31 July 2020

Policy

Budget & Business Plan and Review Policy

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.
- 6.3 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 CONSIDERATIONSFinancial

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/July 2020, as per legislation. This report is advising Council of the monthly finance position compared to that budget.

7.2.2.2**2020/21 CASH ADVANCE DEBENTURE DISCOUNT FACILITY**

B11014

MOVED Cr de Vries that:

- (a) Council convert debenture number 115 for \$3,000,000 and establish an additional Cash Advance Debenture facility of \$900,000, for a total \$3,900,000 to the discounted interest rate facility provided by the Local Government Finance Authority of SA.

- (b) The loan facility will be drawn down and repaid to maintain adequate cash for Council operations and projects within the approved budgets.
- (c) The discount interest rate is 0.75% off the standard variable interest rate.
- (d) The converted debenture number 115 of \$3,000,000 is for a three-year term and then reverts to its original agreement.
- (e) The additional debenture of \$900,000 be established for a three-year term.
- (f) The Mayor and Chief Executive Officer be authorised to sign and affix the Common Seal on the Local Government Finance Authority of SA discounted Cash Advance Debenture facility for a variation agreement and debenture loan application form.

Seconded Cr Johnstone

CARRIED 2018-22/219

PURPOSE

To arrange the discounted interest rate facility for Convertible Cash Advance Debentures (CAD) with the Local Government Finance Authority of SA (LGFA).

REPORT

Background

Council has financing arrangements established with its banking providers National Australia Bank and the LGFA. The following information includes the facilities and amounts for Councils single subsidiary, Nuriootpa Centennial Park Authority (NCPA) with their financial providers.

An overdraft facility is established with banks at \$300,000 along with Corporate Credit Cards current limit set at \$79,000.

Council has three CAD facilities in place with the LGFA for a total of \$4,260,000 as follows:

- debenture number 70, maturity date of 15/4/2023 for \$1,000,000
- debenture number 111, maturity date of 15/3/2021 a facility established for the NCPA for \$260,000, and
- debenture number 115, maturity date of 15/5/2030 for \$3,000,000.

Currently none of the three CAD facilities are drawn and as noted above the NCPA facility expires 15/3/2021.

Council also has in place with the LGFA, fixed terms debenture loans and as at 5 August 2020 the principle amounts total \$10.4m. Within the \$10.4m include self-funded loans for community groups and clubs for \$0.8m and the NCPA at \$1m.

The existing financing arrangements and debenture loan balances Council (and NCPA) has in place as at 5/8/2020 are:

Bank overdrafts	\$ 300,000
Corporate Credit Cards	\$ 79,000
CAD	\$ 4,260,000
Debenture loans*	\$10,388,937
Total	\$15,027,937

*The fixed loan principle amount reduces on each bi-annual instalment payment. The debenture loans do not include Council funded loans for the Barossa Valley Machinery Preservation Society Inc. and the NCPA with balances as at 5 August 2020 at \$23k and \$520k respectively.

Council adopted budget for 2020/21 includes additional \$9.7m in loans to finance the cash requirements for operations and capital project spends (after grant funding) for a forecast cash position at 30 June 2021 of \$1.5m. This cash projections include substantial capital expenditure for

infrastructure works and staged items for The Big Projects (TBP) and many of these works dependent on grant funding support.

As grant funding applications decisions comes to hand, Council will consider and approve amendments with the 2020/21 budget updates and the mid-year review for these significant works and review the cash position and loan financing requirements.

Discussion

In response to COVID-19 financial pressures on Councils, the LGFA are providing support to Councils through a discounted interest rate on CAD loans.

The Barossa Council's discounted convertible CAD entitlement is \$3.9M, calculated at 10% of the 2018/19 total operating income of \$38.9M.

The discounted facility is for a three-year term from date of establishment and is available for access until 31 December 2020. If Council approve the arrangement, the discount facility and funding will be available on 15 October 2020 and end on 15 October 2023, at which time debenture loan number 115 will revert back to the standard interest rate and reach maturity 15 May 2030.

The discount interest rate is 0.75% off the standard variable interest; the standard rate on 6/8/2020 was 2.2%, so the discounted rate applicable is 1.45%.

To facilitate the annexation of an existing debenture, an addendum (to the debenture) will be prepared and a debenture loan application form for new CAD facilities, both requiring execution by the Mayor and CEO and affix the Councils Common Seal.

As Council's total entitlement is \$3.9m, approach options are as follows:

1. convert all of debenture number 115 of \$3,000,000, and either
2. from debenture number 70, annex an amount of \$900,000,
or
3. establish a new CAD facility of \$900,000,

For option 2, debenture number 70 will result in a remaining facility of \$100,000 as a separate CAD debenture. As the maturity date for number 70 is on 15 April 2023 the \$900,000 discounted interest rate will end before the three year period provided, expected to be 15 October 2023.

As an alternative approach option 3, Council could establish a new \$900,000 CAD facility taking full advantage of the discounted interest rate for the full three year period. And CAD number 70 would still be in place at \$1m with a maturity date of 15 April 2023.

The total financing arrangements and debenture loan balances Council (and NCPA) in place as at 5/8/2020 and if approved Option 3:

Bank overdrafts	\$ 300,000
Corporate Credit Cards	\$ 79,000
CAD existing	\$ 4,260,000
CAD new Option 3	\$ 900,000
Debenture loans	\$10,388,937
Total	\$15,927,937

As required in the treasury management policy and appropriate financial management the CAD facility will only be drawn down and then repaid while maintaining adequate cash for Council operations and projects within approved budgets.

These CAD facility would be accessed only if required, noting that the 2020/21 includes budget loans at \$9.7m. And before drawing down from the CAD facilities, Council staff will continue to utilise its existing cash and investments first. As at 6/8/2020 the balance of cash and investments was \$7m. During 2020/21 Council's income will provide cash in-flows, and depending on the timing of cash

receipts will offset the use of CAD facilities. To ensure adequate cash is held for Councils day-to-day operations, the minimum balance held in cash and investments will be around \$1.5m.

Summary

Council to consider and approve changes to the CAD facilities to access the discounted interest rate facility with the Local Government Finance Authority of SA (LGFA).

The Mayor and Chief Executive Officer are required to sign and affix the Common Seal on the discounted Cash Advance Debenture facility documents as provided by the Local Government Finance Authority of SA.

The recommendation approach is to convert CAD number 115, Option 1 at \$3,000,000 with a variation agreement document and establish an additional CAD as per Option 3 for \$900,000 on a new debenture loan application form.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

No attachments

Policy

Treasury Management Policy

Annual Budget and Business Plan 2020/21

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan



How We Work – Good Governance

- 6.2 Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.
- 6.3 Align operational strategy to strategic objectives and measure organisational performance to demonstrate progress towards achieving our goals.
- 6.4 Ensure that decisions regarding expenditure of Council's budget are based on an assessment of whole of life costs, risks associated with the activity and advice contained within supporting plans.
- 6.9 Provide access to Council's plans, policies and processes and communicate with the community in plain English.
- 6.16 Provide contemporary internal administrative and business support services in accordance with mandated legislative standards and good practice principles.

Legislative Requirements

Local Government Act 1999 Sect 123 (13)

Local Government (Financial Management) Regulations 2011 Regulation 9(1)(b)

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

Through good financial management Council needs to ensure adequate cash is available to meet both operational and capital expenditure. A reduced interest rate on the CAD facilities will also improve Councils operation result.

As this discount interest rate facility will be in place for the next three years it is proposed to consider the use these in preference to fixed loans.

COMMUNITY CONSULTATION

Council does not need to consult the community for the establishment of debenture loans as CAD and/or fixed, expected loan requirements formed part of the budget.

Community Consultation was part of the original budget adoption process in June 2020, as per legislation.

7.3.2 DEBATE AGENDA – MANAGER COMMUNITY AND CULTURE

Mr Martin McCarthy, Chief Executive Officer noted that 7.3.2.1 should have been indexed in the agenda under Manager Community and Culture rather than Manager Community Projects.

7.3.2.1

REVISED DISABILITY ACCESS AND INCLUSION PLAN

B7156

Author: Collaborative Project Officer

MOVED Cr Johnstone that Council:

- (1) approves the Revised Barossa Council Disability Access and Inclusion Action Plan, 2020-2023 (the Plan);
- (2) approves public notification and promotion of the Plan noting that a consultation process is not required;
- (3) notes the changed status of the Barossa, Light and Lower North Regional Disability Access and Inclusion Plan.

Seconded Cr de Vries

CARRIED 2018-22/220

PURPOSE

To seek Council's endorsement to release the Revised Barossa Council Disability and Access Inclusion Action Plan for public information and promotion to comply with requirements of the SA Disability Inclusion Act 2018 (the Act).

REPORT

Background

On 17 April 2018 Council resolved:

MOVED Cr de Vries that:

- (1) Council approves the final Barossa, Light and Lower North Regional Disability Access and Inclusion Plan.*
- (2) Council approves that the draft of The Barossa Council Disability Access and Inclusion Action Plan be released for public consultation.*
- (3) Officers to submit a further report to Council should any submissions be received.*
- (4) Should no submissions be received from the public by the conclusion of the public consultation period, Council approves the final draft of The Barossa Council Disability Access and Inclusion Action Plan.*

Seconded Cr Angas

CARRIED 2014-18/1370

No submissions were received during the public consultation period and The Barossa Council Disability Access and Inclusion Action Plan has been in place since June 2018. The Action Plan is overseen by a Disability Access and Inclusion Advisory Group (DAIAG) whose membership is comprised of people with disability, carers of people with disability, disability service providers and relevant Council Officers. The DAIAG's role is to be:

"actively involved in identifying and reporting access issues across the Council area, and in developing and implementing activities that promote and facilitate the inclusion of people with disability to enable them to lead and enjoy an ordinary life."

At each meeting, a Council Officer provides an update on the deliverables from the Action Plan. This reporting is shared between directorates and feedback from DAiAG members indicates that this communication is informative and effective.

Delivery of a number of actions within the Plan to date has resulted in improved access and inclusion for people with disability, and will continue to produce positive outcomes for the life of the plan and beyond.

Introduction

In 2018, the State Government passed the SA Disability Inclusion Act

“... to promote the full inclusion in the community of people with disability; to assist people with disability to achieve their full potential as equal citizens; to promote improved access to mainstream supports and services by people with disability; to provide for the screening of persons who want to work or volunteer with people with disability and to prohibit those who pose an unacceptable risk to people with disability from working or volunteering with them; to provide for a community visitor scheme; to provide for responsibilities of the State during and following the transition to the National Disability Insurance Scheme; and for other purposes.”

It is a requirement of the Act that all State authorities develop a Disability Access and Inclusion Plan (DAIP) by 31 October 2020. The State Government's own DAIP - [Inclusive SA](#) - was published in October 2019, and hereafter all DAIPs prepared by State authorities are required to demonstrate their alignment with the State Disability Inclusion Plan (SDIP). State authorities with an existing DAIP are not required to produce a new DAIP but to undertake a review and identify how it aligns with the themes, priority areas and actions of the SDIP.

Under the Act, local councils can prepare a single plan that covers more than one council area; however, at a meeting held on 1 July 2020 involving officers from the four councils, it was agreed that the Barossa, Light and Lower North Regional Disability Access and Inclusion Plan in its current form could not be revised to adequately meet the requirements of the Disability Inclusion Act, and therefore each Council would revise and publish their own Disability Access and Inclusion Action Plan to comply with the Act. The adopted Regional Plan will later be revised slightly to acknowledge the SA Disability Inclusion Act 2018, and will become a high level regional strategy document.

Consequently, The Barossa Council's Disability Access and Inclusion Action Plan was reviewed and re-formatted using the State Government's template and was endorsed by the DAiAG on 5 August 2020. The Revised Barossa Council Disability Access and Inclusion Action Plan, 2020-2023 ([Attachment 1](#)) now aligns with the SDIP.

Discussion

Alignment with State Disability Inclusion Plan

The State Disability Inclusion Plan (SDIP) is comprised of 4 themes, 12 priorities and 39 actions. The existing Barossa Disability Access and Inclusion Action Plan had 25 actions and 73 deliverables, and needed only a few changes to align with the SDIP. The actions and deliverables of the original Action Plan were arranged under 5 areas that correlated with Council directorates and functions:

- Community and Culture
- Development and Environment
- Governance
- Corporate Services
- Engineering and Infrastructure

The Revised Action Plan has the same 25 actions and 73 deliverables presented under the four themes of the SDIP:

1. Inclusive communities for all
2. Accessible communities

3. Leadership and collaboration
4. Learning and employment

There are six actions in the SDIP that local councils are required to align with (actions 9, 11, 19, 31, 36). To achieve this, two additional actions and four additional deliverables have been added to the revised action plan to align with actions 11 and 36 of the SDIP. As these are youth and volunteering activities that Council was already undertaking or proposing to undertake, there will be no additional impact on resources.

Additional Action	Additional Deliverables	Alignment with SDIP
Young people living with disability will be supported to actively participate in youth leadership programs.	<ul style="list-style-type: none"> • There will be participation by young people living with disability in Council's youth leadership program. 	SDIP Action 11 State authorities to support young people living with disability to actively participate in decision-making.
Provide meaningful volunteering opportunities for people with disability.	<ul style="list-style-type: none"> • There will be volunteering opportunities for people with disability at the Barossa Bushgardens. • There will be participation by volunteers with disability on Council's Disability Access and Inclusion Advisory Group • Opportunities for volunteering by people with disability in other areas of Council operations will be explored. 	SDIP Action 36 State authorities to facilitate meaningful volunteering opportunities for people living with disability

The SDIP also has a number of actions that will provide resources such as toolkits for local councils that will facilitate the delivery of DAIPs that Council and the DAIP will be able to utilise when available. Other SDIP actions will likely require some input from local councils in their development. A document detailing these actions has been prepared for members of the Local Government Access and Inclusion Network and is included as [Attachment 2](#).

Reporting and Reviewing

The Act requires each State authority to report to the relevant State Government Chief Executive on the operation on its DAIP on or before 31 October each year. A reporting template will be provided. The first report will be due 31 October 2021.

In addition, each State authority must undertake a review of its DAIP at least once each four year period and submit a report on the review to the State authority and then to provide an approved copy to the Minister. Our review will be due in 2022.

Priority Groups and Consultation

The Act requires that DAIPs must contain provisions setting out strategies to ensure the needs of persons referred to in section 9 (2), (3) (4) and (5) of the Act are properly addressed by the DAIP, that is, Culturally and Linguistically Diverse persons, Aboriginal and Torres Strait Islander persons, women and children. The consultation process undertaken in the development of both the Barossa, Light and Lower North Regional Disability Access and Inclusion Plan and The Barossa Council's Disability Access and Inclusion Action Plan did not specifically target these priority groups; therefore further and more targeted consultation with these priority groups will need to take place as part of the four year review process to ensure that future plans respond to their specific needs.

State authorities with existing DAIP's are not required to undertake additional consultation until their DAIP is due for review; however we have consulted with our DAAG and will also provide information regarding the Revised Action Plan to the community.

Summary and Conclusion

The Barossa Council's Disability Access and Inclusion Action Plan has been in place since June 2018 and has achieved a number of deliverables. The passing of the State's Disability Inclusion Act 2018 requires all State authorities to publish a Disability Access and Inclusion Plan that aligns with the State Disability Inclusion Plan by 31 October 2020. Council's Action Plan has been reviewed, slightly revised and reformatted to demonstrate alignment with the SDIP. It has been endorsed by the Disability Access and Inclusion Advisory Group and is ready to be published as Council's DAIP by the 31 October 2020 deadline as required by the SA Disability Inclusion Act 2018.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Draft Revised The Barossa Council Disability Access and Inclusion Action Plan, 2020-2023 20/42034

Attachment 2: Local Government Responsibilities and Resources in Inclusive SA – State Disability Inclusion Plan 2019 – 2023, (January 2020) 20/42013

[The Barossa Council - Disability Access and Inclusion Action Plan, 2018 - 2023](#)

[The Barossa, Light and Lower North Regional Disability Access and Inclusion Plan](#)

[Inclusive SA - State Disability Inclusion Plan](#)

[Disability Inclusion Act 2018](#)

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

The Regional DAIP, will have an impact on all themes within the Community Plan as a Whole of Council approach will need to be adopted for it be effective.



Natural Environment and Built Heritage



Community and Culture



Infrastructure



Health and Wellbeing



Business and Employment



How We Work – Good Governance

Strategies:

2.3 Contribute to creating strong and sustainable community networks.

2.4 Encourage and support volunteering in the community.

2.5 Engage with, and support, young people to actively participate in the community and develop the leaders of the future.

2.8 Provide opportunities for the community to participate in local decision-making.

2.9 Create places where people want to live and plan for the future in a coordinated, appropriate and proactive manner.

- 2.11 Encourage a learning community.
 2.12 Contribute to a safer community.
 3.2 Collaborate with private and public utilities providers to ensure infrastructure is adequate to support the community both now and into the future.
 3.7 Ensure infrastructure meets the needs of people with and provides for all abilities access.
 4.3 Work with emergency services to prepare for disaster management and recovery.
 4.4 Support sporting, recreational and community clubs and organisations to grow and be sustainable.
 4.5 Advocate for and encourage services and resources that ensure equity and support for disadvantaged, disabled and at risk members of the community.
 4.8 Promote a healthy community through a planned approach to public health.
 4.9 Design our future developments and facilities to support active lifestyles and community health and wellbeing.
 5.3 Help build the capacity of the tourism sector and encourage the development of tourist services, including eco and recreational tourism infrastructure.

Legislative Requirements

SA Disability Inclusion Act 2018

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The following excerpt from a table in *Attachment 2*, prepared for the Local Government Access and Inclusion Network, shows the SDIP actions that local councils are required to align with and the likely financial impact.

Action	Likely Impact
<p>Action 9: Ensure induction of new State authority employees includes information about working with people living with disability.</p>	<p>All Council employees will need to undertake role-specific evidence-based training in disability awareness. This can be part of a broader and coordinated diversity learning program. All new employees will be required to undergo specific training upon commencement. This may also extend to contractors, sub-contractors and volunteers.</p> <p>Budget Impacted: Yes for delivery but possibly with NDIS Information, Linkages and Capacity-Building Grants to develop training resources.</p> <p>Roles impacted: Human Resources and Learning and Development</p>
<p>Action 11: State authorities to support young people living with disability to actively participate in decision-making.</p>	<p>Councils will need to provide a community engagement model that will target young people with disability and support them to actively participate in Council decision-making processes.</p> <p>Budget Impacted: No</p> <p>Teams impacted: Child and Youth Development, Community Engagement, community development</p>

<p>Action 19: Local council access and inclusion planning to consider consultation outcomes including:</p> <ul style="list-style-type: none"> • incorporating Universal Design principles in criteria for all new building and public projects and planning for programs, services and events • developing Universal Design training plans for staff and contractors • review of availability of accessible car parks. 	<p>All Council assets, products and services will be required to provide:</p> <ul style="list-style-type: none"> • Flexibility • Simple and equitable use • Perceptible Information • Tolerance for Error • Low Physical Effort • Size and space for use <p>All Council staff will need to be trained in Universal Design Principles, Council contractors will also need to demonstrate their understanding of universal design principles.</p> <p>Car Parking review will need to be undertaken, noting not just the number of spaces available but also the placement of spaces in areas where they are needed. Consideration needs to be given to the increased demand for extended length car parking to allow for the increasing number of rear loading vehicles. This may only be possible for Council owned carparks until Australian Standards are reviewed for other locations. Events will also need to consider parking availability.</p> <p>Budget Impacted: Yes</p> <p>Teams impacted: Properties and Building Assets, Design, Construction and Transport, Parks and Gardens, Infrastructure Assets and Maintenance, Planning and Assessment</p>
<p>Action 26: State authorities to consider including in their infrastructure maintenance and upgrade schedules the installation of signs on the front of public buildings indicating disability access (where this has been assessed by an accredited access consultant) and installation of multi-media devices in queues at service outlets to include people who are deaf, hard of hearing, vision impaired or blind.</p>	<p>Review of Councils signage may be required Possible restoration or refit of Council Signage may be required.</p> <p>Opportunities for technology improvements to provide inclusive services.</p> <p>Budget Impacted: Yes</p> <p>Teams impacted: Property and Building Asset Management, Customer Services, Libraries, IT.</p>

<p>Action 31: Consider establishing minimum standards for priority parks and reserves (including coasts, heritage places and Crown land) that improve access and inclusion for people living with disability and implement a program of priority actions, including exemplary visitor experiences.</p>	<p>Many Councils will need to consider the relevance of this Action and will depend on State-wide universal design guidelines to implement this action.</p> <p>Budget Impacted: Probably</p> <p>Teams impacted: Properties and Building Asset Management, Place Making Activation, Design, Construction Parks, Civil Infrastructure Asset Management and Maintenance</p>
<p>Action 36: State authorities to facilitate meaningful volunteering opportunities for people living with disability.</p>	<p>Council will need to work with specialist agencies in order to provide these opportunities.</p> <p>Buildings, processes, procedures and IT systems may not be accessible to some volunteers with disability. There may be costs involved in making adjustments where people with disability work at Council locations.</p> <p>Budget Impacted: No (minor, possible funding opportunities and grants may be available)</p> <p>Roles impacted: HR, Volunteer Coordination, possibly IT and Property and Building Asset Management</p>

COMMUNITY CONSULTATION

The development of the Barossa, Light and Lower North Regional Disability Access and Inclusion Plan was undertaken by a consultant and involved extensive consultation with community, Council staff and elected members of the four partnering councils.

The draft Barossa Disability Access and Inclusion Action Plan was finalised in conjunction with Council's Disability Access and Inclusion Advisory Group (DAIAG) before being approved by Council and was then released for community consultation for a period of six weeks in 2018. This included a 'Long Table' event in the Barossa Coop Mall that was attended by a number of people including:

- 90 people who looked as they passed by
- 60 people actively engaged of which 29 were NDIS participants

The draft Revised Action Plan (*Attachment 1*) was endorsed by the DAIAG at a meeting on 5 August 2020.

There is no requirement under the SA Disability Inclusion Act 2018 for State authorities with existing DAIPS to undertake further community consultation, and as the changes to the Revised Action Plan are minimal and not material to the intent of the Plan, community consultation will involve providing notification, updated information and promotion through the following channels:

- Promotion on Council's website
- Promotion on Barossa Cares website
- Promotion via social media
- Direct communication to the Barossa Community Services Network, the NDIS Local Area Coordinator and via networks of DAIAG members
- Direct communication to all Council staff

7.3.2 DEBATE AGENDA – MANAGER COMMUNITY PROJECTS

7.3.2.2

DOG PARKS – PROJECT SUMMARY

19/13603

PURPOSE

To provide a summary of the project costs to date and inform Council of the request for additional facilities.

MOVED Cr Wiese-Smith that Council:

- (1) Notes the expenditure to date of \$41,096 ex GST at the Nuriootpa Dog Park and \$55,061 ex GST at the Williamstown Dog Park.
- (2) Notes that there is a balance of \$21,084 ex GST remaining of the \$62,470 ex GST budget for the Nuriootpa Dog Park and \$409 ex GST remaining of the \$55,470 ex GST budget for the Williamstown Dog Park.
- (3) Approves that allocation and expenditure of the remaining funds for each dog park be agreed with the Friends of the Barossa Dog Parks and Williamstown Action Group and taking into account the priorities identified in the concept plan developed by the Friends Group.
- (4) Notes the potential for additional funding for the Nuriootpa Dog Park to be provided by the Rotary Barossa group and that Officers will work with that group and the Friends of the Barossa Dog Parks to agree the allocation of that funding if it eventuates.

Seconded Cr Haebich

CARRIED 2018-22/221

Cr Wiese-Smith asked the question of Mrs Joanne Thomas, Director Corporate and Community Services, if council has consulted with the Williamstown Action Group and Mrs Thomas took the question on notice.

Cr Wiese-Smith asked that council engage with the Williamstown Action Group and that a report be brought back to council to confirm the allocation of remaining funds.

REPORT

Background

At its meetings of the 18 December 2018 and 19 March 2019, Council resolved that:

18 December 2018:

MOVED Cr Wiese-Smith that Council:

- (1) Approve the Northern Dog Park location of Penrice Road, Nuriootpa, opposite the Nuriootpa High School oval.
- (2) Approve the Southern Dog Park location of Williamstown Queen Victoria Jubilee Park, adjacent but separate to the existing playground.
- (3) Require officers to accept the funding agreement from the Department of Planning, Transport and Infrastructure for \$100,000 (ex GST).
- (4) Require officers to complete a second quarter budget adjustment of \$10,940 (ex GST) for additional funds to complete the project.
- (5) Require officers to write to neighbouring properties to inform them of the approved dog park locations and invite feedback.

(6) Require officers to implement the dog parks by the end of the 2018/19 financial year should no negative feedback from nearby residences be received. If negative feedback is received, bring a further report to a future Council meeting.

Seconded Cr Boothby

CARRIED 2018-22/69

19 March 2019:

MOVED Cr Wiese-Smith that Council:

(1) Note the assessment of the concerns raised in the deputation to Council on the 19 February 2019 regarding the approved location of the Northern Dog Park at Penrice Road, Nuriootpa.

(2) Confirm the approval of the Northern Dog Park location of Penrice Road, Nuriootpa, opposite the Nuriootpa High School oval as per the 18 December 2018 resolution

(3) Require officers to write to Mrs Weaver and Mr Goudie to inform them of Council's decision.

Seconded Cr Boothby

CARRIED 2018-22/145

Council officers have completed the original agreed scope of works at both the Nuriootpa and Williamstown Dog Parks.

Discussion

The following project financial summary is provided:

Total budget:

Funding Source	Allocation
State Government Open Space Grant	\$100,000
Council Contribution – Dec 2018	\$10,940
Council Contribution – June 2018 for Nuriootpa	\$7,000
Total Project Budget	\$117,940
Nuriootpa	\$62,470
Williamstown	\$55,470

Nuriootpa

Item	Cost \$ ex GST
Water run, fountain and install (initial install only – relocation not costed to the project)	4,987
Fencing	28,532
Concrete works	5,166
Dog Bag Dispensers and fixings	325
Signage and fixings	360
Bench Seats	1,482
Wages	244
TOTAL	\$41,096
Nuriootpa Project Budget	\$62,470
Remaining Nuriootpa Project Funds	\$21,084

Williamstown

Item	Cost \$ ex GST
Water run, fountain and install (initial install only)	12,687
Fencing	31,470
Concrete and earthworks	8,213
Dog Bag Dispensers and fixings	278
Signage and fixings	397
Bench Seats	1,482
Wages	534
TOTAL	\$55,061
Williamstown Project Budget	\$55,470
Remaining Williamstown Project Funds	\$409

The Open Space grant from the former Department Planning Transport and Infrastructure (DPTI) has been formally acquitted.

Officers have had two meetings with the Friends of the Barossa Dog Parks (the Group) representatives. Their main focus is Nuriootpa Dog Park. The Group have continued to advance their ideas and concepts for ongoing improvements at the Nuriootpa Dog Park. The concept plan (Attachment 1) outlines the future requests.

It is understood that the Rotary Barossa group are keen to support the Friends of the Barossa Dog Parks with funding the shelter on the concept plan; however there has been no further plans or correspondence on that matter.

It is proposed that allocation of the expenditure of the residual \$21,493 plus any funds forthcoming from the Rotary Barossa group, be agreed with the Group and implemented as soon as practicable with available resources. It is understood that the next priority from the Group is a noticeboard at the Nuriootpa Dog Park.

Conclusion

The final project costings have been completed and a summary of remaining budget is provided. The Friends of the Barossa Dog Parks group has provided a concept plan of what they wish to continue to develop at the Nuriootpa site.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Email from Lyn Winters requesting additional facilities in the Nuriootpa Dog Park. 20/33327

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Community and Culture



Infrastructure



Health and Wellbeing



How We Work – Good Governance

Legislative Requirements

Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

As detailed earlier in the report.

Resource

Should Council support further improvements at the Nuriootpa Dog Park, this will require additional officer time to be allocated to assist the Group and manage any contractors and volunteer activity.

COMMUNITY CONSULTATION

The outcome of the further requests arise from interested community members via the Friends of The Barossa Dog Parks. No further public consultation has been required by Council's Public Consultation Policy.

7.4.1 DEBATE AGENDA – DIRECTOR WORKS AND ENGINEERING SERVICES

7.4.1.1

REQUEST FOR STORMWATER DRAINAGE WORKS – 1303 BAROSSA VALLEY WAY - LYNDOCH B10606 – 20/42350

Author: Manager Engineering Services

MOVED Cr Hurn that Council accept the offer from Michael Kies, owner of 1303 Barossa Valley Way, Lyndoch, for provision of a drainage easement to Council free of charge over the existing stormwater drainage swale, from Barossa Valley Way to Lyndoch Creek, and that Council assume care and responsibility of the stormwater drainage swale infrastructure within the easement.

Seconded Cr Haebich

CARRIED 2018-22/222

PURPOSE

A request has been received from Michael Kies, owner of the property at 1303 Barossa Valley Way, Lyndoch (Kies Family Wines), for Council to maintain the open drainage swale located within his property, from Barossa Valley Way to Lyndoch Creek.

REPORT

Background

An open stormwater drainage swale is located within the property at 1303 Barossa Valley Way, which conveys stormwater runoff from Barossa Valley Way to Lyndoch Creek, a distance of approximately 140 metres. Refer attached General Locality Plan. The stormwater catchment includes a large part of the western Lyndoch Township.

Correspondence has been received from Michael Kies, dated 4 July 2017 and 31 July 2017, requesting Council to upgrade and maintain the stormwater drainage swale located within his property at 1303 Barossa Valley Way – Kies Family Wines. Refer attached correspondence.

Intervening correspondence in reply from Council at the time, dated 20 July 2017, outlined Council's incapacity to upgrade or maintain stormwater drainage infrastructure on private land where there is not an easement to Council for this purpose. Refer attached letter.

Introduction

Stormwater has always traversed the Kies property, evidenced by the local stormwater flow paths and drainage systems. The drainage swale connecting to Lyndoch Creek appears to have been formalised and straightened over the years by the respective land owners.

The swale is not listed as a stormwater drainage asset belonging to Council and there is no stormwater drainage easement in favour of The Barossa Council over the drain land. Council has no jurisdiction over watercourses or drainage swales on private property and has no right to enter private land to perform maintenance works where there is no easement. Notwithstanding, Council has entered the Kies property at least once in the past decade, with the land owners permission, to de-silt the drainage swale with a backhoe.

The drainage swale now requires further maintenance work to repair erosion that has occurred over the past decade, especially in the lower reach. A private irrigation pipe, originally constructed well under the open drain, has been exposed by erosion and is now suspended across the scoured drain, with risk of damage to the irrigation pipe.

A more recent email has been received from Michael Kies, dated 3 August 2020, confirming the 2017 offer to grant an easement in favour of The Barossa Council for the purpose of Council maintaining the stormwater drainage swale through the property. Refer attached email.

Discussion

In South Australia all persons have a general statutory duty under the Landscape South Australia Act 2019 to maintain and not damage or affect a watercourse, flood plain, or lake located on their respective private properties. For information, most rivers, creeks and watercourses in the Barossa Region are located on private land, including Lyndoch's main watercourses - Lyndoch Creek and North Para River.

As the Kies drainage swale is located entirely on private property the infrastructure is likewise deemed to belong to the land owner, with all maintenance of the drainage flow path deemed the responsibility of the land owner.

For Council to upgrade or maintain a watercourse or drain on private land the drain is required to be registered as an asset of Council and have an easement over the infrastructure in favour of Council for drainage purposes, so that it can be accessed and maintained.

For information, within the Burge Family Wines property across the opposite side of Barossa Valley Way to the Kies property, an underground base flow drainage pipe was constructed by Council about 10 years ago to mitigate specific flooding issues relating to the low lying cellar door building. An easement was provided by the land owner to ensure legal access for Council to construct and maintain the infrastructure.

Also about a decade ago, Council upgraded the stormwater drainage outfall from the adjacent stormwater catchment to the east, which traverses the Lyndoch Recreation Reserve to Lyndoch Creek, with pipe infrastructure and easements constructed by Council.

There has been significant changes to the stormwater drainage catchment contributing to the drainage swale through the Kies land as a result of numerous upstream land divisions and other development over time, which has increased the overall stormwater runoff flow volumes. Upstream Council stormwater detention infrastructure, however, ensures that the peak developed stormwater flow rates are contained to the equivalent pre-development flow rates for up to the 1 in 100 year Average Recurrence Interval (ARI) – 1% Annual Exceedance Probability (AEP) – storm event.

If there was considered to be warrant for similar base flow pipe infrastructure through the Kies land, this would need to be assessed in terms of the Benefit Cost Ratio (BCR) - benefit gained relative to the cost expended. Whilst the Kies open swale drain adequately conveys the stormwater flow volume from the Barossa Valley Way culvert feeding it, maintenance and erosion control works are required in the immediate and long term.

Summary and Conclusion

In terms of the drainage swale on the Kies land, whilst the stormwater runoff peak flow rates for the catchment are considered to be contained appropriately, the overall flow volume has increased over time, which is increasing the risk of erosion within the drainage swale.

Given that development is a function of an approved Council activity, it would be reasonable for Council to take over the care and responsibility for this drainage swale infrastructure, including ongoing maintenance and any future upgrade work that may be deemed necessary for the drain to function at the required safe level of service.

The property owner has offered to provide the necessary easement rights to Council without charge. This would allow Council to legally perform necessary maintenance work on the drainage swale.

Any future need for upgrade of the drainage swale, if deemed necessary, will be the subject of a separate Drainage Capital Works Budget Initiative (NI) report.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 – General Locality Plan

Attachment 2 – Correspondence from Michael Kies to The Barossa Council, dated 4 July 2017 and 31 July 2017

Attachment 3 – Correspondence from The Barossa Council to Michael Kies, dated 20 July 2017

Attachment 4 - Correspondence from Michael Kies to The Barossa Council, dated 3 August 2020

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



- 3.1 Develop and implement sound asset management which delivers sustainable services.

Legislative Requirements

Natural Resources Management (NRM) Act 2004

Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The costs associated with the easement acquisition process will be:

- Easement Land - Nil cost, easement land rights are proposed to be gifted by the land owner.
- Easement conveyancing, Lands Title Office (LTO) and legal processes – approx. \$5,000
- Short term operational maintenance work to repair the drainage swale to a safe and functional level of service – approx. \$5,000

If the open drain becomes a Council stormwater drainage asset, a proportionate increase to future drainage maintenance operational budgets will be required.

Future capital upgrade of the drainage swale may be required for the drainage swale to function long term at the required safe level of service, including consideration of erosion control methodologies with possible projected costs of around \$55,000. Any future need for upgrade of the drainage swale, if deemed necessary, will be the subject of a separate Drainage Capital Works Budget Initiative (NI) report for Council to consider.

For Council to not assume care and responsibility for the drain and its maintenance will likely realise an increased risk of erosion in the short and long term.

COMMUNITY CONSULTATION

Nil

7.5.1. DEBATE AGENDA – DEVELOPMENT SERVICES REPORT

7.5.1.1

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT – IMPLEMENTATION – SERVICE LEVELS **B3624**

Author: Director Development and Environmental Services

MOVED Cr de Vries that Council:

- (1) Agree to support messaging to redirect customers from Council's website to the SA Planning Portal as the first point of contact for information regarding the planning system and assessment processes.
- (2) Only accepts applications (hard copy) and payment of fees at the Principal Office (Nuriootpa) for which the Barossa Assessment Panel, Assessment Manager or Council is the relevant authority.
- (3) Agree to utilise the existing Library public PC and scanning equipment for the Service Kiosk to allow applicants to lodge applications via the online Planning Portal.

- (4) Agree to waive the additional \$80 processing fee for hard copy lodgements until 30 June 2021.
- (5) Note that a separate Public Notification charge is to be set by Council for the provision and installation of signage at a site where the applicant has requested that Council perform this task, and that a further report be brought back to Council to adopt a Public Notification charge as outlined in this report.

Seconded Cr Johnstone

CARRIED 2018-22/223

PURPOSE

To seek approval/direction on service levels associated with the implementation of the *Planning, Development and Infrastructure Act* (PDI Act).

REPORT

Background

As part of the implementation of the *Planning, Development and Infrastructure Act* (PDI Act) a risk assessment had been prepared to identify any key issues that Council needed to address to ensure successful transition to the new planning system.

The initial risk analysis identified potential issues under the following headings:

- Customer service
- Governance
- Professional Accreditation
- Workloads
- Planning Portal

Introduction

The internal Transition Working Group has been working through the Action Plan following the completion of the Risk Assessment.

A number of the actions identified require direction as to the level of service that Council is prepared to provide as part of the new planning system, given that the Planning Portal and ePlanning solution is meant to be a centralised State-wide system.

A number of questions have arisen during the discussions, which are now presented to Council for determination as they impact service levels.

Discussion

Website content

The Development Services (DS) business unit currently maintain a number of Development Information Guides/Fact Sheets, as shown below.

Development, Building & Works Services

Below are a list of fact sheets that relate to any planning and works projects:

- [Short Term Visitor Accommodation](#)
- [Access and Facilities for People with a Disability](#)
- [Liquor Licensing](#)
- [Home Activity](#)
- [Development Approval](#)
- [Guidelines for undertaking Land Division - Standards and Requirements - Infrastructure Assets](#)
- [Public Notification and Your Role](#)
- [Development Application Requirements](#)
- [Development Application Decision Process](#)
- [Non-Complying Development](#)
- [Owner and Builder Information](#)
- [Community Wastewater Management Scheme \(CWMS\) Drainage Guide](#)
- [Vineyard Development](#)
- [Development and Maintenance of Road Verges](#)
- [Water Licences and Dams](#)
- [Audible Bird Scaring Devices](#)
- [Swimming Pools and Spas](#)
- [Use of Unmade Public Road](#)
- [South Australia's OnLine Planning and Design Code is now available](#)
- [OnLine Planning and Design Code Frequently Asked Questions](#)

Figure 1 - Council's website content for development

As part of the new website rebuild, DS staff have been tasked to review current development information guides/fact sheets to determine if they are needed to maintain guidance on specific subject matter, or if new information is required.

It is also proposed that the website include messaging/links to redirect customers to the SA Planning Portal as the primary source of information relating to the new planning system and assessment pathways.

Online and Counter Services

The new systems seek to direct applicants to the new online Planning and Design Code (*Figure 1*) and lodgement of applications within the state-wide ePlanning framework.

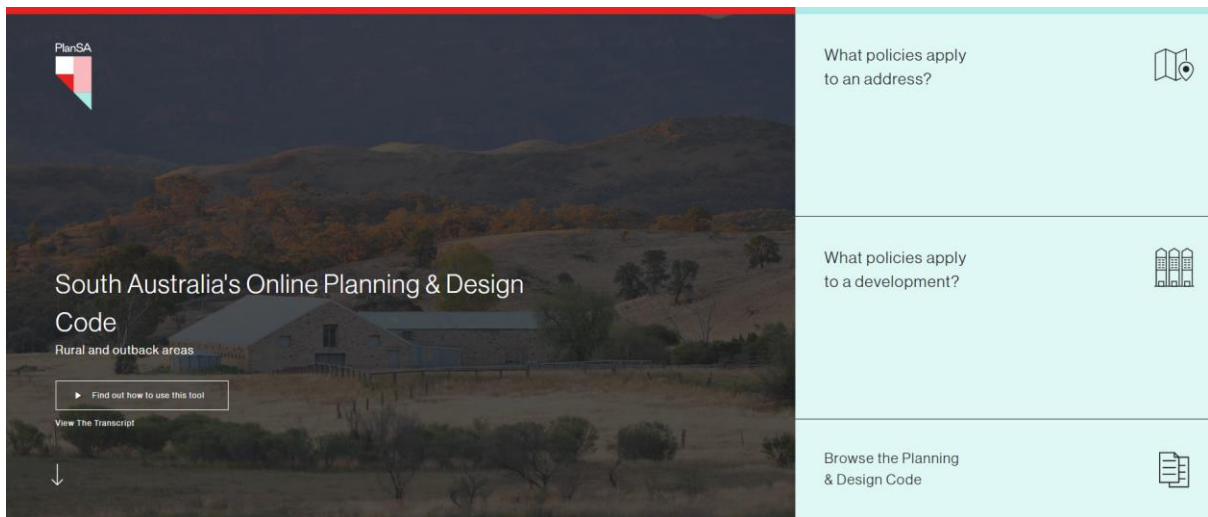


Figure 2 - Online Planning and Design Code <https://www.code.plan.sa.gov.au/>

However, it is acknowledged that not all applicants may necessarily have capability to access the ePlanning framework. Accordingly, there is still an expectation that members of the community/industry can still approach councils to lodge their applications in hard copy at the counter.

Council will be required to lodge applications through the ePlanning framework on behalf of applicants. Applications submitted via email/mail will be treated in the same manner, though over time this will be discouraged.

As is the current service level, applications and payment of fees are to only be made at the Principal Office (Nuriootpa). This is to allow access to a Duty Planner should an applicant seek additional information/support in the lodgement process.

Given that the ePlanning framework is a State-wide system, there is an opportunity to lodge multiple applications for different parts of the State. However, when it comes to hard copy lodgements it is proposed that Council only receive applications on behalf of applicants that are for development within the Council area.

While Council is required to accept hard copy applications, it is proposed that Council establish a Service Kiosk (PC, Monitor and Scanner) that will allow an applicant to self-lodge their applications and payment of fees via the Planning Portal – for proposal anywhere within the State. In the interim, it is proposed that the Service Kiosk be via the PC, Monitor and Scanner located within the Nuriootpa Library to avoid the need to purchase and set up a stand-alone kiosk. Demand for the kiosk will be monitored and its impact on regular Library customers.

The alternative is to purchase additional equipment to set up a designated Planning Portal Service Kiosk.

Fees and Charges

All fees and charges are set by the State Government. A copy of the proposed new Fees and Charges under the PDI Act are provided in Attachment 1.

Fees and charges are no longer distributed as a percentage of the fees between councils and the State Government. Instead, councils receive 100% of the Planning Assessment and Compliance fees and the State Government receive 100% of Lodgement (excluding hard copy lodgement), Land Division Assessment and Building Assessment fees.

Under the new model, DPTI will transact all planning and building fees within the online system. For fees charged by councils, DPTI will be responsible for collecting and then forwarding the fee revenue to councils.

A formal Instrument of Agreement needs to be entered into with the Minister for Planning for Fee Collection and GST payments.

As Council Assessment Panels and Assessment Managers are a relevant authority in their own right, regulations have been set to allow a council to receive payment of fees for applications on behalf of a Council Assessment Panel or Assessment Manager.

The question has been raised as to whether councils can process payment at the counter on behalf of an applicant given the complexity of dealing with a non-council payment and credit card requirements – third party transaction. Advice is being sought on these issues through the Local Finance Manager Network and the LGA.

Lodgement fee

In addition to the standard Electronic Lodgement Fee (\$177), there is a new Hard Copy Lodgement fee. This is an additional \$80 that a Council may opt to apply in processing the lodgement on behalf of an applicant. As stated above, Council will receive this component of the Lodgement Fee.

As this additional \$80 fee is optional, the question is whether Council wishes to apply this fee or potentially delay its application for six to twelve months.

The Transition Working Group have suggested that a delay in the commencement be considered to allow applicants to adjust to the new system. It is acknowledge that this will reduce revenue from the new system.

Notification of Performance Assessed Development

Under the current system, Council charge \$330 to an applicant to place the Category 2 or 3 Public Notice in the local paper. This is a charge determined to recover the cost of publishing the Notice.

Under the new system, the State Planning Commission (the Commission) can issue Practice Directions for the purposes of the Act. A Practice Direction has been issued by the Commission to support the operation of section 107(9) of the Act with respect to the notification of performance assessed development applications.

Under the Practice Direction an applicant is responsible for giving Notice of the application to members of the public by Notice placed on the relevant land (either personally or by engagement of a contractor) or request the relevant authority to place the Notice on the land and pay the relevant fee.

A template outlining the minimum content of the Notice is contained in Attachment 2.

The applicant or council responsible for erecting the Notice are to ensure the following information is uploaded to the relevant application record on the SA Planning Portal:

- Within 1 business day after erecting the Notice on the land, a photograph clearly displaying the Notice on the land, with details of the location, date and time the photograph was taken; and
- Within 2 business days of the end of the notification period, a written statement confirming that the Notice on the relevant land was undertaken in accordance with the relevant requirements of the Act, Regulations and this Practice Direction.

The simplicity of placing a Public Notice in the paper has been replaced with a targeted notification at the property. There is still a requirement to write to adjoining property owners.

The Transition Working Group has identified that the placement of the Notice will require additional resources compared to the current Public Notice. There is the production of the Notice (all weather), installation at the site and reporting via the Planning Portal.

In setting a suitable cost recovery charge for the provision of the service on behalf of the applicant, the working group has identified a potential formula.

Notification Charge = Base Fee (production) + Travel/Installation

The base fee is proposed to be the current \$330. The travel/installation cost is to be calculated on the distance from the Principal Office and the township to be travelled to. Notionally, the further away the higher cost. For example, Angaston may be \$100 while Williamstown may be \$200.

A refined methodology for calculating the charge is being developed and will be presented to Council for endorsement in time for the commencement of Phase 3 of the Planning and Design Code.

Summary and Conclusion

The Transition Working Group has identified a number of actions that require direction as to the level of service that Council is prepared to provide as part of the new planning system.

Once these service levels are agreed to, further refinement of the implementation action plan will be made, along with any amendments needed to our systems and processes.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 – New Fees and Charges at a Glance
- Attachment 2 – Notice Template

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 (Fees, Charges and Contributions) Regulations 2019
- Planning, Development and Infrastructure (General) Regulations 2017
- Planning, Development and Infrastructure (Transitional Provisions) Regulations 2017

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial Management

As identified in this report, the distribution of fees and charges associated with development applications has been altered. Given the categorisation of development under the new assessment pathways, there is a level of uncertainty as to the impact this will have on the revenue received by Council.

The 2020-21 budget has set development assessment revenue at \$371,000, with \$20,000 in expenditure as levies paid to Government. There is an additional \$18,000 payable to government for contribution to the Planning Portal (Group B).

Risk Management

A risk assessment has been prepared as part of the implementation of the PDI Act. The assessment has identified a number of activities that need to be implemented to ensure an effective transition from the current system to the new system at the commencement of the third and final phase of the Planning and Design Code later this year.

COMMUNITY CONSULTATION

Nil

7.5.1.2

DRAFT LOCAL DESIGN REVIEW SCHEME FOR SOUTH AUSTRALIA – ANALYSIS AND KEY SUBMISSION RESPONSE (B3624)

Author: Paul Mickan, Principal Planner

MOVED Cr de Vries that Council:

- (1) Notes the report and endorses the key messages to be included in its submission on the *Local Design Review Scheme for South Australia Draft for Consultation and Consultation Guide*;
- (2) Authorises the Chief Executive Officer or his delegate to prepare a submission and for this to be submitted to the Office for Design and Architecture South Australia by 21 August 2020.

Seconded Cr Schilling

CARRIED 2018-22/224

PURPOSE

To receive and endorse an overview of the draft *Local Design Review Scheme for South Australia* contained in the *Draft for Consultation and Consultation Guide* documents together with key messages to deliver in Council's submission. The report recommends that Council notes the report with delegation to the CEO to finalise the submission.

REPORTContext

"Design Review" is an independent evaluation process where a panel of built environment experts (a Design Panel) reviews the design quality of a development proposal and provides design advice. In practice this process takes place prior to lodgement of a development application.

Design Review is currently available for certain developments in Metropolitan Adelaide through the Office for Design and Architecture South Australia (ODASA). The Planning, Development and Infrastructure Act 2016 (the Act) provides scope for design review to be available across the whole State, operating through a scheme determined by the Minister for Planning and Local Government.

ODASA has prepared a draft Local Design Review Scheme for South Australia (the draft Scheme) on behalf of the Minister in collaboration with the State Planning Commission and is inviting comments on the draft Scheme until 21 August 2020. The Draft for Consultation and an accompanying Consultation Guide are contained in Attachment 1.

During preparation of the draft Scheme ODASA met with representatives of selected councils including our Council, represented by the Director, Development and Environmental Services

and the Principal Planner. Those discussions explored the potential for design review at the local level and any specific aspects the scheme needed to address.

At this point Council does not need to decide if it wishes to offer Design Review and it is important to note that providing comment on the draft Scheme does not commit or oblige Council to participate in the Scheme now or in the future. Participation in the Scheme will be a separate decision for Council.

Draft Scheme features

Under the Act Design Review will only be available for classes of development specified by the Planning and Design Code (the Code). The Act also provides that if a person applies for advice in relation to a class of development specified by the Code, a Design Panel will be appointed - i.e. there is no discretion to decline an application for advice.

The Act states that a relevant authority must take into account any advice provided by a Design Panel (insofar as may be relevant to the assessment of the proposal). The Act also states that a Design Panel may adopt its own procedures.

An extract of the Act showing the relevant provisions is included in Attachment 2.

The draft Scheme proposed by the State Planning Commission via ODASA expands on the provisions in the Act, but also introduces new concepts and obligations. The key features of the draft Scheme are:

- Councils will have a choice whether or not to make Design Review available in their area
- If a council chooses to make Design Review available it must work with the State Planning Commission to specify the eligible classes of development to which local design review will be available
- If a council chooses to participate it may:
 - Establish its own Design Panel
 - Establish a joint Panel with a group of councils
 - Procure a Design Panel from an independent provider on an as-needs basis
- A council, group of councils or independent provider will be required to seek registration as a "Designated Entity"
- Procedures will apply regarding recruitment and training of Panel members; Design Panel appointment; process to provide design advice; reporting and monitoring; Code of Conduct
- Participation by proponents would be optional but the process would be undertaken prior to lodgement of a development application
- An application fee (yet-to-be-determined) will apply
- A Design Panel may provide advice about one or more of the following:
 - The form or content of the proposed development
 - How the proposed development might be changed or improved
 - Other matters that may assist with the assessment of the development
 - Such other matters as the Design Panel thinks fit

Although silent on the matter, participation by a council in design review will incur costs including reimbursement of Panel members and administration; however any costs would need to be weighed against potential Council or community benefits such as potentially better design outcomes. These are matters to consider at a future time when Council might consider whether or not to participate in the process.

Analysis of the draft Scheme

As Design Review is a component of the new planning system it is accepted there needs to be some formality and detail to the Scheme and associated processes; however there are concerns among council practitioners that the draft Scheme is unnecessarily complex to the point that it might actually discourage participation by councils. In this regard specific concerns relate to:

- The requirement for councils to seek registration as a "Designated Entity"
- The obligation for renewal of registration every three years
- Imposition of a fee to seek registration with no detail provided as to the purpose of the fee and how it is to be used, the actual amount, and whether it is payable annually or only on renewal of registration

There are also concerns about the lack of detail provided regarding the process to specify the classes of development that a council intends to be available for Design Review. As indicated previously these would be identified within the Code, most likely via an Overlay introduced through a Code Amendment (similar to the current Development Plan Amendment process), but no detail is provided on the Code Amendment process such as when it would occur, who initiates it, and whether it would require formal public consultation. It is recommended that Councils' submission requests that the designation process should be a formality following registration as a Designated Entity (if that requirement is maintained). Councils' submission should also request that the Scheme include the ability to fine-tune the specified classes of development, perhaps linking this to the proposed reporting and monitoring process.

As indicated earlier, Design Review is currently offered by ODASA for certain designated developments in the metropolitan area. Although the Act appears to envisage a single Design Review Scheme for the State, the draft Scheme appears to only apply to councils and independent providers and would not replace the existing ODASA process. This raises issues such as potential duplication of design review options in the metropolitan area and the unfair treatment of non-metropolitan councils in that metropolitan councils could decide to continue to rely on the ODASA process whereas non-metropolitan councils would need to go through the formal registration and Panel member recruitment processes bearing all the associated Panel costs. Arguably if the ODASA process continues it is questionable what legitimacy it would have in that the Act provides for a Scheme, not multiple Schemes.

Summary

The draft Local Design Review Scheme as proposed by ODASA introduces various formal registration and operational obligations and procedures. While some formalities are necessary it is considered that the proposed Scheme could be too complex which may limit its use. The consultation documents raise a number of issues and questions which should be included in a submission. It is recommended that the Chief Executive Officer be delegated to prepare a submission on behalf of Council.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 - Local Design Review Scheme for South Australia Draft for Consultation and Consultation Guide
- Attachment 2 - Extract from *Planning, Development and Infrastructure Act 2016*

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Natural Environment and Built Heritage

Corporate Plan

1.1 Facilitate planned and appropriate development of our townships and district to maintain the character of townships and rural landscapes and to preserve properties and sites which have historic significance.

1.11 Provide transparent, efficient and effective development assessment processes and regulatory activities.

Legislative Requirements

Planning, Development and Infrastructure Act 2016

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

There is no relevant consideration at this point. Participation in design review would require a future budget allocation however that would require a separate decision once a Scheme is operational.

Resource

There is no relevant consideration at this point. Participation in design review would impose resource demands however they are matters to consider in future at such time that Council considers it potential involvement in a Scheme.

Risk

There is no relevant consideration at this point. No action would be able to be brought against a member of a Design Panel on the basis of any advice or other action given or taken by a Design Panel, if Council was to participate. Because a Design Panel is independent and can adopt its own procedures, they may not necessarily or wholly align with local expectations.

COMMUNITY CONSULTATION

Consultation on the draft Local Design Review Scheme is being undertaken by the State Planning Commission through ODASA. We are not aware of local community consultation being undertaken.

7.5.4.1

MOBILE FOOD VENDOR POLICY AND LOCATION RULES

B6097

Author: Manager, Regulatory Services

MOVED Cr Hurn that Council:

- (1) Receive and notes the contents of the four submissions received from the community during both phases of public consultation.
- (2) Having considered the submissions, endorses the Draft Mobile Food Vendors Policy and Location Guidelines as a Policy of Council; and,

Monitors the Implementation for a period of 12 months, with a subsequent report to be presented to Council by August 2021;
- (3) Endorses the Annual and monthly Mobile Food Vendor permit fees of:

Annual Permit Fee:	\$2,000.00
Monthly Permit Fee:	\$200.00

To be incorporated into Council's Fees and Charges Register.

Seconded Cr Haebich

CARRIED 2018-22/225

PURPOSE

To seek Council's endorsement to formalise a Mobile Food Vendor Policy and Location Rules.

REPORT**Introduction**

Council has undertaken two phases of public consultation seeking the community's feedback on a Draft Mobile Food Vendor's Policy and Draft Location Rules. The second phase of consultation was undertaken due to the first phase of consultation coinciding with the outbreak of COVID-19 in the region.

This report seeks to endorse and formalise the Draft Mobile Food Vendor Policy and Location Rules for implementation.

Discussion

Four responses were received across both public consultation periods. A summary of the submissions and officer comments in response are provided below.

Who	Method	Respondent category	Comments
Nuri23	yoursay.barossa	I am a Mobile Food Vendor	"Mobile food vendors provide a unique service to the residents and visitors to the Barossa Valley region. The items are often produced with locally sourced ingredients and they offer convenient easy to eat options while on the go. They encourage local jobs and add vibrancy of the community and local events and festivals."
Officer Comments			Submission from a Mobile Food Vendor in support. No specific draft policy amendments recommended.
Pennyshiraz	yoursay.barossa	I am an Interested person	"Doesn't go far enough to protect established rate paying permanent businesses who employ local people and invest in bricks and mortar."
Officer Comments			Councils are limited by current legislation. No specific draft policy amendments recommended. Recommend officers monitor implementation over 12 month period with further report to Council for consideration prior to August 2021.
Mr Scott	Facebook Comment	Not known	"You make it too involved via the website. I would suggest food vans only permitted on streets as a part of a organised event." [SIC]
Officer Comments			Currently, the legislation does not allow such restriction. No specific draft policy amendments recommended. Recommend officers monitor implementation over 12 month period with further report to Council for consideration prior to August 2021.
Ms Osbourne	Email	I am a ratepayer	"Should not be allowed to operate on a specific site more than one day a week. Should not be allowed to operate within 3 k of any cafe/restaurant/any permanent facility selling food. Should pay higher fees for permits to make them more competitive with business rate payers overheads. Should not operate in residential zones and cause nuisance noise, rubbish, vehicles etc

		<p>Sell products that do not directly copy businesses within townships ie coffee vans in lay-bys when there are dozens of coffee shops in Tanunda who pay business rates and employ more than one/two people.</p> <p>Should not be allowed to trade within a local business on their premises when there are food businesses within 1 k of site ie cellar door in town hires food truck within distance of established pub that provides food.</p> <p>Ensure vans operate safely, have seen bare wires running over pavement unprotected." [SIC]</p>
Officer Comments		<p>Councils are limited by current legislation. Appeal rights of aggrieved MFVs to small business commissioner also exist.</p> <p>Proposed framework addresses the points raised about residential areas (unless mobile ice cream vendor), nuisances, litter and hazards. Maximum fees permitted by legislation have been recommended for adoption.</p> <p>Legislation prevents councils limiting the type of food being sold. Framework and intent of the legislation excludes private land.</p> <p>No specific draft Policy amendments recommended at this time. Recommend officers monitor implementation over 12 month period with further report to Council for consideration prior to August 2021.</p>

As anticipated, the responses were divided with one being in favour and three recommending more restrictions to support fixed food businesses. Overall, the low response rate after two rounds of consultation suggests that the community in general, does not appear to have a strong view either way.

As a result, Officers recommended that Council endorse the Mobile Food Vendors Policy and Location rules unchanged, as presented and endorsed at the May Council meeting.

If supported, officers will monitor the implementation of this new Policy and provide a report for Council's review and consideration prior to August 2021. This will also provide an opportunity to review and consider any changes made to the Local Government Act 1999.

Summary and Conclusion

It is recommended the Council endorsed the Mobile Food Vendor Policy and Location Rules as a Policy of Council.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Draft Mobile Food Vendor Policy and Location Rules
Attachment 2: Department for Planning, Transport and Infrastructure
Mobile Food Vendor - Operation Guidelines

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Community and Culture

2.8 Provide opportunities for the community to participate in local decision-making.



Health and Wellbeing

4.7 Ensure food safety, hygiene and appropriate waste management standards are maintained.



Business and Employment

5.8 Ensure advice and support for small business is available.

5.13 Support economic development through events.

Corporate Plan



How We Work – Good Governance

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

Legislative Requirements

Section 222, 224, 225A, 225B - Local Government Act 1999

Regulation 25A, 25B, 25C - Local Government (General) Regulations 2013

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Risk Management

Risk management considerations have been incorporated into the Policy framework in an effort to minimise nuisances, hazards and other adverse impacts caused by Mobile Food Vendors.

Financial Considerations

As previously reported, officers recommend the maximum annual and monthly fees.

Resource Considerations

The resource implications are largely unknown but will be monitored closely over the recommended 12 month review period.

COMMUNITY CONSULTATION

In accordance with Council's Public Consultation policy, the community were invited to provide written feedback and submissions in relation to the draft documents.

The second phased of consultation commenced on 17 June 2020 and concluded on 7 July 2020. Engagement methods included Council's new yoursay.barossa.sa.gov.au consultation platform, a media release, a public notice in a local newspaper, hard copy documents at branch offices and several Facebook posts inviting responses from the community.

One response was received during the first phase and three responses during the second phase, including one Facebook comment.

7.5.4.2**DRAFT ENFORCEMENT POLICY****B6097**Author: Manager, Regulatory Services**MOVED** Cr Haebich that Council:

- (1) Endorse the Draft Enforcement Policy for a period of public consultation in accordance with Council's Public Consultation Policy.
- (2) Adopts the Draft Enforcement Policy as a Policy of Council, at the immediate conclusion of the public consultation period, in the absence of any written submission being received.

Seconded Cr de Vries**CARRIED 2018-22/226****PURPOSE**

To consider and endorse a Draft Enforcement Policy for public consultation.

REPORT**Introduction**

Local Government is charged with a range of enforcement powers under various pieces of legislation to assist in protecting the community, the landscape, the local environment and amenity.

A Draft Enforcement Policy (the draft Policy) has been prepared which provides a framework to guide Council and its officers in investigating breaches of legislation and undertaking enforcement action.

Discussion

The draft Policy was presented at a recent Council workshop.

Having such a Policy is considered a best-practice rather than a legal requirement. It will provide consistency, proportionality, transparency and guidance to Council and its officers in investigating breaches of legislation or considering whether to undertake enforcement action.

The draft Policy has been based on the Local Government Association's Template and is consistent with many other councils, and is provided as Attachment 1.

The draft Policy provides the following Policy statement:

"It is Council policy position to seek to resolve enforcement matters in the first instance through a collaborative or negotiated approach where possible and appropriate, but acknowledges the need for formal enforcement action in certain circumstances."

Whilst it provides an initial focus on conciliation, collaboration and non-regulatory options in appropriate circumstances; it also provides and supports various formal enforcement options where the matter being investigated necessitates.

The draft Policy seeks to provide an overarching framework for the range of statutes that Council has responsibility for administering.

Summary and Conclusion

The draft Policy has been prepared to guide Council and officers in the discharge of a range of regulatory, enforcement or compliance activities across all department of Council.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1: Draft Enforcement Policy

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Community and Culture

2.8 Provide opportunities for the community to participate in local decision-making.

2.12 Contribute to a safer community

Corporate Plan



How We Work – Good Governance

4.7 Address nuisance and environmental risk such as animals, vermin, pest control, illegal dumping on public land and fire prevention.

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

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.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Risk Management

The draft Policy is not a legal requirement but is considered best practice. It has been based on existing approaches to enforcement and provides formal guidance to Council and Council officers to ensure consistency, transparency and proportionality, which may limit Council's risk exposure.

There are no other risk management considerations.

Financial Considerations

There are no known financial considerations.

Resource Considerations

There are no known resource considerations. The document does not provide specific examples. Guidelines or services level statements about specific matters may be determined later if deemed necessary.

COMMUNITY CONSULTATION

It is proposed to undertake a period of public consultation in accordance with Council's Public Consultation Policy.

