



*The Barossa Council*

**MINUTES OF THE SPECIAL MEETING OF THE BAROSSA COUNCIL**

held on Wednesday 2 September 2020 commencing at 5.30pm held digitally via Microsoft Teams recorded and posted on the Council website for future reference.

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**1.1 WELCOME**

Mayor Bim Lange declared the meeting open at 5.34pm.

Cr Hurn was not present at the meeting at 5.34pm.

**1.2 MEMBERS PRESENT**

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

Cr David Haebich was visually present but due to a technical matter was unable to respond.

There being 10 members present a quorum was reached and the Mayor continued the meeting.

**Officers Present**

Mrs Joanne Thomas, Director Corporate and Community Services

Mr Matt Elding, Director Works and Engineering Services

Mr Gary Mavrinac, Director Development and Environmental Services

Mr Martin McCarthy, Chief Executive Officer

Mrs Marisa South, Minute Secretary

**1.3 LEAVE OF ABSENCE**

Nil

**1.4 APOLOGIES FOR ABSENCE**

Nil

## 2. DEBATE AGENDA – ENVIRONMENTAL SERVICES REPORT

### 2.1

#### **GENETICALLY MODIFIED CROPS – COMMUNITY SURVEY/SUBMISSIONS AND DETERMINATION OF APPLICATION FOR GM FREE CROP ZONE**

**B11127**

**MOVED** Cr de Vries that Council:

- (1) Note and receive the results of the survey and submissions received,
- (2) Authorise the Chief Executive Officer and/or his delegate to submit an application to the Minister for Primary Industries and Regional Development to remain a GM-free council area pursuant to Section 5A of the *Genetically Modified Crops Management Act 2004*,
- (3) In submitting an application, the trade and marketing impacts to be based around the industry responses.

**Seconded** Cr Angas

**CARRIED 2018-22/227**

Due to technical issues Cr Haebich was visually present but absent from the vote at 5.39 pm.

#### **PURPOSE**

To provide Council with the outcomes of the community consultation that was conducted between 9 July 2020 and 19 August 2020 pursuant to *Genetically Modified Crops Management Act 2004* to assist Council determine whether it is to proceed with an application to the Minister for Primary Industries and Regional Development to remain a GM-free council area.

#### **REPORT**

##### Background

At the 29 June Special Council meeting, Council resolved to undertake consultation pursuant to Section 5A of the *Genetically Modified Crops Management Act 2004* to assist Council determine whether it is to proceed with an application to the Minister for Primary Industries and Regional Development to remain a GM-free council area.

An application must be made to the Minister by 30 September 2020. The final decision on the Moratorium remains with the Minister for Primary Industries and Regional Development.

##### Introduction

As per the endorsed Communication Plan, Council consulted with the community, including persons engaged in primary production activities and food processing or manufacturing activities in the area of the Council.

A survey was made available for interested persons and organisation to complete to identify their interest and position with regard to the Barossa area being kept GM Crop Free.

Individuals and organisations had also made written submission to Council. These were received from:

- Monika Quattrocchi, Monika's Organics
- Donella Peters, Keep SA GM-Free
- Glencore Agriculture
- Viterra

- Donna Beadman
- Jenny Bell
- Alex Hodges
- Graham Brookman, The Food Forrest
- Grain Producers SA
- Jamie Wilson
- Barossa Grape and Wine Association
- Julie Newman

Copies of all the submissions received are provided in Attachment 1.

As per the July Council Report, all previous submissions have been collated as part of the consultation. These are provided in Attachment 2 for completeness in this report.

As per the resolution from the Special Council meeting, Council Administration also liaised with neighbouring Councils with the intent to see if there is any interest in making a joint application. As reported then, the Adelaide Hills Council has already suggested an opportunity to collaborate.

Light Regional Council indicated that they may enquire to a coordinated approach once it has determined its position on whether to prepare an application.

The Town for Gawler has advised that as part of Infrastructure and Environmental Services Committee, it recommended that Council invites adjoining councils to participate in a study to prepare a report on the trade and marketing implications of in order to develop a clear indication of the impacts on the region.

Adelaide Plains Council resolved not to pursue an application, and not provide comment as part of our consultation process.

Mid Murray Council did not provided a response.

### Discussion

#### **Survey**

Council received 112 submissions through Your Say Barossa. The results are presented Attachment 3. Below is a summary of key components of the survey.

Of the respondents 59.8% are community members, 38.4% business owners or primary producers and 1.8% association or incorporated organisations.

The vast majority (52) of respondents are residents of the Council area, and 17 respondents indicated they work in the Council area.

While being an emotive question, 73.1% of respondents indicated that they 'always' choose products based on them being labelled as GM Free.

With respect as to whether there would be a positive or negative trade and marketing impact of allowing GM Crops, 66.5% indicated 'Very likely' and 15.6% 'Likely'. Only 11.1% indicated 'Unlikely' or 'Not at all likely'. 4.4% are unsure. Figure 1 presents the results across the three sectors.

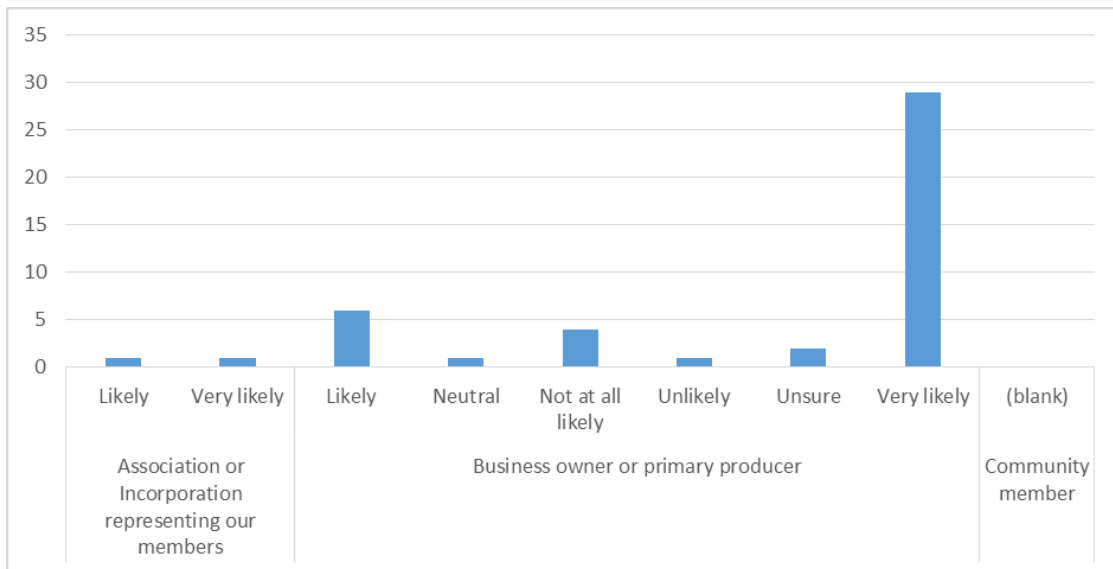


Figure 1 - Trade and Marketing Impact

When asked as to whether Council should make application to the Minister, the overall support was 84.9% (Strongly support and Support) compared to 12.5% 'Do not support' and 'Strongly do not support'.

Figure 2 presents the results across the three sectors, with the Community members providing the biggest support, following by 31 within the Business owner or Primary producers sector.

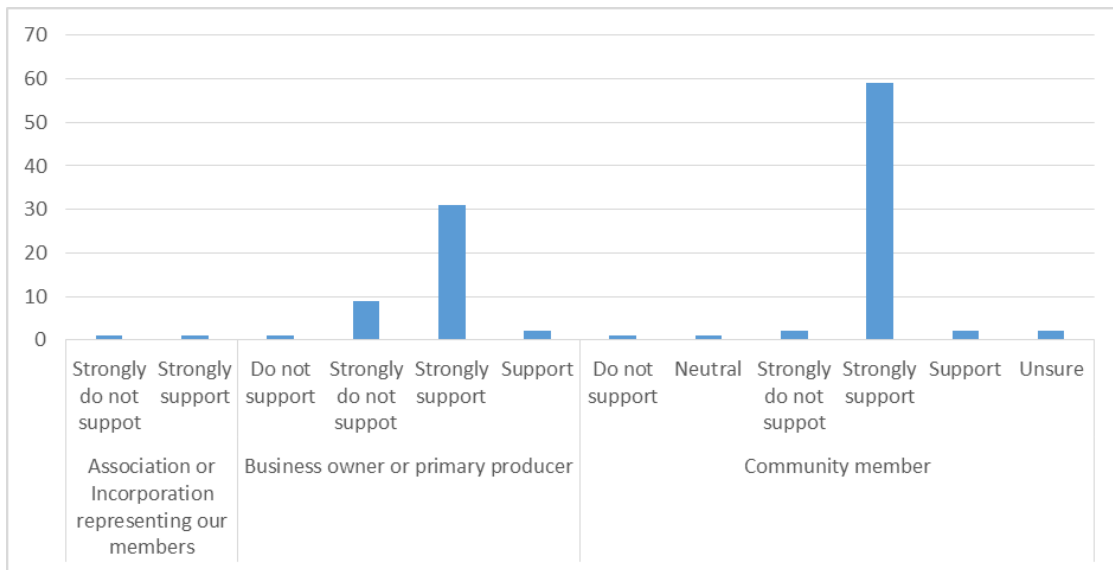


Figure 2 – Support for Application

Table 1 provides a breakdown of the business owner or primary producers that indicated strong support for Council to make an application.

Table 1 - Business Owner or Primary Producers further response breakdown

What crop(s) / product(s) does your business produce/ manufacture/ retail/export?	Do you export any of your crop(s) / product(s) overseas?	Is your business located in The Barossa Council area?	In which industry is your business? (select all that apply)
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Craft Gin and Grape Based Spirits	Yes	Yes, our head office is located in The Barossa Council area	Beverage manufacturing (other than wine)
Crops ,sheep ,honey, grapes	No	Barossa ,light council	Livestock farming (other than diary), Grain farming , Grape growing, Other industry (please specify),bee keeping
None	No	Yes, our head office is located in The Barossa Council area	Grape growing, Fruit and nut tree growing (other than grapes), Other industry (please specify),Tourism
Tourism Accommodation	No	Located within the Barossa Wine GI, in Light Regional Council	Other industry (please specify),Tourism
Wool/beef/lamb/wine	Yes	Yes, we are located in The Barossa Council area	Livestock farming (other than diary), Grape growing
Grapes & wine	Yes	Yes, we are located in The Barossa Council area	Grape growing, Wine making
Wine	Yes	Yes, we are located in The Barossa Council area	Grape growing, Wine making, Other food or beverage product manufacturing (not specified above)
Wine	Yes	Yes, we are located in The Barossa Council area	Grape growing, Other plant or crop growing (not specified above)
Wine	Yes	Yes, we are located in The Barossa Council area	Livestock farming (other than diary), Grape growing, Fruit and nut tree growing (other than grapes), Other plant or crop growing (not specified above), Wine making
Sourdough bread with locally sourced and mulled flours.	No	Yes, we are located in The Barossa Council area	Bakery product making
Grains, pulses, flour	No	Yes, we are located in The Barossa Council area	Other industry (please specify),Restaurant
Grapes	No	Yes, we are located in The Barossa Council area	Grape growing
Grapes and cereal crops	Yes	Yes, we are located in The Barossa Council area	Grain farming , Grape growing, Livestock farming (other than diary), Fruit and nut tree growing (other than grapes), Mushroom and vegetable growing
Honey, sheep, cereal	Yes	light council	Livestock farming (other than diary), Grain farming , Grape growing, Other food or beverage product manufacturing (not specified above)

Wine grapes	No	Yes, we are located in The Barossa Council area	Grape growing, Fruit and nut tree growing (other than grapes), Other industry (please specify), Legal Services
Grapes/Wine	Yes	Yes, we are located in The Barossa Council area	Wine making, Grape growing
Grapes	No	Yes, we are located in The Barossa Council area	Grape growing
Grapevines	Yes	Marananga in the Light Council	Wine making
Wine grapes retail and export	Yes	Yes, we are located in The Barossa Council area	Grape growing, Wine making
Canola, wheat, barley, faba beans, oats, peas, hay, sheep meat, wool and stud merino and poll merino breeding. Products are sold for human and animal consumption and use locally, in Australia and overseas.	Yes	Yes, we are located in The Barossa Council area	Livestock farming (other than diary), Grain farming, Other plant or crop growing (not specified above)
Cereal crops	No	Yes, we are located in The Barossa Council area	Livestock farming (other than diary)
Sheep/lamb	No	Yes, we are located in The Barossa Council area	Livestock farming (other than diary)
Oats, Wool, Meat	No	Yes, we are located in The Barossa Council area	Livestock farming (other than diary), Grain farming, Fruit and nut tree growing (other than grapes)
Grapes & Wines	Yes	Yes, we are located in The Barossa Council area	Grape growing, Wine making
Meat and hay	No	Yes, we are located in The Barossa Council area	Livestock farming (other than diary)
Grapes, barley, triticale, wine, lamb, wool	Yes	Yes, we are located in The Barossa Council area	Livestock farming (other than diary), Grain farming, Grape growing, Wine making, Other industry (please specify), premium wool growing
Vegetables and fruits	No	Yes, we are located in The Barossa Council area	Fruit and nut tree growing (other than grapes), Mushroom and vegetable growing
Wine grapes and wine, livestock grazing	Yes	Yes, we are located in The Barossa Council area	Livestock farming (other than diary), Grape growing, Wine making
Pizzas	No	Birdwood on the Barossa Council boundary	Other food or beverage product manufacturing (not specified above)
Wine grapes and wine	Yes	Stone Well, technically Light council but spiritually and Geographically Barossa	Grape growing, Wine making

Grapes and wine	Yes	Yes, we are located in The Barossa Council area	Grape growing, Wine making
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### Submissions

Of the twelve written submissions received between 9 July 2020 and 19 August 2020, eight are in favour of retaining GM Free status and four are in support of allowing GM crops.

#### Retain GM free status

Monika Quattrocchi, Monika's Organics  
Donella Peters, Keep SA GM-Free  
Donna Beadman  
Jenny Bell  
Alex Hodges  
Graham Brookman, The Food Forrest  
Julie Newman  
Barossa Grape and Wine Association

#### Remove GM free status

Glencore Agriculture  
Viterra  
Grain Producers SA  
Jamie Wilson

### Trade and Marketing Impact

As stated in previous reports, the Minister will only consider evidence related to the trade and marketing impact of GM crops.

The written submissions sought to address these impacts in various levels of detail including, Grain Producers SA (GPSA) and the Barossa Grape and Wine Association (BGWA).

GPSA argue that there is no sound trade and marketing basis on which to apply for designation, and that growers should be provided a choice to grow crops that best fit their farming systems. GPSA has recommended that Council not pursue designation, and that any application would have to meet the high threshold criteria set by the Mecardo Report and Anderson Review.

The BGWA supports the retention of the GM Free status for the three councils (Barossa, Light and Mid Murray) that incorporate the Barossa Zone Geographical Indexation. The BGWA highlight the potential negative impact on the reputation and leading brand position of the Barossa.

#### Summary and Conclusion

Council has conducted consultation pursuant to Section 5A of the *Genetically Modified Crops Management Act 2004* to assist in determining whether it is to proceed with an application to the Minister for Primary Industries and Regional Development to remain a GM-free council area.

The overall response from the survey support Council to make an application.

Should Council decide in favour of an application, it is proposed that the trade and marketing impacts be based around the industry response provided by the Barossa Grape and Wine Association and others supporting Council remaining a GM-free area.

### ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 – Copies of submissions  
Attachment 2 – Copies of previous submissions  
Attachment 3 – Survey Response Report

### COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Natural Environment and Built Heritage



Community and Culture



Business and Employment

#### Corporate Plan

- 1.5 Maintain and seek to expand Council initiated native conservation and land management initiatives.
- 2.3 Support and promote community involvement and networks and provide opportunities for participation in local decision making.
- 5.7 Contribute to the ongoing development of a coordinated local economic development strategy and ensure that Council's land use policy and practices enable and support the strategy's implementation.

#### Legislative Requirements

Genetically Modified Crops Management Act 2004

Local Government Act 1999

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

*Financial Management*

Nil

*Risk Management*

Nil

### **COMMUNITY CONSULTATION**

Nil

## **3. CONFIDENTIAL AGENDA - FINANCE**

### **3.1**

#### **TAXATION RULING 2009/2 SUPERANNUATION OF LEAVE LOADING**

Pursuant to S75 of the Local Government Act 1999 Cr Boothby after taking legal advice disclosed an actual and perceived conflict of interest in the matter 3.1 – *Taxation Ruling 2009/2 Superannuation of Leave Loading* as she may receive a benefit arising from the application of the 2009/2 taxation ruling to her prior employment.

Cr Boothby advised Council of the conflict of interest and left the meeting at 5.41 pm.

Pursuant to S75 of the Local Government Act 1999 Mayor Lange after taking legal advice disclosed an actual and perceived conflict of interest in the matter 3.1 – *Taxation Ruling 2009/2 Superannuation of Leave Loading* as he may receive a benefit arising from the application of the 2009/2 taxation ruling to his prior employment.

Mayor Lange advised Council of the conflict of interest and left the meeting at 5.41pm.

Mayor Lange and Cr Boothby were removed by the Chief Executive Officer from the electronic meeting.

The Chief Executive Officer assumed the Chair because the Mayor and Deputy Mayor have absented themselves and called for nominations from members to Chair.

Cr Johnstone nominated Cr Angas and Cr Wiese-Smith seconded that nomination.



The Chief Executive Officer called for further nominations and none were received.

There being only one nominee the Chief Executive Officer declared Cr Angas elected and Cr Angas assumed the Chair.

The matter of the agenda item being:

1. Legal Advice pursuant to Section 90(3)(h) of the Local Government Act; and
2. Information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of council pursuant to Section 90(3)(i) of the Local Government Act;

being information that must be considered in confidence in order to ensure that Council does not disclose information which may prejudice the outcome of the assessment of the taxation ruling and its application.

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

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that the disclosure of certain information would prevent the efficient and effective governance of the Council or committee and legal position of the Council.

On balance, the above reasons which support the need for confidentiality pursuant to Section 90(2) of the Act outweighs the factors in favour of the public interest of open decision-making.

**MOVED** Cr Johnstone that Council:

- (1) Under the provisions of Section 90(2) of the Local Government Act 1999, make an order that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director Corporate and Community Services, Director Development and Environmental Services, Director Works and Engineering, Manager Financial Services and the Minute Secretary, in order to consider in confidence a report relating to Section 90(3)(h) and (i) of the Local Government Act 1999, relating to Taxation Ruling 2009/2 Superannuation of Leave Loading being information that must be considered in confidence in order to ensure that the Council does not disclose information that could reasonably be expected to legal advice and Information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of council; and
- (2) Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential to that the disclosure of certain information would prevent the efficient and effective governance of the Council or committee and legal position of the Council.

**Seconded** Cr Wiese-Smith

**CARRIED 2018-22/228**

Cr David Haebich was visually present but due to a technical matter was unable to respond, there being 8 members present a quorum was maintained.

The recording of the meeting was suspended at 5.43 pm.

**RESUMPTION OF OPEN COUNCIL MEETING – 5.46PM**

The open meeting of Council resumed at **5.46 pm**

In the matter 3.1 – *Taxation Ruling 2009/2 Superannuation on Leave Loading*:

**MOVED** Cr Johnstone that Council:

- (1) Confidential Resolution
- (2) Confidential Resolution
- (3) Confidential Resolution
- (4) Confidential Resolution
- (5) Confidential Resolution
- (6) Confidential Resolution
- (7) Having considered this matter in confidence under Section 90(2) of the Local Government Act 1999, makes an order pursuant to Section 91(7), that the agenda report, documents, attachments and minutes other than the minutes relating to this confidentiality order of the Confidential Council Meeting held on 2 September 2020 in relation to item 8.1.1 Taxation Ruling 2009/2 Superannuation on Leave Loading be kept confidential and not available for public inspection until the matter has been resolved with the Australian Taxation Office and authorise the Chief Executive Officer to review and revoke the order.

**Seconded** Cr de Vries

**CARRIED CO2018-22/28**

The Chief Executive Officer confirmed the meeting recording was recommenced at 5.47pm

The Chief Executive Officer re-joined Mayor Lange to the meeting at 5.47pm

Mayor Lange assumed the Chair.

**3. NEXT MEETING**

Tuesday 15 September 2020 at 9.00am.

**4. CLOSURE OF MEETING**

Mayor Lange declared the meeting closed at 5.47pm.

Confirmed at Council Meeting on 15 September 2020

Date:.....

Mayor:.....