Notice is hereby given that the next confidential meeting of Council will be held on Wednesday 7 June 2023 in the Council Chambers, 43-51 Tanunda Road, Nuriootpa, commencing at 7.00pm.

C O N F I D E N T I A L   A G E N D A

3. CONFIDENTIAL AGENDA

3.1 OFFICE OF THE MAYOR AND CEO

COVER SHEET

CONFIDENTIAL REPORT

7 June 2023

Council Meeting

3.1 OFFICE OF THE MAYOR AND CEO CONFIDENTIAL REPORT

3.1.2 <u>TALUNGA VILLAGE - MANAGEMENT ARRANGEMENTS</u>

The matter of the agenda item being information the disclosure of which-

(i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
(ii) would, on balance, be contrary to the public interest; pursuant to Section 90(3)(j) of the Local Government Act 1999 ("the Act") being information that must be considered in confidence.

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 information related to tenancy arrangements and personal details.

On balance, the above reason which supports 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.

RECOMMENDATION
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 Services and Business Innovation, Director Development and Community Services, Director Infrastructure and Environment, and the Minute Secretary, in order to consider in confidence a report relating to 3.1.2 Talunga Village - Management Arrangements being information that must be considered in confidence pursuant to:

Section 90(3)(j) of the *Local Government Act 1999:*

information the disclosure of which-

(i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
(ii) would, on balance, be contrary to the public interest; and

(2) Accordingly, on this basis, Council is satisfied that public interest in conducting meetings in a place open to the public has been outweighed by the need to keep the information and discussion confidential in order that information related to tenancy arrangements and personal details.

CONFIDENTIAL

DEBATE REPORT

3.1 OFFICE OF THE MAYOR AND CEO CONFIDENTIAL REPORT

3.1.2 TALUNGA VILLAGE - MANAGEMENT ARRANGEMENTS

Author: Chief Executive Officer
23/27381

PURPOSE

To update Council on successful negotiations with Barossa Village to assume responsibility to manage housing services at Talunga Village, endorse the Lease Agreement and endorse a pathway to transfer of the assets to Barossa Village by 2025.

RECOMMENDATION

That Council:

(1) Receive and note the update.

(2) Endorse the Lease Agreement as presented at Attachment 2 and authorise the Chief Executive Officer to execute the agreement under delegation, or, if so recommended legally, authorise the Mayor and Chief Executive Officer to sign and seal the Lease Agreement.

(3) Endorse the strategy and pathway to proceed with the intent to transfer the assets to Barossa Village noting the legislative conditions still to be met.

(4) Having considered this matter in confidence under Sections 90(2) and 90(3)(j) of the *Local Government Act 1999*, makes an order pursuant to Section 91(7), that the minutes, agenda report and attachments other than the minutes relating to this confidentiality order of the Confidential Council Meeting held on 7 June 2023 in relation to item 3.1.2 Talunga Village - Management Arrangements be kept confidential and not available for public inspection until 6 June 2024 and authorise the Chief Executive Officer to review and revoke the order.

REPORT

Background
Talunga Village is aged care accommodation developed by the prior Mt Pleasant Council.

By way of background Council was briefed at its 24 January 2023 workshop and the materials are presented at Attachment 1 which provides the broader background and specific issues.

Introduction
With the advice from Junction Women's Housing that they would not be renewing the Lease Agreement negotiations have been had with Barossa Village Incorporated to assume the management of the facility and potentially move the assets to them for long term delivery and upgrade of the service. I was able to secure a 3-month extension to the current Lease Agreement to 30 June 2023 to allow time for these negotiations to be undertaken and relevant due diligence by Barossa Village.

Discussion
It was my interpretation of feedback by Council at the workshop briefing and my decision to pursue a resolution that met two strategic objectives:

- The community connection and housing needs for the region including Mt Pleasant.
- Continuity of service provision with a vision to remove Council from the housing service which is not our role but also try and achieve a contemporary redevelopment of the site in due course.

Significant work and negotiations have taken place with Barossa Village Incorporate including the provision of extensive information and documentation including:

1. Relevant tenancy information and legal matters.
2. Asset condition and review.
3. Lease Agreement negotiations and conditions.
4. Future investment conditions, opportunities, and commitments.

Currently there are 7 tenanted units and upon inspection, Barossa Village Chief Executive Officer believes the other 3 could be tenanted in future with some work.

The current tenancies are reflected in the following table and are intended to roll forward with the new management arrangements.

Address	Original Lease Start Date	Lease expiry	Age	Household
1/90-92 Melrose Street	3/09/2015	3/02/2024	79	Single
2/90-92 Melrose Street	2/03/2005	17/12/2023	42	Single
3/90-92 Melrose Street	1/09/2014	17/06/2023	84	Single
5/90-92 Melrose Street	11/09/2018	10/06/2023	66	Single
8/90-92 Melrose Street	1/09/2014	17/06/2023	80	Single
9/90-92 Melrose Street	23/10/2015	22/10/2023	88	Single
10/90-92 Melrose Street	26/06/2018	30/04/2023	71	Single

Not all these residents previously resided within the general Mt Pleasant Council area as was the intent of the original development and condition that existed in Junction Women's Housing Lease Agreement. That condition of the use of the units and land is practically obsolete and unachievable in a modern housing, legal and political environment.

The lease agreement to be put in place is substantially the same business and service provision model that exists with Junction Women's Housing and present no additional or less risk. Barossa Village will solely manage the site and tenancies supported where necessary by Council. They will retain all revenue and incur all expenses for the day-to-day management of the service. Any capital items are negotiated and can be funded through the sinking fund/reserve. Reconciliations will be performed periodically for the sinking fund and financial reports provided to Council.

Due to the timing of the negotiations, the relevant support required to be provided to Barossa Village and allow time for their CEO to seek the necessary approvals at this time no direct engagement has taken place with tenants. This is planned in the week of 12 June 2023 subject to all final approvals by the Barossa Village Incorporated Board and Council.

The only other options available at this time if the final processes are not approved is to seek to brief the management of the tenancies to a commercial provider. I have not commenced that work as on my assessment of the above risk materialising at this time and during the negotiations as being low to very low.

An updated Lease Agreement has been negotiated and legally checked; it is at Attachment 2. There maybe be minor amendments needed prior to signing however would not materially alter the agreement, and if such requests were made Council can request them to come back or provide myself authority to deal with them in consultation with the Mayor.

The strategic vision of Barossa Village is significantly linked to the purpose and history of the prior communities. That is, to provide affordable aged care in the region. Barossa Village have expressed interest in security the assets and working with Council on a long-term solution, our contribution is likely to be stormwater infrastructure (which is needed in that general area in any case) and application of the sinking/reserve fund into the development. The sinking/reserve fund is exclusively tied to this service.

The legislative hurdles related to the community land status have been resolved and Council can proceed to sell or transfer the land. There is however a raft of other matters to resolve which are summarised as:

1. Assessment of transfer needs in taxation and other land transfer law.
2. Assessment of a proposed transfer under Section 49 of the *Local Government Act 1999*, Disposal of Land and Other Assets Policy.
3. Clear documentation of what Council will support in terms of future development.

With a new Lease Agreement to be in (hopefully when both the Board and Council) approve it by 1 July 2023 for a two-year period the work on land transfer can commence upon my return from leave in late September 2023.

Summary and Conclusion
With successful negotiations near completion, it is now critical to make a final decision on the proposed solution outlined in the report and enter into the Lease.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Talunga Village Background Documents ⇩
Attachment 2 Lease Agreement ⇩

Supporting references
Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

Infrastructure

Goal

6. The Barossa maintains and develops infrastructure that meets the needs of the region and is efficient.

Strategies

6.1. Advocate for and identify funding opportunities that support the development of community, cultural, health and other facilities and infrastructure to meet personal and commercial needs of residents and businesses.

Legislative Requirements

Section 36 and 37 of the Local Government Act

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

There are no additional financial or risk considerations not inherent in the current management arrangements and those proposed with this agreement.

Future financial commitments to the site and resources to assist with land transfer will be assessed at a later stage.

COMMUNITY ENGAGEMENT

No community engagement is required as the land is not community land and therefore Council can enter the Lease unfettered by the requirements of the Act as they related to community land. Tenants will be informed and supported as part of the transition once approved by both parties.

Council Workshop

24 January 2023
Office of the Mayor and CEO

Talunga Village Aged Care Complex – Confidential Pursuant to Section 90(3)(a) of the Local Government Act 1999

Office of the
Mayor and CEO

Background – Confidential

- Mt Pleasant Council in conjunction with the Lions Club constructed in 1960's – for (as described in the Amalgamation Agreement) "Talunga Village Aged Care Complex".
- In 1997 amalgamation the services had to be preserved for 25 years – concluded in 2022 and has been satisfied. It effectively removes the restriction to "sell".
- 10 units available – barely fit for purpose – some units beyond useful life.
- Managed by BDHA (Barossa Districts Housing Association) then Junction and Women's Housing (who assumed BDHA through a merger) under management agreement.
- December 2012 and January 2013 reports/minutes are critical to community engagement outcomes – provided following these notes.

Background – Confidential

- Community Land revocation was completed on 19 March 2013 – following these notes.
- Servicing a critical need / emergency housing – a unit of basic quality is better than nothing.
- Rules of being a resident of the old Mt Pleasant Council circumvented as most residents are historical transfers from caravan park and now not even meeting that definition.
- Awaiting information from Junction (asked for 2 weeks ago) on the following, hopefully will have for 24 January conversation:
  - Tenant status – arrangements – ability to relocate.
  - Current maintenance status of units and maintenance fund status.
  - Seeking further 3 months extension from them so we can put in train an agreed option.

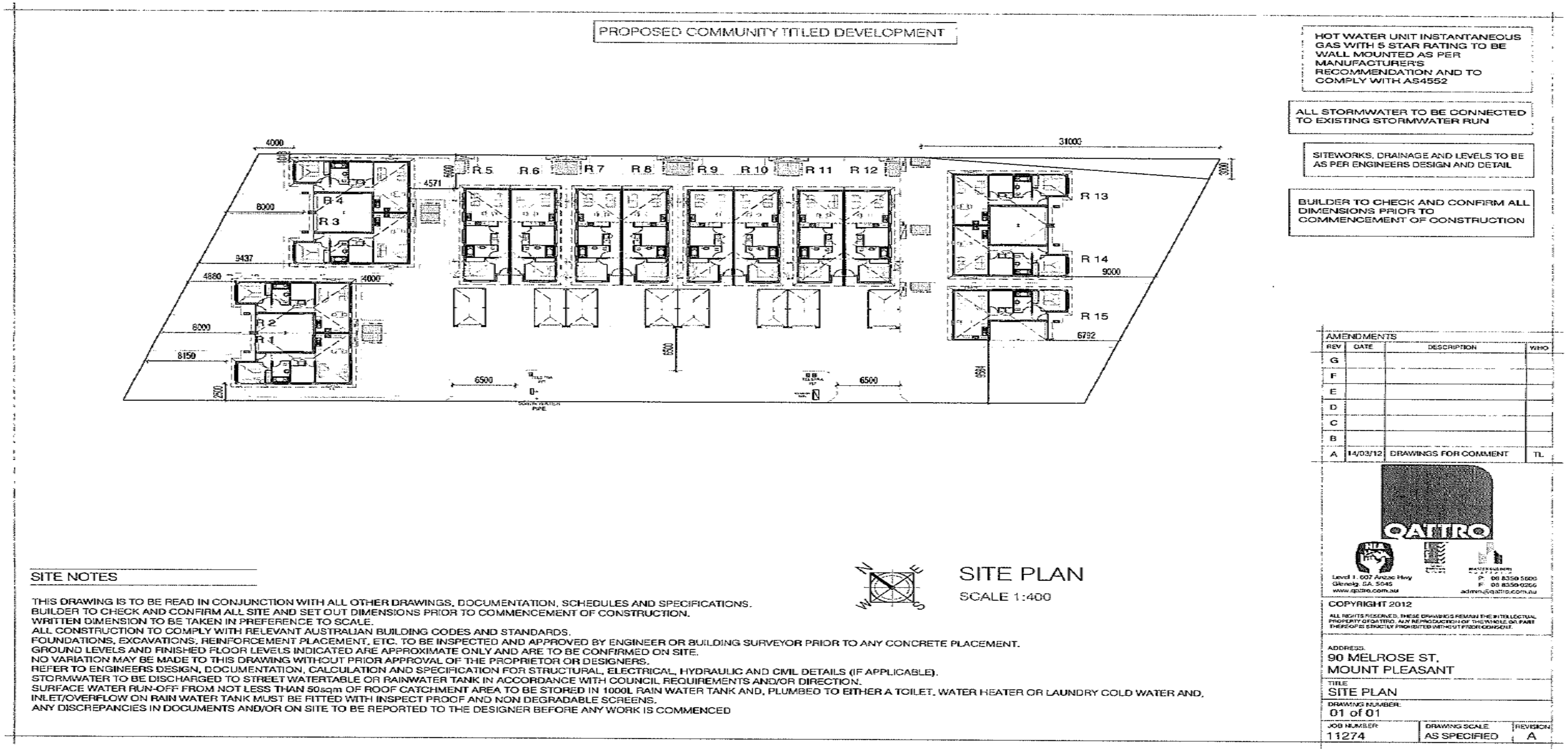
Background – Confidential

Have explored various models to address to date:

- NRAS (National Rental Assistance Scheme) funding application made 2014 – NRAS was pulled as a program after lodgement. Purpose to rebuild and then transfer to BDHA (now Junction).
- 2014 proposal $3.001M – next slides provide site and original scope/design – not viable without NRAS funding.
- Tried collaborating with hospital to see if investment opportunities could be achieved to move to their site as a holistic health model.
- Have looked at various models with Junction including micro housing and other fundings streams available to community housing associations.
- Moral of the story – none of the options, other than the NRAS proposal could either commercial or through community housing merit assessments “stack up”. Capital funding shortfalls, justification for that level of expenditure on low yield of housing and higher housing needs elsewhere.

Site – Confidential

Site Development Design – Confidential



Points of Note – Confidential

- Housing is not a Local Government responsibility and is not consistent with our Community or Corporate Plan
- Community connection to the facility through Lions
- Houses are at or beyond useful life
- Front part of property gets water logged and subject to flooding
- Property is no longer encumbered by Amalgamation Agreement or Community Land Management Status
- Initial conversation with Barossa Village constructive
- No conversations have been had with residents at this time – this needs to be a significant priority once more is understood from Junction

Options

Talunga Village Aged Care Complex – Confidential Pursuant to Section 90(3)(a) of the Local Government Act 1999

Office of the Mayor and CEO

- **Sell**
  - can be done but misses opportunity to try and continue the intended use of the land.
- **Develop**
  - not Councils role and not sound use of funding for limited ratepayer benefit for 10 tenancies (using indexation the $3M project in 2014 would now be in the order of $4.6M given current market probably more pushing towards $5.5M).
- **Manage ourselves**
  - as a pseudo housing authority – we are not set up with resourcing or expertise to do this and would be inefficient to set up such capacity for 10 units – also not Council role.
- **Enter into management**
  - agreement – commercially - can be set up quickly – would need to analyse further the $ and true alignment to community outcomes of a commercial arrangement.
- **Enter into management agreement – Barossa Village**
  - can be set up quickly – would need to analyse further the $ and clearly in this case there is community outcome alignment.
- **Proceed with original model – but gift to Barossa Village**
  - needs exploration would be phase 2 of above dot point.

COUNCIL

CORPORATE AND COMMUNITY SERVICES

DIRECTOR'S REPORTS

18 DECEMBER 2012

6.3.1 DEBATE AGENDA – DIRECTOR'S REPORTS

6.3.1.1
BAROSSA & DISTRICTS HOUSING ASSOCIATION – TALUNGA VILLAGE (MOUNT PLEASANT)
B880

INTRODUCTION

A progress report in relation to the proposed gifting of the Talunga Village land and buildings to Barossa & Districts Housing Association (BDHA).

RECOMMENDATION

That Council receives the progress report on the proposed gifting of Talunga Village and adjacent land to Barossa & Districts Housing Association following completion of the poll of Electors on 5 December 2012.

COMMENT

Council, at its 20 March 2012 Meeting, gave in-principle support for the transfer of the Talunga Village land and buildings to BDHA, subject to certain conditions, together with the provision of a future report on the resolution of these conditions.

A further report was provided to Council on 21 August 2012 (DA/CCS/R3), where the following was resolved:

*"**MOVED** Cr Seager that Council:*

(1) Approves that the recommended public consultation process be undertaken pursuant to Section 194(2)(b) of the Local Government Act 1999 and Appendix 25 of the Agreement of the Amalgamation Proposal between The Barossa Council and District Council of Mount Pleasant, indicating Council's proposal to revoke the Community Land classification for Allotments 7 and 8, DP246, contained in Certificate of Title Volume 5690 Folio 30, as the land and buildings, known as Talunga Village Aged Home complex, is proposed to be gifted to the Barossa & Districts Housing Association (BDHA), subject to the satisfaction of agreed conditions of the resolution made by Council on 20 March 2012 ref: DA/CCS/R2.

(2) Pursuant to Section 194 of the Local Government Act 1999, Council undertakes the process to revoke the Community Land classification for land contained in Certificate of Title 5690 Folio 30, being the land and buildings, known as Talunga Village Aged Home complex.

(3) The Director Corporate and Community Services be given delegated authority to prepare a report to the Minister for State/Local Government Relations seeking approval to revoke the Community Land classification of the said land.

(4) Should revocation be approved by the Minister for State/Local Government Relations, the Director Corporate and Community Services be given delegated authority to prepare a suitable

Land Management Agreement and Contract to gift the land to the Barossa & Districts Housing Association.

(5) Notes BDHA's progress to date regarding the planning for and funding of development of new and replacement units on the property to satisfy the conditions for its in principle support for the transfer to Barossa & Districts Housing Association.

Seconded** Cr Lykke* ***CARRIED"

A Memorandum to Elected Members dated 9 October 2012, advised that legal advice had been obtained regarding a poll of electors (a stipulation in the Agreement of Amalgamation Proposal between The Barossa Council and former District Council of Mount Pleasant) to ensure it was compliant and in line with the intention of the Amalgamation Agreement. The Memo also outlined the poll process to be conducted by the Electoral Commission of South Australia (ECSA) and included a background information sheet which would be distributed with the ballot papers (refer *Attachment 1*).

Ballot papers, together with the information sheet, were forwarded to current Barossa Council residents living in the former District Council of Mount Pleasant area who were registered on the State Electoral Roll and Council Voting Roll. A community information/drop-in session was held at Mount Pleasant on 27 November 2012 and information was also provided in media releases and posted on Council's website.

Electors were asked to vote on the following YES/NO options:

YES - I agree to the proposed gifting by The Barossa Council of the existing Talunga Village Aged Home complex and the adjacent land (Certificate of Title Volume 5690 Folio 30) to the Barossa District Housing Association for the purposes of securing funding to:

- Replace the existing 10 units with new units;
- Adding up to a further 10 more new units;
- Retaining the facility for aged care affordable housing purposes

NO - I do not agree with the proposed gifting by The Barossa Council of the existing Talunga Village Aged Home complex and the adjacent land (Certificate of Title Volume 5690 Folio 30) to the Barossa District Housing Association.

Voting took place between 21 November 2012 and 5 December 2012, with counting of votes on 6 December 2012. The result of the "YES/NO" vote, as provided by ECSA, is as follows:

1,739 ballot packs sent out
589 ballot papers returned (= 33.9% response rate)

541 votes – YES (92%)
35 votes - NO (6%)
13 votes – Informal (2%)

A copy of the letter from ECSA, certifying the poll result, is provided in *Attachment 2*.

Following this overwhelming vote of support from the local Mount Pleasant and surrounding community, Officers will now proceed with processes required pursuant to s194 of the Local Government Act and Council's Public Consultation Policy, for proposed revocation of the subject land from Community Land status (refer Council

The Barossa Council
Director Corporate and Community Services Report 18 December 2012

resolution above). The draft revocation report was provided to Council at its 21 August 2012 meeting (DA/CCS/R3)

Public consultation will commence on Wednesday 12 December 2012, with notices regarding the proposed revocation placed in the Leader, Courier, Herald and Bunyip, inviting comment from the community. Information will be displayed in Council's Principal Office and the Mount Pleasant Branch Office/Library and will also be posted on Council's website. Closing date for submissions will be 10am Monday, 7 January 2013, with a further report provided to the 15 January 2013 Council Meeting.

Funding: The National Rental Affordability Scheme (NRAS) funding application is dependent on development approval so has not yet been submitted. Officers, BDHA and their developer have been in discussion around the initial concept plan and unit designs and these are being modified prior to application to the Development Assessment Commission. Ongoing discussions are taking place with The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) who manage NRAS and BDHA's developer to ensure that their proposals are in line with the NRAS requirements.

BDHA has also had initial discussions with lending institutions about the required loan borrowings. Now that the favourable poll result has been achieved, they will be formalising their approaches so that an application can be made subject to the development, NRAS funding, revocation and land management agreement processes being satisfactorily concluded.

Officers will keep Council updated with future developments.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

LEGISLATION
Local Government Act

Council Strategic Plan
1.1 Health and Family
1.3 Recreation
1.4 Safety and Security
3.4 Infrastructure
3.5 Planning and Building
4.1 Responsibility

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Detailed in Report DA/CCS/R3 to 21 August 2012 Council Meeting.

COMMUNITY CONSULTATION

As outlined in this Report.

THE PROPOSAL TO GIFT TALUNGA VILLAGE AGED CARE HOUSING UNITS, MOUNT PLEASANT TO ENABLE REBUILDING AND EXPANSION

COUNCIL ENCOURAGES YOU TO HAVE YOUR SAY

The Barossa Council encourages you to have your say by voting on an important initiative for Talunga Village, Mount Pleasant.

Background

Council is conducting a Poll of Mount Pleasant Electors regarding the proposed gifting of the existing Talunga Village Aged Home complex and adjacent land (on Melrose St and Joseph St), Mount Pleasant to the Barossa District Housing Association (BDHA) (refer site map overleaf) to enable rebuilding of the 10 existing properties and addition of up to 10 extra units to take place.

The poll of electors is a condition of the Amalgamation Agreement of 1997 between the former District Council of Mount Pleasant and Council. The Amalgamation Agreement is the document that set the terms for the voluntary consolidation of the previous council districts. The DC Mount Pleasant wanted to ensure that local residents retained a say in the ownership of important community assets, such as Talunga Village. They agreed that a poll would take place if any proposal was made to dispose of particular assets listed in the Agreement within 25 years of the amalgamation.

What is Council Proposing for Talunga Village?

The 10 existing units at Talunga Village are aged and in need of rebuilding. The investment required to rebuild and add further units to increase aged care, community housing in Mount Pleasant is significant and in the order of $2 million. There is no provision for this level of expenditure in Council's current Long Term Financial Plan.

BDHA has managed Talunga Village on Council's behalf for the last 11 years. As a not-for-profit provider of affordable, rented community housing, BDHA is well positioned to access external funding for the proposed rebuilding that is not available to Council. To do this they require the collateral of Talunga Village to secure the grant funding and borrowings necessary for the project. It is for this reason that Council is proposing to gift the assets to BDHA.

What Council is asking from the Community

Council is asking for the community to support this important proposal and needs a majority of those who vote to say "YES" to the proposed gifting of the asset to enable the improvements to Talunga Village to go ahead.

If the majority of voters do not support the proposal; Council is bound by that decision under the terms of the Amalgamation Agreement and it is unlikely that the units will be rebuilt or any additional properties added.

Talunga Village residents and the wider township, will benefit if this important decision receives the support of the community.

If there is a positive poll result, Council will then apply to the Minister for revocation of the community land status of the village and adjoining land to remove any remaining legal impediment to the gifting of the land. This is a separate process and will be subject to further community consultation.

What safeguards are in place for the future of Talunga Village?

BDHA formed in 1998 and is a not-for-profit, affordable community housing association based in Nuriootpa, managing 85 properties. Its vision is to provide "safe, affordable housing to people in need in our community".

The BDHA Board is made up of volunteers from local business, council representatives, community service providers and tenant representatives. It has a commitment to sustainable growth and financial viability whilst retaining commitment to its core social purpose and values.

If the proposal goes ahead, Council and BDHA will continue their longstanding partnership for the provision of aged care in Mount Pleasant, with measures in place to ensure: ongoing Council representation on the BDHA Board and that the site continues to be used for provision of affordable aged care accommodation, as intended by the former District Council of Mount Pleasant.

The gifting of Talunga Village will only take place if the project funding and all legal protections are in place.

The new units will be built on the adjacent land first so that the existing residents can move into them when ready. The current units can then be demolished and rebuilt for new residents to occupy when they are finished. On a day-to-day basis nothing will change for residents of Talunga Village other than improved quality of their living standards. Their tenant rights, conditions and circumstances will not be affected.

If its funding application is successful, BDHA will complete the entire project by the end of June 2014. All 20 units will be used specifically for provision of aged care accommodation.

Benefits of the proposal

- New, improved and modern facilities for existing residents of Talunga Village complex
- More, new units available for aged people in the community in need of affordable housing
- Construction of two bedroom units rather than single bedroom only
- Ongoing management by a local not for profit housing provider with a proven track record, established relationships with Talunga Village residents and committed to the local community
- Major long term investment in social infrastructure in the Mount Pleasant region
- Potential for local job creation during construction

What is the process from here?

The poll is being conducted by the Electoral Commission of South Australia. Results of the poll will be published in local papers the week following the close of voting.

Please ensure your ballot paper is returned by post in the reply-paid envelope before the closing date of 5.00pm, Wednesday, December 5 or placed in the ballot box provided in Mount Pleasant Library.

Council supports a "Yes" vote and encourages you to make your vote count. For more information contact: Jo Thomas, Director Corporate and Community Services on 8563 8450; visit our website www.barossa.sa.gov.au or drop into a community information session at Mount Pleasant Town Hall on Tuesday, 27 November 2012 from 4pm to 7pm.

Yours sincerely

Brian Hurn OAM,
Mayor, The Barossa Council
October 2012

Talunga Village complex and land adjacent (Melrose Street and Joseph Street). Certificate of Title Volume 5690 Folio 30

Confidential Attachment 1

In reply please quote:304-4/2010

Electoral Commission SA

P 08 7424 7400
F 08 7424 7444
W ecsa.sa.gov.au

Electoral Commission of South Australia
ABN 99 891 752 468
Level 6 / 60 Light Square Adelaide SA 5000
Postal Address GPO Box 646 Adelaide SA 5001

10 December 2012

Mr M McCarthy
Chief Executive Officer
The Barossa Council
PO BOX 867
NURIOOTPA SA 5355

Dear Mr ~~McCarthy~~ Martin

Re: Poll to determine the opinion of electors of the former District Council of Mt Pleasant on the potential gifting of the Talunga Village Aged Home complex and adjacent land to the Barossa District Housing Association

In accordance with the *Local Government (Elections) Act 1999*, I enclose the result of the Poll.

The Poll was conducted entirely by post. Voting material comprising a ballot paper, information sheet, a ballot paper envelope containing the elector's declaration and return envelope was sent to electors, bodies corporate and groups whose names appeared on the certified voters roll.

Voting closed at 12 noon on Wednesday 5 December 2012 with the scrutiny and count commencing at 9.00 a.m. at the Electoral Commission SA, 60 Light Square, Adelaide.

576 ballots were accepted into the count and I certify the result to be:

Formal ballot papers	576
Informal Ballot Papers	0
'Yes' votes	541
'No' votes	35

Please pass on my thanks to your staff for their assistance and should you have any enquiries relating to the conduct of the poll, please contact Russ Parkins, Manager Elections, on 08 7424 7415.

Yours sincerely

K Mousley
Returning Officer
The Barossa Council

Regional Tourism Manager has announced his resignation from the position, the Board will now review the options to go forward with this position.

Cr Reichstein observed that the adopted budget would be in deficit by approximately $50,000 and sought clarification as to how that would be funded.

Chief Executive Officer, Mr Martin McCarthy, advised that Tourism Barossa Inc Board is looking at revising fee structures, expenses and utilising available cash reserves to fund the deficit.

MOVED Cr Reichstein that the report, 4.2.1.3, Tourism Barossa Update, be received and noted.
Seconded Cr Harris **CARRIED**

5 VISITORS TO THE MEETING
Nil

6 DEBATE AGENDA

6.1 MAYOR
Nil

6.2 EXECUTIVE SERVICES

6.2.1 CHIEF EXECUTIVE OFFICER – DEBATE
Nil

6.2.2 ORGANISATIONAL DEVELOPMENT
Nil

6.3 CORPORATE AND COMMUNITY SERVICES

6.3.1 DIRECTOR CORPORATE AND COMMUNITY SERVICES

6.3.1.1
BAROSSA & DISTRICTS HOUSING ASSOCIATION – TALUNGA VILLAGE (MOUNT PLEASANT)
B880

MOVED Cr Seager that Council receives the progress report on the proposed gifting of Talunga Village and adjacent land to Barossa & Districts Housing Association following completion of the poll of Electors on 5 December 2012.
Seconded Cr Miller **CARRIED**

INTRODUCTION

A progress report in relation to the proposed gifting of the Talunga Village land and buildings to Barossa & Districts Housing Association (BDHA).

COMMENT

Council, at its 20 March 2012 Meeting, gave in-principle support for the transfer of the Talunga Village land and buildings to BDHA, subject to certain conditions, together with the provision of a future report on the resolution of these conditions.

A further report was provided to Council on 21 August 2012 (DA/CCS/R3), where the following was resolved:

*"**MOVED** Cr Seager that Council:*

(1) Approves that the recommended public consultation process be undertaken pursuant to Section 194(2)(b) of the Local Government Act 1999 and Appendix 25 of the Agreement of the

Amalgamation Proposal between The Barossa Council and District Council of Mount Pleasant, indicating Council's proposal to revoke the Community Land classification for Allotments 7 and 8, DP246, contained in Certificate of Title Volume 5690 Folio 30, as the land and buildings, known as Talunga Village Aged Home complex, is proposed to be gifted to the Barossa & Districts Housing Association (BDHA), subject to the satisfaction of agreed conditions of the resolution made by Council on 20 March 2012 ref: DA/CCS/R2.

(2) *Pursuant to Section 194 of the Local Government Act 1999, Council undertakes the process to revoke the Community Land classification for land contained in Certificate of Title 5690 Folio 30, being the land and buildings, known as Talunga Village Aged Home complex.*

(3) *The Director Corporate and Community Services be given delegated authority to prepare a report to the Minister for State/Local Government Relations seeking approval to revoke the Community Land classification of the said land.*

(4) *Should revocation be approved by the Minister for State/Local Government Relations, the Director Corporate and Community Services be given delegated authority to prepare a suitable Land Management Agreement and Contract to gift the land to the Barossa & Districts Housing Association.*

(5) *Notes BDHA's progress to date regarding the planning for and funding of development of new and replacement units on the property to satisfy the conditions for its in principle support for the transfer to Barossa & Districts Housing Association.*

Seconded** Cr Lykke* ***CARRIED"

A Memorandum to Elected Members dated 9 October 2012, advised that legal advice had been obtained regarding a poll of electors (a stipulation in the Agreement of Amalgamation Proposal between The Barossa Council and former District Council of Mount Pleasant) to ensure it was compliant and in line with the intention of the Amalgamation Agreement. The Memo also outlined the poll process to be conducted by the Electoral Commission of South Australia (ECSA) and included a background information sheet which would be distributed with the ballot papers (refer *Attachment 1*).

Ballot papers, together with the information sheet, were forwarded to current Barossa Council residents living in the former District Council of Mount Pleasant area who were registered on the State Electoral Roll and Council Voting Roll. A community information/drop-in session was held at Mount Pleasant on 27 November 2012 and information was also provided in media releases and posted on Council's website.

Electors were asked to vote on the following YES/NO options:

YES - I agree to the proposed gifting by The Barossa Council of the existing Talunga Village Aged Home complex and the adjacent land (Certificate of Title Volume 5690 Folio 30) to the Barossa District Housing Association for the purposes of securing funding to:

- Replace the existing 10 units with new units;
- Adding up to a further 10 more new units;
- Retaining the facility for aged care affordable housing purposes

NO - I do not agree with the proposed gifting by The Barossa Council of the existing Talunga Village Aged Home complex and the adjacent land (Certificate of Title Volume 5690 Folio 30) to the Barossa District Housing Association.

Voting took place between 21 November 2012 and 5 December 2012, with counting of votes on 6 December 2012. The result of the "YES/NO" vote, as provided by ECSA, is as follows:

1,739 ballot packs sent out
589 ballot papers returned (= 33.9% response rate)
541 votes – YES (92%)
35 votes - NO (6%)
13 votes – Informal (2%)

A copy of the letter from ECSA, certifying the poll result was provided with the agenda for this meeting..

Following this overwhelming vote of support from the local Mount Pleasant and surrounding community, Officers will now proceed with processes required pursuant to s194 of the Local Government Act and Council's Public Consultation Policy, for proposed revocation of the subject land from Community Land status (refer Council resolution above). The draft revocation report was provided to Council at its 21 August 2012 meeting (DA/CCS/R3)

Public consultation will commence on Wednesday 12 December 2012, with notices regarding the proposed revocation placed in the Leader, Courier, Herald and Bunyip, inviting comment from the community. Information will be displayed in Council's Principal Office and the Mount Pleasant Branch Office/Library and will also be posted on Council's website. Closing date for submissions will be 10am Monday, 7 January 2013, with a further report provided to the 15 January 2013 Council Meeting.

Funding: The National Rental Affordability Scheme (NRAS) funding application is dependent on development approval so has not yet been submitted. Officers, BDHA and their developer have been in discussion around the initial concept plan and unit designs and these are being modified prior to application to the Development Assessment Commission. Ongoing discussions are taking place with The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) who manage NRAS and BDHA's developer to ensure that their proposals are in line with the NRAS requirements.

BDHA has also had initial discussions with lending institutions about the required loan borrowings. Now that the favourable poll result has been achieved, they will be formalising their approaches so that an application can be made subject to the development, NRAS funding, revocation and land management agreement processes being satisfactorily concluded.

Officers will keep Council updated with future developments.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

LEGISLATION
Local Government Act

Council Strategic Plan
1.1 Health and Family
1.3 Recreation
1.4 Safety and Security
3.4 Infrastructure
3.5 Planning and Building
4.1 Responsibility

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Detailed in Report DA/CCS/R3 to 21 August 2012 Council Meeting.

COMMUNITY CONSULTATION

As outlined in this Report.

6.3.1.2
APPOINTMENT OF ELECTED MEMBER(S) TO SECTION 41 TENDER COMMITTEE, WILLIAMSTOWN COMMUNITY COUNCIL AND WILLIAMSTOWN SOLDIERS' MEMORIAL HALL COMMITTEE
B1441

MOVED Cr Reichstein that Councillor Angas be appointed as a Council representative on the Tender Committee to replace Councillor Tappert.
Seconded Cr de Vries **CARRIED**

At this point in the meeting there were no other candidates for the positions of Council representative on the Williamstown Community Council and Williamstown Soldiers' Memorial Hall Committee. Cr Margaret Harris advised that she was willing to be available for the Committees should they need advice or as a liaison between the Committee and Council. (refer minute book pages 2012/304-305)

INTRODUCTION

With the resignation of Councillor Rebecca Tappert on 8 November 2012, an Elected Member vacancy now exists on each of the following Section 41 committees: the Tender Committee, Williamstown Community Council and the Williamstown Soldiers' Memorial Hall Committee.

COMMENT

The Tender Committee meets on an as-needs basis at Council's Nuriootpa office.

7.3.1.2
AUDIT COMMITTEE MEMBERSHIP – INDEPENDENT MEMBERS
B343

MOVED Cr Angas that:

(1) Mr Peter Brass and Mr James Heuzenroeder be granted an extension of appointment as independent members of The Barossa Council Audit Committee for a further two year term, expiring December 2014.

(2) As per the Audit Committee Terms of Reference, independent members' sitting fee of $300 per meeting or if Chairperson, $500 per meeting, be reviewed annually for consideration by Council during the budget process.

Seconded Cr Kies **CARRIED**

INTRODUCTION

Independent members of the Audit Committee are appointed for a two year term with a right of extension by Council. Both independent members seek an extension of appointment for a further two year term.

COMMENTS

Mayor Hurn and Crs John Angas and Richard Miller were appointed to the Audit Committee at the Council Meeting held 23 November 2010 (following election of the current Council), and independent members, Peter Brass and James Heuzenroeder, were appointed in January 2011.

Independent members are appointed for a two year term with a right of extension of the appointment by Council. Mr Brass, who also serves as Chairperson of the Committee, and Mr Heuzenroeder, have both confirmed that they wish to extend their appointment for a further two year term, subject to Council approval.

LEGISLATION/POLICY/ COUNCIL STRATEGIC PLAN

LEGISLATION
Local Government Act

STRATEGIC PLAN
4.1 Responsibility

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Sitting fees for independent members of the Audit Committee are allowed for in the Budget. There are no Risk Management considerations.

COMMUNITY CONSULTATION

Nil.

LATE ITEM

MOVED Cr Milne that the Late Item, 7.3.1.3, Barossa & Districts Housing Association – Talunga Village (Mount Pleasant) be accepted for consideration .
Seconded Cr Harris **CARRIED**

7.3.1.3
BAROSSA & DISTRICTS HOUSING ASSOCIATION – TALUNGA VILLAGE (MOUNT PLEASANT)
B880 & B2069

2013/11

MOVED Cr Seager that:

(1) Council receives the report on the outcome of public consultation undertaken in relation to the proposed revocation of Community Land classification of the Talunga Village site at Mount Pleasant, being land contained in Certificate of Title Volume 5690 Folio 30, and notes the submission received;

(2) Council reaffirms its decision of 21 August 2012 (DA/CCS/R3) that the Director Corporate and Community Services be given delegated authority to prepare a report to the Minister for State/Local Government Relations seeking approval to revoke the Community Land status of the said land;

(3) a future report regarding the Minister's decision be presented to Council.

Seconded Cr Lykke **CARRIED**

INTRODUCTION

A report on the outcome of public consultation undertaken in relation to the proposed revocation of Community Land classification for the Talunga Village site at Mount Pleasant.

COMMENT

Council, at its 20 March 2012 meeting, gave in-principle support for the transfer of the Talunga Village land and buildings to the Barossa & Districts Housing Association (BDHA), subject to certain conditions, including resolution of any possible impediments to the transfer of ownership arising from agreements made on amalgamation of The Barossa Council and the District Council of Mt Pleasant in 1997.

A report was presented to Council at its 18 December 2012 meeting, regarding the outcome of the poll of electors (a stipulation under the Agreement of Amalgamation Proposal) to determine the opinion of electors of the former District Council of Mount Pleasant on the potential gifting of the Talunga Village Aged Home complex to the BDHA. A copy of the notice in the South Australian Government Gazette on the outcome of the poll was provided with the agenda for this meeting for Members' information.

Following the overwhelming vote of support from the local Mount Pleasant and surrounding community, Officers have proceeded with a further consultation program directed towards the entire Council community, inviting comment in relation to Council's proposal to revoke the subject land from classification as Community Land. This additional process is a requirement of the Local Government Act and Council's Public Consultation Policy and necessary before any gifting can take place.

Council's Community Consultation process included the following:

- Letters sent to 48 neighbouring property owners ;
- Letters sent to each of the 10 current residents in Talunga Village ;
- Notices placed in The Leader, Courier and Bunyip newspapers on Wednesday 12 December 2012, with closing date for submissions 10am on 7 January 2013;
- 2 signs posted on the said land inviting comments on the proposal;
- Information displayed in Council's Principal Office and Mount Pleasant Branch Office/Library and on Council's website;
- Representatives from Council and BDHA meeting with residents of Talunga Village on-site on 2 January 2013.

Submissions

During the consultation period, 1 written submission, signed by several residents of Talunga Village, was received in support of the Talunga Village proposed development going ahead.

As directed by Council at its 21 August 2012 meeting, the Director Corporate and Community Services will now prepare a report for the Minister for State/Local Government Relations, seeking approval to revoke the Community Land classification of the Talunga Village land. A future report will be presented to Council advising of the Minister's decision.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

LEGISLATION:
Local Government Act

COUNCIL STRATEGIC PLAN:
1.1 Health and Family
1.3 Recreation
1.4 Safety and Security
3.4 Infrastructure
3.5 Planning and Building
4.1 Responsibility

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Detailed in Report DA/CCS/R3 of 21 August 2012 Council Meeting.

COMMUNITY CONSULTATION

As detailed in this Report.

7.3.2 FINANCE - DEBATE

7.3.2.1
MONTHLY FINANCE REPORT (AS AT 31 DECEMBER 2012)
B411

MOVED Cr Milne that the Monthly Finance Report (as at 31 December 2012) be received and noted.
Seconded Cr Kies **CARRIED**

INTRODUCTION

The Monthly Finance Report (as at 31 December 2012).

COMMENT

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

The report has been prepared in comparison to the Original Budget along with a Revised Budget as adopted with the September 2012 Budget Update (20 November Council meeting).

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

LEGISLATION:
Local Government (Financial Management) Regulations 2011
LGA Information Paper Number 25 – Monitoring Council Budget Performance

COUNCIL STRATEGIC PLAN:
4.1 – Responsibility
4.3 - Systems

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

To enable Council to make effective and strategic financial decisions, a regular up to date high level financial report is provided.

COMMUNITY CONSULTATION

Nil.

7.3.2.2
LONG TERM FINANCIAL PLAN 2013-14 to 2022-23 AND ANNUAL BUDGET & BUSINESS PLANNING TIMETABLE 2013-14
B345

MOVED Cr Kies that Council endorses the proposed timetable for the annual review, consideration and adoption of the Long Term Financial Plan 2013-14 to 2022-23 and the Annual Budget & Business Planning 2013-14.
Seconded Cr Milne **CARRIED**

2013/60

INTRODUCTION

Correspondence from Solicitor Rosemary Craddock who, following a Council resolution on 17 July 2012 (*Minute reference: 2012/174*) was briefed to represent Council in Federal Court proceedings in the above matter, with a view to proceeding to a Consent Determination.

COMMENT

In her correspondence of 15 February 2013, Ms Craddock advised that due to the stricter new guidelines of the Federal Government Native Title Funding Model, councils of the CLGR are unlikely to be granted funding through the Commonwealth Attorney-General Department for either the Indigenous Land Use Agreement (ILUA) negotiations or Federal Court attendances. Council was made aware of the changes to the 2013 Funding Model guidelines in late 2012.

Ms Craddock has proposed that her involvement in this matter be privately funded on a shared basis by the 10 councils which comprise the CLGR action.

She has recommended that each council formally resolve to privately fund this matter and, accordingly, make a provision for a budget line for Native Title expenditure in the amount of $300 plus GST for the period February 2013 to June 2013, where after a review period would occur every 6 months.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

LEGISLATION
Native Title Act 1994
COUNCIL STRATEGIC PLAN
1.5 – Culture
4.1 – Governance and Organisation – Responsibility

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Any financial support is not budgeted and will require an additional budget allocation, although at this time the estimated amount is minimal.

COMMUNITY CONSULTATION

Nil required.

7.3.1 CORPORATE AND COMMUNITY SERVICES - DEBATE

7.3.1.1
BARROSSA & DISTRICTS HOUSING ASSOCIATION – TALUNGA VILLAGE (MOUNT PLEASANT)
B880 & B2069

MOVED Cr Seager that pursuant to Section 194(3)(b) of the Local Government Act 1999, Council revokes the community land classification for land being Allotments 7 and 8, Deposited Plan 246, in the are named Mount Pleasant, Hundred of Talunga, contained in Certificate of Title Volume 5690 Folio 30, and known as Talunga Village.

Seconded Cr de Vries **CARRIED**

INTRODUCTION

Ministerial approval has been received and a motion is required to revoke the community land classification.

COMMENT

At its meeting on 15 January 2013, Council resolved the following:

> ***MOVED*** *Cr Seager that:*
>
> *(1) Council receives the report on the outcome of public consultation undertaken in relation to the proposed revocation of Community Land classification of the Talunga*

Village site at Mount Pleasant, being land contained in Certificate of Title Volume 5690 Folio 30, and notes the submission received;

(2) *Council reaffirms its decision of 21 August 2012 (DA/CCS/R3) that the Director Corporate and Community Services be given delegated authority to prepare a report to the Minister for State/Local Government Relations seeking approval to revoke the Community Land status of the said land;*

(3) *a future report regarding the Minister's decision be presented to Council.*

Seconded** Cr Lykke* ***CARRIED

An application was made to the Minister for State/Local Government Relations for the revocation of the said land. The Minister has subsequently advised that approval is provided for Council's proposal to revoke the community land classification.

Pursuant to subsection 194(3)(b) of the Local Government Act 1999, a motion is required by Council to revoke the community land classification.

During the consultation period, a written submission, signed by several residents of Talunga Village, was received in support of the Talunga Village proposed development going ahead. They have been advised of the Minister's decision and that the matter will be presented to the 19 March 2013 Council meeting for final consideration by Council and motion to revoke the land.

LEGISLATION/POLICY/COUNCIL STRATEGIC PLAN

LEGISLATION:
Local Government Act

COUNCIL STRATEGIC PLAN:
1.1 Health and Family
1.3 Recreation
1.4 Safety and Security
3.4 Infrastructure
3.5 Planning and Building
4.1 Responsibility

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

As detailed in Report DA/CCS/R3 of 21 August 2012 Council Meeting.

COMMUNITY CONSULTATION

As detailed in Report 7.3.1.3 of 15 January 2013 Council Meeting.

ADJOURNMENT OF COUNCIL MEETING – 9.32AM

The Council meeting adjourned at 9.32am for a meeting of the Strategic Planning and Development Policy Committee.

RESUMPTION OF COUNCIL MEETING – 9.46AM

The Council meeting resumed at 9.46am

7.3.1.2
INTERNATIONAL TRIATHLON UNION – EXPRESSION OF INTEREST TO HOST 2015 WORLD DUATHLON CHAMPIONSHIPS
B18

MOVED Cr Angas that Council:

(1) Notes the decision of the International Triathlon Union not to hold the 2015 World Duathlon Championships in The Barossa Council area.

(2) Approves the proposed provisional retention and reallocation of funds subject to submission of future reports and any necessary budget adjustments.

Seconded Cr Sloane **CARRIED**

SCANNED 20130307 112047

Hon Gail Gago MLC

Government of South Australia

Leader of the Government in the Legislative Council
Minister for Agriculture, Food and Fisheries
Minister for Forests
Minister for Regional Development
Minister for the Status of Women
Minister for State/Local Government Relations
Level 9
Terrace Towers
178 North Terrace
Adelaide SA 5000
GPO Box 1671
Adelaide SA 5001
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Tel: (08) 8303 2926
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Email: minister.gago@sa.gov.au

eA164372

RECEIVED
- 7 MAR 2013
The Barossa Council

Mr Martin McCarthy
Chief Executive Officer
The Barossa Council
PO Box 867
NURIOOTPA SA 5355

Dear Mr McCarthy

Thank you for the Council's letter seeking my approval for the Council's proposal to revoke the community land classification of Allotments 7 and 8, Melrose Street, Mount Pleasant, known as Talunga Village. I apologise for the delay in this response.

I have perused the information provided to me by the Council, including the Reports on the proposal and the submission received as part of the public consultation process.

In making my decision I have taken into account the nature of the public consultation undertaken and after carefully considering the effect of the revocation on the area and the local community, I am of the opinion that, on balance, the revocation will be more positive than not in its effect.

I therefore approve the Council's proposal to revoke the classification as community land of land being Allotments 7 and 8, Deposited Plan 246, in the area named Mount Pleasant, Hundred of Talunga, Certificate of Title Volume 5690 Folio 30.

If the Council wishes to proceed with the revocation it will need to pass a motion to revoke the community land classification pursuant to subsection 194(3)(b) of the *Local Government Act 1999*.

Thank you for drawing this matter to my attention.

Yours sincerely

Gail Gago

HON GAIL GAGO MLC

6 / 3 /2013

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TheBarossaCouncil

WHOLE OF LAND
COMMUNITY FACILITIES LEASE

Talunga Village
90-92 Melrose Street, Mount Pleasant, SA 5235
(the Premises)

THE BAROSSA COUNCIL
(**Council**)

AND

BAROSSA VILLAGE INC
(**Lessee**)

TABLE OF CONTENTS

THE SCHEDULE

ITEM 1 **Premises**	The whole of the land comprised in Certificate of Title Volume 5690 Folio 30 as per Annexure A - Site Plan
ITEM 2 **Initial Term**	2 year commencing on 1 July 2023 (**Commencement Date**) and expiring at midnight on 30 June 2025.
ITEM 3 **Renewal(s)**	None
ITEM 4 **Rent**	One Dollar ($1.00) per annum (inclusive of GST) if demanded.
ITEM 5 **Rent Review Dates and Review Method**	None
ITEM 6 **Outgoings**	**Outgoings** means the total of all amounts paid or payable by the Council in connection with the ownership, management, administration and operation of the Premises.
ITEM 7 **Permitted Use**	For the purpose of providing residential rental accommodation for independent aged people with a preference for persons within The Barossa Council region or surrounds. The Lessee shall in all matters ensure compliance with the Residential Tenancies Act for all tenancies provided under the Permitted Use.
ITEM 8 **Public Risk Insurance**	Twenty Million Dollars ($20,000,000.00)
ITEM 9 **Refurbishment**	Short, medium and long-term maintenance and refurbishment requirements to be mutually agreed between Council and the Lessee.

ITEM 10 **Special Conditions**	The terms and conditions set out in this schedule and Annexure B are deemed to be incorporated into this Lease and, in the event of any inconsistency with the terms and conditions contained in the body of this Lease, then the Special Conditions will prevail. Annual building inspection to be completed in partnership between the Lessee and Council. The Lessee shall remain registered and operate under the National Regulatory System. The Lessee must provide to Council copies of the following reports; • Quarterly financial income/expenditure reports • Annual audited financial accounts as they related to the operation of this lease only • Annual property inspection by Tenant Services Officer report An independent surplus fund is retained by the Lessee for the purpose of maintenance and improvements of the Premises. Subject to the following, expenditure is to be approved by Council. Council delegates to the Lessee the authority to expend up to One Thousand Dollars ($1,000.00) from retained surplus funds on items for which Council has responsibility under Annexure B. The Lessee may seek reimbursement of expenditure from retained surplus's of up to Five Thousand Dollars ($5,000) per annum for items for which the lesee has responsibility under Annexure B. Smoking is not permitted within the Premises with this condition to be administered under a Residential Tenancy Agreement. Pets are not permitted to be kept within the Premises with this condition to be administered under a Residential Tenancy Agreement.

ITEM 11 **Contacts**	**The Barossa Council** Mr Martin McCarthy Chief Executive Officer PO Box 867 NURIOOTPA, SA, 5355 facilities@barossa.sa.gov.au 8563 8444 **Lessee** Mr Ben Hall Chief Executive Officer PO Box 531 NURIOOTPA SA 50355 benh@barossavillage.org 8562 0300

DATE

PARTIES

THE BAROSSA COUNCIL of 43-51 Tanunda Road, Nuriootpa SA 5355 (**Council**)

BAROSSA VILLAGE INC of 14 Scholz Avenue, Nurioopta Parkside SA 5355 (**Lessee**)

BACKGROUND

A. The Council is the registered proprietor of or has the care, control and management of the Premises.

B. The Lessee has agreed to lease the Premises for the Permitted Use.

C. The Council has resolved to grant the Lessee a lease of the Premises and (if necessary).

D. The parties during the Term will work towards and long-term strategic solution to the provision of the housing services from the Premises including but not limited to:

 (i) The potential to transfer the Premises to the Lessee on terms to be agreed.

 (ii) The existing sinking fund will be redirected toward improvements with the Premises and any funds generated through the management period will be attributed to the operational cost and redevelopment of the site.

 (iii) The development of the Premises in a collaborative manner including the application of funds to be wholly determined by Council where the sinking fund is insufficient to manage drainage issues on the site so as to support agreed future development.

E. The Council and Lessee wish to record the terms of their agreement in this Lease.

AND THE PARTIES AGREE as follows:

1. ACKNOWLEDGEMENT OF BACKGROUND

The preceding statements are accurate and form part of this Lease.

1.1 Defined Terms

In this Lease:

Act means the *Retail and Commercial Leases Act 1995*.

Agreed Consideration means the Rent, Outgoings and all other consideration (whether in money or otherwise) to be paid or provided by the Lessee for any supply or use of the Premises and any goods, services or other things provided by the Council under this Lease (other than tax payable under clause 18).

Building Services includes all services (including gas, electricity, water, sewerage, communications, fire control, air-conditioning, plumbing and telephone and all plant, equipment, pipes, wires and cables in connection with them as applicable) to or of the Premises supplied by any authority, the Council or any other person the Council authorises.

Business Day means a day which is not a Saturday, Sunday or public holiday in South Australia.

Commencement Date means the commencement date of the Initial Term described in Item 2.

Council means the party described as 'Council' in this Lease and, where the context permits, includes the employees, contractors, agents and other invitees of the Council.

Council's Equipment means all fixtures and fittings, plant, equipment, services, chattels and other goods installed or situated in or on the Premises and made available for use by the Lessee.

CPI means the consumer price index published by the Australian Bureau of Statistics for All Groups (Adelaide) or the index which replaces it under clause 5.2.

Current CPI means for a CPI Review Date, the CPI number for the quarter ending immediately before that Review Date.

Default Rate means the rate which is two per centum (2%) per annum greater than the published annual rate of interest charged from time to time by National Australia Bank on overdraft facilities of more than $100,000 and if there is more than one rate published, the highest of those rates.

GST has the same meaning as given to that term in the GST Legislation.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any ancillary or similar legislation.

GST Rate means ten per centum (10%) or such other percentage equal to the rate of GST imposed from time to time under the GST Legislation.

Initial Term means the initial term of this Lease commencing on the Commencement Date described in Item 2.

Institute means the South Australian Division of the Australian Property Institute.

Legislation includes any relevant Statute or Act of Parliament (whether State or Federal) and any regulation or by-law including by-laws issued by any local government body or authority.

Lessee means the party described as 'Lessee' in this Lease and, where the context permits, includes the employees, contractors, agents, customers and other invitees of the Lessee.

Lessee's Equipment means any and all fixtures and fittings and other equipment installed in or brought onto or kept in the Premises by the Lessee.

Outgoings means the outgoings described in Item 6.

Payment Date means the Commencement Date and the first day of each month during the Term.

Permitted Use means the use described in Item 7.

Premises means the premises described in Item 1 including all improvements on the Premises and the Council's Equipment and, where the context permits, includes any part of the Premises.

Previous CPI means for a CPI Review Date, the CPI number for the quarter ending immediately before the last Review Date (or if there has not been a review, the Commencement Date).

Rates and Taxes means all present and future rates, charges, levies, assessments, duty and charges of any Statutory Authority, other department or authority having the power to raise or levy any such amounts in respect of the use, ownership or occupation of the Premises and includes water and sewer charges, council rates, emergency services levy.

Renewal Term means the term (if any) of renewal or extension in Item 3.

Rent means the amount described in Item 4.

Review Date means each date in Item 5.

Review Method means the relevant method of rent review in Item 5 for any Review Date.

Special Conditions means the special conditions to this Lease described in Item 10.

Statutory Authorities means any authorities created by or under any relevant Legislation including the Council in its separate capacity as such an Authority.

Statutory Requirements means all relevant and applicable Legislation and all lawful conditions, requirements, notices and directives issued or applicable under any such Legislation.

Term means the Initial Term, the Renewal Term and any period during which the Lessee holds over or remains in occupation of the Premises.

Yearly Amounts means the aggregate of the Rent, Outgoings and any other moneys payable by the Lessee during the Term.

1.2 Interpretation

Unless the contrary intention appears:

1.2.1 headings are for convenience only and do not affect interpretation;

1.2.2 the singular includes the plural and vice-versa;

1.2.3 a reference to an individual or person includes a corporation, partnership, joint venture, authority, trust, state or government and vice versa;

1.2.4 a reference to any party in this Lease or any other document or arrangement referred to in this Lease includes that party's executors, administrators, substitutes, successors and assigns;

1.2.5 a reference to any document (including this Lease) is to that document as varied, novated, ratified or replaced from time to time;

1.2.6 a reference to any Legislation includes any statutory modification or re-enactment of it or any Legislation substituted for it and all by-laws, regulations and rules issued under it;

1.2.7 a reference in this Lease to the Council's approval or consent is to the Council's prior written approval or consent which may be granted or withheld in the absolute discretion of the Council;

1.2.8 'including' and similar expressions are not and must not be treated as words of limitation;

1.2.9 the covenants and powers implied in leases by virtue of sections 124 and 125 of the *Real Property Act 1886* will apply and be implied in this Lease unless they are expressly or impliedly excluded or modified; and

1.2.10 any Special Condition in Item 10 will apply to this Lease and in the event of any inconsistency with the terms and conditions in the body of this Lease, then those Special Conditions will prevail.

1.3 Retail and Commercial Leases Act

1.3.1 If the Act applies to this Lease, then this Lease will be read and interpreted subject to the provisions of the Act and, to the extent to which there is any inconsistency with the provisions of the Act, those provisions of the Act will override the terms of this Lease.

1.3.2 Any right, power or remedy of the Council or obligation or liability of the Lessee that is affected by the Act (if applicable) shall be unenforceable or void but only to the extent that it is expressly made unenforceable or void by the Act.

2. GRANT OF LEASE

The Council grants and the Lessee accepts a lease of the Premises for the Term as set out in this Lease.

3. TERM LESS THAN FIVE (5) YEARS

3.1 This clause only has effect where:

3.1.1 the Act applies to this Lease; and

3.1.2 the Term is less than five (5) years.

3.2 The Council and the Lessee acknowledge and agree that:

3.2.1 the Term is less than five (5) years; and

3.2.2 section 20B of the Act does not apply to this Lease for the Term (including without limitation any holding over period which exceeds six (6) months).

3.3 The Lessee acknowledges that:

3.3.1 the Lessee has received independent legal advice to explain the effect of and how section 20B of the Act would apply but for this Lease containing a provision excluding the operation of that section;

3.3.2 the Lessee was not acting under coercion or undue influence in requesting or consenting to the inclusion of such provision; and

3.3.3 the Lessee has given assurances to the Lessee's lawyer that the Lessee was not acting under coercion or undue influence in requesting or consenting to the inclusion of such provision when instructing the Lessee's lawyer in relation to such provision.

4. RENT

4.1 Payment of Rent

The Lessee must pay the Rent if invoiced by the Payment Date.

5. RENT REVIEWS

5.1 CPI Review

Where the Rent is to be reviewed to a CPI Review, the Rent on and from that Review Date is calculated as follows:

$R_2 = R_1 \times$ <u>*Current CPI*</u>

Previous CPI

Where:

R_2 is the Rent after the Review Date; and

R_1 is the Rent immediately before the Review Date (disregarding any abatements, incentives or reductions).

5.2 Change to CPI Index

If the CPI is no longer published, either party may ask the President of the Institute to nominate an index which reflects the rate of price change in the area and group for the CPI and 'CPI' then means that index. The parties must each pay one half of the President's costs for nominating an index.

5.3 Rent Pending Determination

5.3.1 The Rent may be reviewed at any time from a Review Date even if the review is instituted after that Review Date.

5.3.2 If the Rent to apply on and from a Review Date has not been agreed on or determined by that Review Date, the Lessee must continue to pay instalments of Rent at the rate that applied before the relevant Review Date until the Rent is determined.

5.4 Adjustment Once Rent Determined

Once the Rent to apply on and from a Review Date is determined, the Lessee will pay any shortfall and the Council will allow any adjustment for overpayment at the next Payment Date.

5.5 No Decrease in Rent

Subject to the Act, the Rent will not decrease on a Review Date.

5.6 Other Review

Subject to the Act, nothing in this Lease prevents the Council and Lessee negotiating and agreeing on a Rent to apply from a Review Date without following this clause 5.

6. RATES, TAXES AND OUTGOINGS

6.1 Liability for Rates and Taxes

6.1.1 The Lessee must pay or reimburse the Council all Rates and Taxes levied, assessed or charged in respect of the Premises or upon the owner or occupier of the Premises.

6.1.2 The Rates and Taxes must be adjusted between the Council and the Lessee as at the Commencement Date and the end or earlier termination date of this Lease.

6.2 Payment of Outgoings

6.2.1 The Lessee must pay or reimburse the Council all Outgoings levied, assessed or charged in respect of the Premises or upon the owner or occupier of the Premises.

6.2.2 The Outgoings shall be adjusted between the Council and the Lessee as at the Commencement Date and the end or termination date of this Lease.

6.3 Power and Other Utilities

6.3.1 The Lessee will pay when they are due for payment, all costs for the use of telephone, lights and other utilities and the consumption of electricity, gas, water and any and all other services and utilities supplied to or used from the Premises.

6.3.2 If there is no separate meter for recording or measuring the services and utilities consumed on or from the Premises, then the Lessee may, if required by the Council, install the necessary meters at its own cost.

6.3.3 Without limiting the generality of this clause 6.3, the Lessee will comply in all respects with the *Electricity (General) Regulations 2012* and any other applicable electricity laws.

7. USE OF PREMISES

7.1 Permitted Use

The Lessee must use the Premises only for the Permitted Use and must not use or allow the Premises to be used for any other use,

(without the Council's prior written consent).

7.2 Offensive Activities

The Lessee must not carry on any offensive or dangerous activities on or from the Premises or create a nuisance or disturbance either:

7.2.1 for the Council; or

7.2.2 for the owners or occupiers of any adjoining property; and

7.2.3 must ensure at all times that activities conducted on or from the Premises will not bring any discredit upon the Council.

7.3 Use of Facilities

7.3.1 The Lessee will ensure that the Building Services are used carefully and responsibly and in accordance with any directions that may be given by the Council from time to time.

7.3.2 The Lessee will be responsible to repair or correct any damage or malfunction which results from any misuse or abuse of the Building Services by the Lessee.

7.4 Statutory Requirements

The Lessee, at its own cost, must comply with all Statutory Requirements (including any obligations under the *Work Health and Safety Act 2012 (SA)* and reasonable directives of the Council relating to:

7.4.1 the Lessee's use and occupation of the Premises; and

7.4.2 the nature of the Permitted Use conducted on the Premises by the Lessee.

7.5 Alcohol and Gaming

7.5.1 Unless the Lessee first obtains the written consent of the Council (which may be given or withheld by the Council in its absolute discretion), the Lessee must not apply for:

(a) a liquor licence under the *Liquor Licensing Act 1997*; or

(b) a gaming machine licence under the *Gaming Machines Act 1992*.

7.5.2 If the Lessee obtains a licence (or licences) under this clause, the Lessee must not do (or fail to do) or allow any of its employees, agents contractors, licensees or invitees to (or fail to):

(a) do anything that is in breach of the *Liquor Licensing Act 1997* and/or the *Gaming Machines Act 1992* (as the case may be) or of the conditions of the relevant licence;

(b) do anything that may result in the relevant licence being revoked or suspended;

(c) assign the licence;

(d) apply to remove the licence;

(e) allow a licence to be granted to another person in respect of the Premises or any part of the Premises; or

(f) apply to vary or revoke any conditions of the licence.

7.5.3 At or before the expiry or early termination of this Lease, the Lessee must:

(a) give any notices the Council requires to renew or assign the licence;

(b) allow those notices to be affixed as and for the period required by the *Liquor Licensing Act 1997* and/or the *Gaming Machines Act 1992* as the case may be;

(c) assign the licence to the Council or the Council's nominees if required to do so by the Council; and

(d) do anything else that may be required to affect the renewal or assignment of the licence.

7.6 Signs

The Lessee must not place any signs or advertisements on the outside (or inside if they can be seen from outside) of the Premises, except a sign or signs which:

7.6.1 are approved by the Council; and

7.6.2 comply with any relevant Statutory Requirements.

7.7 Dangerous Equipment and Installations

The Lessee may only install or use within the Premises equipment and facilities which are reasonably necessary for and normally used in connection with the Permitted Use and will not install or bring onto the Premises:

7.7.1 any electrical, gas powered or other machinery or equipment that may pose a danger, risk or hazard;

7.7.2 any chemicals or other dangerous substances that may pose a danger, risk or hazard; or

7.7.3 any heavy equipment or items that may damage the Premises.

7.8 Fire Precautions

The Lessee must, at its own cost:

7.8.1 comply with all Statutory Requirements relating to fire safety and procedures including any structural works or modifications or other building works which are required as a consequence of the Lessee's particular use of the Premises;

7.8.2 comply with any requirements and directives of the Council with regard to fire safety systems and procedures including fire evacuation drills and other procedures; and

7.8.3 without limiting clauses 7.8.1 and 7.8.2, the Lessee will undertake maintenance of the fire safety equipment.

7.9 Security

7.9.1 The Lessee must keep the Premises securely locked at all times when the Premises are not occupied and must provide a key to the Premises to the Council (or if the Council has engaged a manager, then to the manager) to be used only in the case of emergencies.

7.9.2 If provided, Premises access keys are provided to the Lessee only and not permitted to be provided to any third party without prior written consent from Council.

7.9.3 No reproduction/duplication of Council provided access keys is permitted by the Lessee. The requirement for extra Council provided keys by the Lessee must be discussed with the Council contact listed in Item 11 of The Schedule.

7.9.4 See clause 2.2 in Annexure B for further terms.

7.10 No Warranty

The Council makes no warranty or representation regarding the suitability of the Premises (structural or otherwise) for the Permitted Use or any other purpose.

8. INSURANCE

8.1 Lessee must Insure

The Lessee must keep current during the Term:

8.1.1 public risk insurance for at least the amount in Item 8 (or any other amount the Council reasonably requires) for each claim;

8.1.2 all insurance in respect of the Lessee's Equipment for its full replacement value;

8.1.3 plate glass insurance if requested by Council against usual risks; and

8.1.4 other insurances required by any Statutory Requirement or which the Council reasonably requires.

8.2 Requirements for Policies

Each policy the Lessee takes out under this clause 8 must:

8.2.1 be with an insurer and on terms reasonably approved by the Council;

8.2.2 be in the name of the Lessee and note the interest of the Council and any other person the Council requires;

8.2.3 cover events occurring during the policy's currency regardless of when claims are made; and

8.2.4 note that despite any similar policies of the Council, the Lessee's policies will be primary policies.

8.3 Evidence of Insurance

The Lessee must give the Council certificates evidencing the currency of the policies the Lessee has taken out under this clause 8. During the Term the Lessee must:

8.3.1 pay each premium before it is due for payment;

8.3.2 give the Council certificates of currency each year when the policies are renewed and at other times the Council requests;

8.3.3 not allow any insurance policy to lapse or vary or cancel it without the Council's consent; and

8.3.4 notify the Council immediately if a policy is cancelled or if an event occurs which could prejudice or give rise to a claim under a policy.

8.4 Insurance Affected

8.4.1 The Lessee must not do anything which may:

(a) prejudice any insurance of the Premises; or

(b) increase the premium for that insurance.

8.4.2 If the Lessee does anything (with or without the Council's consent) that increases the premium of any insurance the Council has in connection with the Premises, the Lessee must on demand pay the amount of that increase to the Council.

9. REPAIR AND MAINTENANCE

9.1 Repair

9.1.1 The Lessee must keep, maintain, repair and replace the Premises, the Lessee's Equipment and any Building Services situated within the Premises and which exclusively services the Premises in good repair.

9.1.2 If the Council requires the Lessee to do so, the Lessee must promptly repair any damage caused or contributed to by the act, omission, negligence or default of the Lessee.

9.2 Maintain and Replace

The Lessee must maintain, repair or replace items in or attached to the Premises which are damaged or worn with items of the same or similar quality to those in use when they were last replaced with the Council's approval or, if they have not been so replaced, to those in use at the Commencement Date.

9.3 Alterations by Lessee

9.3.1 The Lessee must not carry out any alterations or additions to the Premises without Council's consent.

9.3.2 The Lessee must provide full details of the proposed alteration and additions to the Council.

9.3.3 The Council may impose any conditions it considers necessary if it gives its approval including requiring the Lessee to obtain the Council's consent to any agreements that the Lessee enters into in relation to the alterations or additions.

9.3.4 The Lessee must carry out any approved alterations and additions:

(a) in a proper and workmanlike manner;

(b) in accordance with the conditions imposed by the Council and with the approvals made by Council in its capacity as lessor under this Lease;

(c) in accordance with all Statutory Requirements; and

(d) in a way to minimise disturbance to others.

9.3.5 Unless otherwise agreed in writing between the parties, all alterations and additions to the Premises made pursuant to this clause will be or become the property of the Council.

9.3.6 The Lessee will pay all of the Council's costs (including consultant's costs and legal costs) as a result of the Lessee's alterations and additions.

9.4 Refurbishment, Re-fitting and Redecoration

The Lessee must refurbish, re-fit and redecorate the Premises on or before each of the dates specified in Item 9 to the following specification:

9.4.1 clean and repair all surfaces to be redecorated;

9.4.2 paint (with at least two coats) or wallpaper, stain, varnish or polish each surface to be redecorated according to the previous treatment of that surface; and

9.5 Cleaning

The Lessee must:

9.5.1 keep the Premises clean and tidy; and

9.5.2 keep the Premises free of vermin, insects and other pests.

10. TRANSFERRING, SUBLETTING AND CHARGING

10.1 Transfer

The Lessee may, subject to the Act, only transfer its interest in this Lease provided:

10.1.1 the proposed transferee does not change the Permitted Use;

10.1.2 the proposed transferee is able to meet the financial obligations under this Lease; and

10.1.3 the Lessee has complied with the Council's procedural requirements for obtaining the Council's consent and the Lessee has obtained the written consent of Council which may be withheld at Council's absolute discretion.

10.2 Subletting

The Lessee must not sublet or sublicence any part of the Premises without the written consent of the Council.

10.3 Charging

10.3.1 The Lessee must not charge the Lessee interest in this Lease or the Lessee's Equipment without the Council's consent.

10.3.2 If the Council consents to a charge on the Lessee's Equipment then the Lessee must enter into a deed in a form required by the Council that ensures the charge is subject to the Council's rights under this Lease.

10.4 Hiring out of Premises

Except to give effect to the Permitted Use, the Lessee must not hire out or otherwise part with possession of the Premises without the written consent of the Council.

10.5 Deemed Assignment

If the Lessee is a corporation (not being a company with its shares listed on any Stock Exchange in Australia) or an association, any change in the beneficial ownership of twenty per centum (20%) or more of the voting shares in the corporation or any change in the effective control of the corporation or association will be deemed to be an assignment of the Premises requiring the consent of Council under this Lease.

10.6 Costs

The Lessee must pay all costs reasonably incurred by the Council (including the costs of any consultant or any legal fees) in relation to any dealing including in considering whether or not to grant any consent to a request by the Lessee under this clause 10.

11. COUNCIL'S OBLIGATIONS AND RIGHTS

11.1 Quiet Enjoyment

Subject to the Council's rights and to the Lessee complying with the Lessee's obligations under this Lease, the Lessee may occupy the Premises during the Term without interference from the Council.

11.2 Right to Enter

The Council may (except in the case of emergency when no notice will be required) enter the Premises after giving the Lessee reasonable notice:

11.2.1 to see the state of repair of the Premises;

11.2.2 to do repairs to the Premises or other works which cannot reasonably be done unless the Council enters the Premises;

11.2.3 to do anything the Council must or may do under this Lease or must do under any Legislation or to satisfy the requirements of any Statutory Authority; and

11.2.4 to show prospective lessees through the Premises.

11.3 Emergencies

In an emergency the Council may:

11.3.1 close the Premises; and

11.3.2 prevent the Lessee from entering the Premises.

11.4 Works and Restrictions

11.4.1 The Council may:

(a) install, use, maintain, repair, alter, and interrupt Building Services; and

(b) carry out works on the Premises (including extensions, renovations and refurbishment).

11.4.2 The Council must (except in cases of emergency) take reasonable steps to minimise interference with the Lessee's use and occupation of the Premises.

11.5 Right to Rectify

Council may at the Lessee's cost do anything which the Lessee should have done under this Lease but which the Lessee has not done or which the Council reasonably considers the Lessee has not done properly.

12. DAMAGE OR DESTRUCTION

12.1 Termination for Destruction or Damage

12.1.1 If the Premises is destroyed or is damaged so that the Premises is unfit for the Lessee's use then within three (3) months after the damage or destruction occurs, the Council must give the Lessee a notice either:

(a) terminating this Lease (on a date at least one (1) month after the Council gives notice); or

(b) advising the Lessee that the Council intends to repair the Premises so that the Premises are accessible and the Lessee can occupy and use the Premises.

12.1.2 If the Council gives a notice under clause 12.1.1(b) but does not carry out the intention within a reasonable time, the Lessee may give notice to the Council that the Lessee intends to end this Lease if the Council does not do whatever is necessary to make the Premises accessible and fit for use and occupation by the Lessee within a reasonable time (having regard to the nature of the required work).

12.1.3 If the Council does not comply with clause 12.1.1 or with the Lessee's notice under clause 12.1.2, the Lessee may end this Lease by giving the Council not less than one (1) month's notice.

12.2 Reduction or Abatement of Rent

12.2.1 The Yearly Amounts to be paid by the Lessee will, during the period the Premises are unfit or inaccessible, be reduced unless:

(a) the Premises are unfit or inaccessible; or

(b) an insurer refuses to pay a claim,

as a result of a deliberate or negligent act or omission of the Lessee.

12.2.2 The level of the reduction (if any) will depend on the nature and extent of the damage.

12.2.3 If the level of the reduction (if any) cannot be agreed, it must be determined by a Valuer.

13. REDEVELOPMENT, ASSET RATIONALISATION AND DEMOLITION

13.1 If as part of any redevelopment, asset rationalisation or other project conducted by the Council that includes the Premises (**Redevelopment**) or for any other reason the Council wishes to demolish or acquire vacant possession of the Premises or any part of the Premises, then the Council will be entitled to terminate this Lease subject to the following provisions:

13.1.1 the Council must provide the Lessee with details of the proposed Redevelopment sufficient to indicate a genuine proposal to carry out that Redevelopment within a reasonably practical time after this Lease is to be terminated;

13.1.2 the Council may at any time after providing the Lessee with the information specified in clause 13.1.1, give the Lessee a written notice of termination of this Lease (**Termination Notice**) specifying the date on which this Lease is to come to an end, being a date not less than six (6) months after the Termination Notice is given. This Lease will, unless terminated earlier by the Lessee under clause 13.1.3, come to an end at midnight on the day specified in the Termination Notice;

13.1.3 at any time after receiving a Termination Notice under clause 13.1.1, the Lessee may terminate this Lease by giving not less than seven (7) days' written notice to the Council; and

13.1.4 when this Lease is terminated (whether by the Council under clause 13.1.2 or by the Lessee under clause 13.1.3), the rights and obligations of the Council and the Lessee hereunder will come to an end but if any breach by either party still exists at that time then the rights of the other party with regard to that existing breach will continue.

13.2 Require the Lessee, upon reasonable notice, to vacate the Premises and to occupy an alternative site owned by the Council from the Premises subject to the following conditions:

13.2.1 the Council must provide the Lessee with details of the proposed Redevelopment sufficient to indicate a genuine proposal to carry out that Redevelopment within a reasonably practical time after this Lease is to be terminated;

13.2.2 the Council may at any time after providing the Lessee with the information specified in clause 13.2.1, give the Lessee a written notice of termination of this Lease (**Relocation Notice**) specifying the date on which the Lessee must relocate, being a date not less than six (6) months after the Relocation Notice is given;

13.2.3 the Lessee must relocate to the alternative site on the date stipulated in the Relocation Notice and shall give to the Lessee all such assistance and cooperation as may be necessary to give effect to this clause and to the relocation including the execution of any documents or instruments which the Lessee reasonably requires;

13.2.4 the alternative site must, in the reasonable opinion of the Council, be of comparable quality and utility to the Premises;

13.2.5 any reasonable costs incurred in relocating the Lessee shall be borne by the Council; and

13.2.6 the Lessee's occupation of the alternative site will be on the terms and conditions of this Lease with such amendments as are necessary for the terms and conditions of this Lease to apply to the Lessee's occupation of the alternative site.

13.3 Negotiate with the Lessee as to the necessary financial and maintenance contribution which is required from the Lessee in order for the Council to reconsider undertaking the Redevelopment. The Council may, at any reasonable time during these negotiations, exercise any of its other rights under this clause 13.

14. RENEWAL

14.1 If a right of renewal has been granted to the Lessee as described in Item 3 and the Lessee wishes to exercise that right of renewal, then the Lessee must serve a written notice on the Council not less than six (6) and not more than twelve (12) months before the expiry of the Initial Term stating it requires a renewal of this Lease.

14.2 The Lessee will not be entitled to a right of renewal if:

14.2.1 the Lessee has been in breach of this Lease at any time before giving notice of the Lessee's exercise of the right of renewal;

14.2.2 the Lessee is in breach of this Lease at the time of giving that notice; or

14.2.3 the Lessee is in breach or commits a breach of this Lease after giving notice but before commencement of the Renewal Term.

15. RIGHTS AND OBLIGATIONS ON EXPIRY

15.1 Expiry

This Lease will come to an end at midnight on the last day of the Term unless it is terminated earlier by the Council or the Lessee under any other provision of this Lease.

15.2 Handover of Possession

Before this Lease comes to an end, the Lessee will:

15.2.1 ensure that all residents to whom part of the Premises are sub-leased to are appropriately informed (to the Council's satisfaction) and do all things necessary to assign the rights under the sublease agreements with such residents is transferred to the Council, including without limitation, all things which the Council requires;

15.2.2 remove all of the Lessee's Equipment and repair any damage caused by such removal;

15.2.3 no later than one (1) month before this Lease comes to an end, provide the Council with a written summary of all alterations and additions made to the Premises by the Lessee or other occupiers of the Premises, whether those alterations and additions were authorised by the Council or not;

15.2.4 if required by the Council, remove and reinstate any alterations or additions made to the Premises by the Lessee;

15.2.5 refurbish the Premises as required under clause 9.4; and

15.2.6 complete any repairs which the Lessee is obliged to carry out under this Lease.

15.3 Abandoned Goods

If, when this Lease comes to an end the Lessee leaves any goods or equipment at the Premises, then the Council will be entitled to deal with and dispose of those goods subject to and in accordance with the requirements of the Act.

15.4 Holding Over

If, with the Council's consent, the Lessee continues to occupy the Premises after the end of this Lease, the Lessee does so as a monthly tenant which:

15.4.1 either party may terminate on one (1) month's notice given at any time; and

15.4.2 is on the same terms as this Lease.

16. BREACH

16.1 Payment Obligations

16.1.1 The Lessee must make payments due under this Lease:

(a) without demand (unless this Lease provides demand must be made);

(b) without set off, counterclaim, withholding or deduction;

(c) to the Council or as the Council directs; and

(d) by direct debit or such other means as directed by the Council.

16.1.2 If a payment is stated to be due on a particular Payment Date (such as the next Payment Date or the first Payment Date after an event) and there is no such Payment Date, the Lessee must make that payment on demand.

16.2 Council's Rights on Breach

16.2.1 If the Lessee is at any time in breach of any of its obligations under this Lease and the Lessee fails to remedy that breach to the satisfaction of the Council after being requested by the Council to do so, the Council and anybody authorised by the Council for that purpose may at any time thereafter come onto the Premises without notice and do all things necessary to remedy that breach.

16.2.2 The Lessee will be liable to pay or reimburse the Council for all costs and expenses incurred in that regard which the Council may recover from the Lessee as a debt due and payable on demand.

16.3 Default, Breach and Re-Entry

In the event that:

16.3.1 any moneys (or part of any moneys) payable under this Lease are unpaid for the space of seven (7) days after any day on which the same ought to have been paid (although no formal or legal demand has been made);

16.3.2 the Lessee commits, permits or suffers to occur any breach or default in the due and punctual observances and performance of any of the covenants, obligations and provisions of this Lease;

16.3.3 in the case of a Lessee being a company or association:

(a) a meeting of the directors or members of the Lessee is convened to pass a resolution that an administrator of the Lessee be appointed or that the Lessee be wound up voluntarily;

(b) any person appoints an administrator of the Lessee;

(c) an application is made to any court to wind up the Lessee;

(d) an application is made pursuant to section 411 of the *Corporations Act 2001*;

(e) a Controller, Managing Controller, Receiver or Receiver and Manager is appointed to the Lessee or in respect of any property of the Lessee; or

(f) the Lessee is deregistered or dissolved;

16.3.4 in the case of a Lessee being a natural person:

(a) the Lessee commits an act of bankruptcy or a sequestration order is made against the Lessee;

(b) a creditor of the Lessee presents a creditor's petition against the Lessee under the *Bankruptcy Act 1966*;

(c) the Lessee presents a petition against himself or herself under the *Bankruptcy Act 1966*;

(d) the Lessee signs an authority under section 188 of the *Bankruptcy Act 1966*;

(e) the Lessee gives a debt agreement proposal to the Official Trustee under Part IX of the *Bankruptcy Act 1966* and that debt agreement proposal is accepted by the Lessee's creditors;

(f) the Lessee becomes subject to an order directing the Official Trustee or a specified registered Trustee to take control of his or her property before sequestration; or

(g) the Lessee is convicted of an indictable offence (other than a traffic offence);

16.3.5 execution is levied against the Lessee and not discharged within thirty (30) days;

16.3.6 any property in or on the Premises is seized or taken in execution under any judgment or proceedings;

16.3.7 the Premises are left unoccupied for one (1) month or more without the Council's consent,

then despite any other clause of this Lease, the Council at any time has the right to re-enter into and upon the Premises in the name of the whole and to have again repossess and enjoy the same as of its former estate but without prejudice to any action or other remedy which the Council has or might or otherwise could have for arrears of Rent or any other amounts or breach of covenant or for damages as a result of any such event and the Council shall be freed and discharged from any action, suit, claim or demand by or obligation to the Lessee under or by virtue of this Lease.

16.4 Rights of Council not Limited

The rights of the Council under this Lease and at law resulting from a breach of this Lease by the Lessee shall not be excluded or limited in any way by reason of the Council having or exercising any powers under this clause 16.

16.5 Landlord and Tenant Act

In the case of a breach or default of any term of this Lease where notice is required to be given pursuant to section 10 of the *Landlord and Tenant Act 1936*, such notices will provide that the period of fourteen (14) days is the period within which the Lessee is to remedy any such breach or default if it is capable of remedy or to make reasonable compensation in money to the satisfaction of the Council. No period of notices is required for the non-payment of Rent.

16.6 Repudiation and Damages

16.6.1 The Lessee acknowledges that the following obligations under this Lease are essential terms:

(a) the obligation to pay Rent;

(b) the obligation to pay Outgoings;

(c) the obligations and prohibitions in relation to use of the Premises;

(d) the obligations and restrictions in relation to additions and alterations to the Premises; and

(e) the restriction on assignment, subletting, mortgaging and licensing.

16.6.2 If the Council accepts payment of Rent or any other moneys late or does not act or exercise any rights immediately or at all in respect of any breach of an essential term, that conduct on the part of the Council will not be deemed to amount to a waiver of the essential nature of that essential term.

16.6.3 If the Lessee breaches any essential term, that conduct on the part of the Lessee will be deemed to constitute a repudiation of this Lease and the Council may at any time thereafter rescind this Lease by accepting that repudiation.

16.6.4 The Lessee agrees that if this Lease is terminated by the Council because of a breach by the Lessee of an essential term or if the Lessee repudiates this Lease and the Council accepts that repudiation thereby rescinding this Lease, the Lessee will be obliged to pay compensation to the Council including rent and other moneys which the Council would otherwise have received under this Lease for the balance of the Term had the Lessee not breached an essential term or repudiated this Lease. In those circumstances, the Council will be obliged to take reasonable steps to mitigate its losses and to endeavour to lease the Premises at a reasonable rent and on reasonable terms.

16.6.5 The rights of the Council under this clause 16.6 and any action taken by the Council hereunder do not exclude or limit any other rights or entitlements which the Council has under this Lease or at law in respect of any breach or repudiatory conduct on the part of the Lessee.

16.7 Interest on Overdue Amounts

If the Lessee does not pay an amount when it is due, it must pay interest on that amount on demand from when the amount becomes due until it is paid in full. Interest is calculated on outstanding daily balances at the Default Rate.

17. INDEMNITY AND RELEASE

17.1 Risk

The Lessee occupies and uses the Premises at the Lessee's risk.

17.2 Indemnity

The Lessee is liable for and indemnifies the Council against all actions, liabilities, penalties, claims or demands for any loss, damage, injury or death incurred or suffered directly or indirectly including in connection with:

17.2.1 any act or omission of the Lessee;

17.2.2 the overflow or leakage of water or any other harmful agent into or from the Premises;

17.2.3 any fire on or from the Premises;

17.2.4 loss or damage to property or injury or death to any person caused by the Lessee, the use of the Premises by the Lessee or otherwise relating to the Premises;

17.2.5 a breach of this Lease by the Lessee; or

17.2.6 the Lessee's use or occupation of the Premises.

17.3 Release

The Lessee releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Premises or the Building, except to the extent that they are caused by the Council's negligence.

17.4 Indemnities are Independent

Each indemnity is independent from the Lessee's other obligations and continues during this Lease and after this Lease ends.

17.5 Release and Indemnity to Lessee

The Council releases the Lessee for all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Premises or the Building from any act or omission which occurs prior to the Commencement Date and the Council is liable for and indemnifies the Lessee against all actions, liabilities, penalties, claims or demands for any loss, damage, injury or death incurred or suffered directly or indirectly in connection with any any damage, loss, injury or death occurring in the Premises or the Building from any act or omission prior to the Commencement Date, except to the extent that any such arise directly or indirectly due to the act or omission of the Lessee.

18. GOODS AND SERVICES TAX

18.1 If GST applies to impose tax on the Agreed Consideration or any part of it or if the Council is liable to pay GST in connection with this Lease or any goods, services or other things supplied under this Lease then:

18.1.1 the Agreed Consideration for that supply is exclusive of GST;

18.1.2 the Council may increase the Agreed Consideration or the relevant part of the Agreed Consideration by a percentage amount which is equal to the GST Rate; and

18.1.3 the Lessee shall pay the increased Agreed Consideration on the due date for payment by the Lessee of the Agreed Consideration.

18.2 Where the Agreed Consideration is to be increased to account for GST under this clause 18, the Council shall on or before the date on which the Agreed Consideration is payable, issue a tax invoice to the Lessee.

18.3 If the Lessee does not comply with its obligations under this Lease or with its obligations under the GST Legislation in connection with this Lease and as a result the Council becomes liable for penalties or interest for late payment of GST, then the Lessee must pay the Council on demand an amount equal to the amount of the penalties and interest.

19. GENERAL

19.1 Costs

The Lessee must, on request, pay or reimburse to the Council:

19.1.1 all stamp duty (if any) assessed on this Lease;

19.1.2 if the Act does not apply to this Lease (unless otherwise agreed between the parties) all of the legal costs (determined on a solicitor and client basis) incurred by the Council in connection with the preparation of this Lease, negotiating, revising and engrossing this Lease (including all attendances on the Lessee and its legal and other advisers and all advices provided to the Council) and attending to the execution of this Lease;

19.1.3 if the Act does apply to this Lease, one half of all other preparatory costs incurred by the Council. For the purposes of this sub-clause, 'preparatory costs' has the meaning described in the Act, namely, legal and other expenses incurred by the Council in connection with the preparation, negotiation, stamping and registration of this Lease including the costs of attendances on the Lessee by the Council or a solicitor acting for the Council;

19.1.4 all costs including legal and other expenses incurred by the Council in connection with the preparation, negotiation, revision, execution and registration of any extension of this Lease; and

19.1.5 all legal and other costs and expenses incurred by the Council in consequence of any actual or threatened breach by the Lessee hereunder or in exercising or enforcing (or attempting to do so) any rights or remedies of the Council hereunder or at law or otherwise arising in consequence of any actual or threatened breach by the Lessee.

19.2 Waiver

If the Council accepts or waives any breach by the Lessee, that acceptance or waiver cannot be taken as an acceptance or waiver of any future breach of the same obligation or of any other obligation under this Lease.

19.3 Notice

19.3.1 Without excluding any other form of service, any notice required to be given or served will be sufficiently given or served as follows:

(a) in the case of the Lessee, if left at the Premises or if the Lessee has vacated the Premises, then if posted by pre-paid post to the last known address of the Lessee;

(b) in the case of the Council, if posted by pre-paid post to the Council at its principal place of business in South Australia (which is taken to be the address stated in this Lease unless the Lessee is or ought reasonably be aware that that is not the Council's principal place of business at the relevant time).

19.3.2 Notice served by pre-paid post will be deemed to have been given or served three (3) Business Days after posting.

19.4 Severance

If any part of this Lease is found to be invalid or void or unenforceable, then that part will be severed from this Lease and the remainder of this Lease will continue to apply.

19.5 Entire Agreement

The Council and the Lessee acknowledge and agree that this Lease contains and represents the entire agreement reached between them with regard to the Premises and that no promises, representations or undertakings other than those contained in this Lease, were made or given or relied upon.

19.6 Resumption

If the Council receives notice of resumption or acquisition of the Premises (or any part thereof) from or by any Statutory Authority or any governmental or semi-governmental body, then the Council may terminate this Lease by giving not less than three (3) months' written notice to the Lessee. When such termination takes effect, the rights and obligations of the Council and the Lessee hereunder will come to an end but if any breach by either party still exists at that time then the rights of the other party with regard to that existing breach will continue.

EXECUTED as an **AGREEMENT**

By the Council

SIGNED by **MARTIN McCARTHY** under delegated authority in the presence of:

.... Signature of Authorised Representative	.... Signature of Witness
.... Martin McCarthy	.... Name of Witness (print)
.... Chief Executive Officer	.... Dated

EXECUTED by **BAROSSA VILLAGE INC** in accordance with section 127(1) of the Corporations Act by the authority of its directors:

.... Signature of Authorised Representative	.... Signature of Witness
.... Name of Authorised Representative (print)	.... Name of Witness (print)
.... Position of Authorised Representative (print)	.... Dated

OR

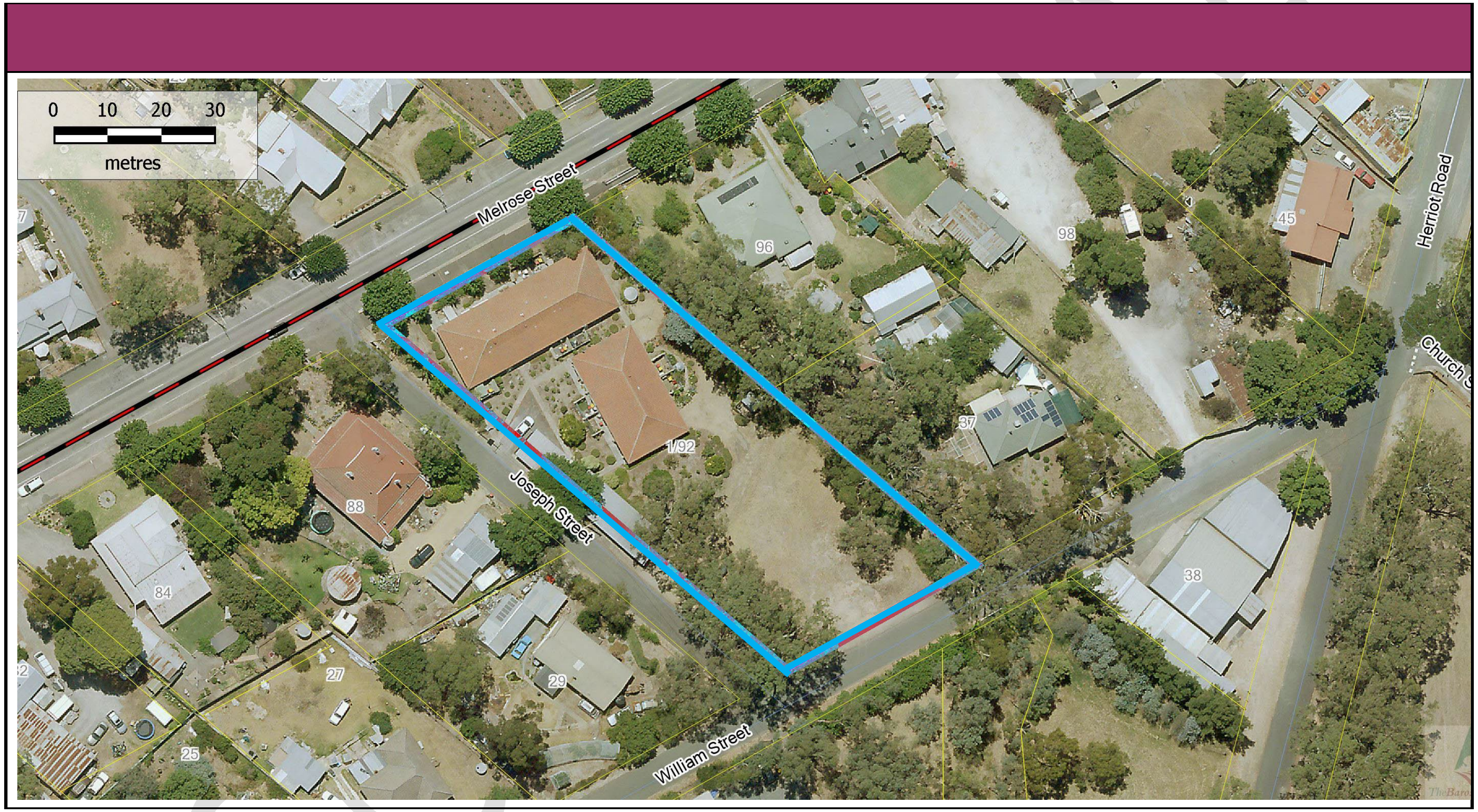
THE COMMON SEAL of)
BAROSSA VILLAGE INC)
was hereunto affixed in)
accordance with its Constitution)
and in the presence of:

....
Seal Holder

....
Seal Holder

Barossa Council Community Facilities Lease - Whole of Land
Lease No: LLA/XX

ANNEXURE A – SITE PLAN



Barossa Council Community Facilities Lease - Whole of Land
Lease No: LLA/XX

ANNEXURE B

SPECIAL CONDITIONS

1. COUNCIL'S OBLIGATIONS

1.1 The Council may undertake a building inspection prior to the commencement of the Lease and annually during the term of the Lease. For the purposes of this clause, building inspection includes statutory requirements, foundation, salt damp, window frames, exterior walls, verandah posts, roof structure, gutters, exterior steps, stairs, guard/handrails, ramps, ceiling and interior walls. The Council will provide to the Lessee a copy of the building inspection upon receipt.

1.2 If applicable, Council shall provide the Lessee with suitable access keys for specific use of the Premises. Should Council be required to change any access keys and/or Premises locks outside the terms of clause 2.2 in Annexure B, Council shall provide, free of charge, a replacement access key directly to the Lessee. Council will endeavour to notify the Lessee in advance of any access key/Premises lock replacements in an attempt to prevent disruption to the Lessees use of the Premises.

1.3 The Council will take out and maintain a policy of building insurance.

1.4 The Council will take out and maintain insurance for Council's Equipment.

1.5 The Council will be responsible for ensuring the maintenance of all fire fighting equipment and emergency exit maintenance.

1.6 The Council will be responsible for asbestos management within the Premises.

1.7 The Council will be responsible for stormwater management at the Premises.

1.8 The Council will be responsible for the external painting of the Premises.

1.9 Where Council at its discretion installs a security alarm system at the Premises, it will be responsible for the maintenance.

1.10 The Council will be responsible for the installation and maintenance of fire compliance equipment.

1.11 The Council will be responsible for water storage and tank maintenance at the Premises.

2. LESSEE'S OBLIGATIONS

2.1 The Lessee will be responsible for and pay all costs relating to its use that relate to alcohol, environmental health and food safety compliance and applications.

2.2 Any applicable Premises access keys are provided to the Lessee only and not permitted to be provided to any third party without prior written consent from Council. No reproduction/duplication of provided access keys is permitted by the Lessee. Costs associated with replacing lost access keys, where the fault of the loss is caused by the Lessee, are to be borne by the Lessee. All duplication/replacement of access keys is to be conducted by Council staff only. Should any Premises locks, and hence keys, require replacement due to the Lessee duplicating, losing or lending out access keys without Council approval, the costs associated with such replacement will be invoiced to the Lessee.

2.3 The Lessee will choose, supply and grade usage of water source and be responsible for charges.

2.4 The Lessee will be responsible for ensuring compliance with all statutory requirements relating to asbestos, fire safety and residual current devices.

2.5 The Lessee will be responsible for external water proofing (external window painting, roof, gutter (cleaning and maintenance) and footing maintenance).

2.6 The Lessee will be responsible for the maintenance of any car park at the Premises.

2.7 The Lesse will arrange for the service, maintenance and repair of all air-conditioning and heating plant and equipment.

2.8 The Lesee will be responsible for pest control at the Premises and all costs incurred in relation to this may be on-charged to the Lessee.

2.9 The Lessee will be responsible for tagging, testing and RCD protection of all Council owned electronic and general electrical maintenance.

2.10 The Lessee will be responsible for grounds maintenance including trees and vegetation, lawns and gardens.

2.11 The Lessee will be responsible for all repair and maintenance of external lights including globe replacement of all external lights.

2.12 The Lessee will be responsible for the maintenance of the hot water service and gas pipe maintenance and replacement.

2.13 The Lessee will be responsible for the removal of any graffiti at the Premises and the Council may provide assistance upon request as per the Council's Graffiti Policy.

2.14 The Lessee will be responsible for the internal painting of the Premises.

2.15 The Lessee will be responsible for plumbing issues relating to the toilets, sinks, drains, pipes, water filters, etc.

2.16 The Lessee will be responsible for the maintenance and replacement of all glass at the Premises.

2.17 The Lessee will be responsible for all handyman maintenance including handles, floor coverings, locks, doors, roller doors, cobwebs, light globes, window cleaning, etc.

2.18 The Lessee will be responsible for the maintenance of hygiene services at the Premises.

2.19 The Lessee will be responsible for all waste removal from the Premises.

2.20 The Lessee will be responsible for testing and tagging all of its own electrical equipment brought onto the Premises.

2.21 The Lessee will be responsible for all flooring including carpet cleaning at the Premises.