



MINUTES OF THE MEETING OF THE BAROSSA COUNCIL

held on Tuesday 15 August 2023 commencing at 5.30pm
in the Council Chambers, 43-51 Tanunda Road, Nuriootpa.

MINUTES

Welcome and acknowledgement of country by Mayor Bim Lange who declared the meeting open at 5.30pm.

1. ATTENDANCE RECORD

1.1 Members Present

Mayor Bim Lange, Crs John Angas, Don Barrett, David de Vries, Bruce Preece, Tony Hurn, Cathy Troup, Jane Evans, Jess Greatwich, Rick Lane and Heidi Thompson.

Apologies

Cr Kathryn Schilling

Not Present

Nil

Leave of Absence

Nil

Cr Preece entered the meeting 5.31 pm

2. CONFIRMATION OF MINUTES

2.1 Minutes of previous meetings – for confirmation:

MOVED Cr Hurn

That the Minutes of the Council meeting held on Tuesday 18 July 2023 at 5.30pm and the Special Council meeting held on Tuesday 18 July 2023 at 6.00 pm, as circulated, be confirmed as true and correct records of the proceedings of those meetings.

SECONDED Cr de Vries

CARRIED 2022-26/219

2.2 Matters arising from previous minutes

Nil

3. PROCEDURAL ITEMS

3.1 Petitions

Nil

3.2 Deputations/Visitors to the meeting

- 3.2.1 Mayor Lange welcomed Mr Bryce Lillecrapp, Chair of Friends of Bushgardens to the meeting and presented him with a certificate of recognition for his commitment to volunteering.

Bryce started volunteering at the Bushgardens in 2013. After nearly 10 years and at least 1200 hours of service, Bryce has recently resigned as a volunteer. He has been part of the maintenance team. Bryce looked after the slashing and was heavily involved in the repairing and installation of infrastructure and irrigation systems.

As well as being a dedicated volunteer at the Barossa Bushgardens, Bryce has been instrumental in the establishment of Rotary in the Barossa.

Bryce is known for his big heart when it comes to helping the community. We are delighted that he will still be involved as Chairperson of The Friends of Barossa Bushgardens.

With leave of the meeting, Mayor Lange moved agenda item 3.2.2 – Barossa Australia presentation, prior to item 7.1.3 - Barossa Australia - 2023-2024 Funding Agreement to allow for the representatives from Barossa Australia to present the information and answer questions to the relevant agenda item.

3.3 Notice of Motion

Nil

3.4 Questions with Notice

Nil

4. MAYOR

4.1 Mayor's Report

MOVED Cr de Vries

That the Mayor's report be received.

SECONDED Cr Troup

CARRIED 2022-26/220

5. COUNCILLORS' REPORTS

Nil

6. MATTERS FOR INFORMATION

6.1 Audit And Risk Committee Meeting - Minutes Of 21 June 2023

6.2 Food Act Annual Report 2022-2023

6.3 Barossa Australia - 2022/2023 Funding Agreement - Tourism Performance Activity Report

Cr Greatwich made comment and questioned Item 6.3 - 2022/2023 Funding Agreement - Tourism Performance Activity Report and advised the chamber with approval from the Mayor, that she would be moving a motion without notice as per below.

MOVED Cr Greatwich

That Council request Barossa Australia provide a revised report for the Barossa Vintage Festival 2023 that will include greater detail on the financial structure and outcomes of the event to be presented to the Council by the 21 November 2023 Council meeting.

SECONDED Cr de Vries

CARRIED 2022-26/220

6.4 Williamstown And Lyndoch Landcare Group Inc

6.5 Local Government Finance Authority Annual General Meeting Notice

7. DEBATE REPORTS

7.1 Office of the Mayor and CEO

7.1.1 CODE OF PRACTICE FOR MEETING PROCEDURES 22/66346

MOVED Cr Angas

That Council adopts the proposed Code of Practice for Meeting Procedures as at Attachment 1.

SECONDED Cr Lane

CARRIED 2022-26/221

PURPOSE

The *Local Government Act 1999* and *Local Government (Procedures at Meetings) Regulations 2013* provide the legislative meeting procedure framework for the conduct of Council and Committees meetings. A review of the Code of Practice for Meeting Procedures has been undertaken, in accordance with the legislation and taking into consideration Council's meeting practices and needs.

REPORT

Background

Chapter 6 of the *Local Government Act 1999* (the Act) and the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations) govern Council and Committee meetings. The rules set out in the Act and Regulations are generally mandatory, with some exceptions. Council may establish discretionary procedures under the Regulations that alter or substitute specific regulation.

In accordance with Section 86, of the *Local Government Act 1999*, the procedure to be observed at a meeting of a Council is to be as prescribed by regulation. The *Local Government (Procedures at Meetings) Regulations 2013* details the minimum meeting procedures Council must observe, and provide for Council to determine procedures not prescribed within the *Local Government (Procedures at Meetings) Regulations 2013*.

Introduction

The Code of Practice is a public document, available for inspection by members of the public. The adoption of a Code of Practice provides transparency to the community with respect to meeting procedures, and a consistent framework for Elected Members, Council staff, Committee Members and community members. Further it allows rules governing meeting procedures, variations and any guidance notes to be collated in one document.

Discussion

The Code of Practice for Meeting Procedures has been reviewed for Council consideration as at Attachment 1.

The revised Code of Practice has been formulated in accordance with the *Local Government Act 1999* and *Local Government (Procedures at Meetings) Regulations 2013*, taking into consideration meeting practices of Council and Committees.

Section 4 – Guiding Principles of the *Local Government (Procedures at Meetings) Regulations 2013* sets out the principles that need to be taken into consideration when formulating meeting procedures:

The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a council or a council committee:

- (a) procedures should be fair and contribute to open, transparent and informed decision-making;*
- (b) procedures should encourage appropriate community participation in the affairs of council;*
- (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;*
- (d) procedures should be sufficiently certain to give the community and decisionmakers confidence in the deliberations undertaken at the meeting.*

The Code of Practice relates to Council and Committee Meetings as governed by the *Local Government Act 1999*. The Barossa Assessment Panel is established under the *Planning, Development and Infrastructure Act 2016* and operates under its own Terms of Reference and has its own operating procedure to guide its procedures.

A list of changes made to the Code of Practice are outlined below:

- Updated references within Clause No 4 - Related Policies and Documents to include requirements under the Local Government Reform including under Division 2 – Member Behaviour.
- Replaced reference to Informal Gatherings to Information or Briefing Sessions.
- Updated the Notice of Motion to seven (7) clear days in line with the Regulations.
- Removed reference to livestreaming of Council Meetings from page 21.
- Removed requirement to complete a form to declare a conflict of interest.
- Replaced the Mayor's report being recorded in Minutes to Agenda.

Summary and Conclusion

A comprehensive review of the Code of Practice has been undertaken. The recommendation reflects this thorough review and ensures Council meets its legislative requirements regarding meeting practices and procedures.

The endorsement of the Code of Practice provides the framework for meetings to be conducted in accordance with legislative requirements.

Pursuant to Regulation 6, a resolution supported by at least two-thirds of members of the Council entitled to vote on the resolution is required to alter, substitute or revoke the Code of Practice.

Council is presented with the draft Code of Practice for Meeting Procedures as attached at Attachment 1 for endorsement.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Draft Code of Practice for Meeting Procedures 

Supporting references[Local Government Act 1999 \(legislation.sa.gov.au\)](http://legislation.sa.gov.au)[Local Government \(Procedures at Meetings\) Regulations 2013 | South Australian Legislation](#)**COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS**Community Plan

How We Work - Good Governance

Corporate Plan

- 6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.
- 6.1. Ensure that the community has access to information regarding the discussions held and decisions made by Elected Members.

Legislative Requirements

Local Government Act 1999

Local Government (Procedures at Meetings) Regulations 2013

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

endorsement of the Code of Practice for Meeting Procedures.

Risk is mitigated by adopting a Code of Practice that sets out in one place, all rules, variations and guidance notes with respect to meeting procedures, meeting legislative requirements and improving transparency to community members and additionally providing a consistent framework for Elected Members and officers.

COMMUNITY ENGAGEMENT

There is no requirement to consult the community on the Code of Practice for Meeting Procedures.

7.1.2 AUDIT AND RISK COMMITTEE MEMBERSHIP - EXTENSION OF APPOINTMENT FOR INDEPENDENT MEMBER**23/39121****MOVED** Cr Barrett

That Council approve the extension of the appointment of Mr Ian Swan for a further two years commencing on 28 January 2024 and concluding on 27 January 2026.

SECONDED Cr Preece**CARRIED 2022-26/222****PURPOSE**

To approve the proposed extension of appointment of the Audit and Risk Committee for one Independent Member, for a further two-year term.

REPORT

Introduction

Mr Ian Swan has expressed interest to continue as an appointee to Council's Audit and Risk Committee. Mr Swan has been previously extended in this role.

His current term expires in January 2024 and has requested an extension for a period to be determined by Council up to two further years. His correspondence is at Attachment 1.

Discussion

Mr Ian Swan has been an Independent Member of the Audit and Risk Committee (prior to recent legislative change the Audit Committee) since his original appointment on 28 January 2018. His current appointment concludes on 27 January 2024.

The other Members of the committee are Mr Peter Brass, Mrs Ellen Ewing, currently appointed until 27 January 2025 and our two Council Members, appointed in November 2022 for the term of Council, Cr Heidi Thompson and Cr Bruce Preece.

As outlined, for the recent extension of the other two independent members the same justification holds true, as follows:

1. The level of legislative change being implemented with the committee requires in my view continuity and understanding of The Barossa Council environment.
2. There are two new Councillors that are investing their time in training and support, retaining the knowledge and experience is in my view more valuable in this case and continuation of experience is considered important in these circumstances.
3. Prior calls for applications have not seen many applications and in my assessment of the market this would not be an efficient use of resources when those with the necessary capabilities are currently on the committee.

Should Council wish to go to the market this will be schedule late this year.

The Audit and Risk Committee critical terms of reference clauses are:

5.1.2 Member to the Committee shall be appointed by Council.

and

5.2.3 Unless otherwise determined by Council, the Independent Members will be appointed for a 2-year term with a right of extension of the appointment by resolution of Council.

The clauses support Council making the appointments and provided a right of extension, there is in my view no limit to the number of extensions that apply, just that it is done by resolution of Council. Further clause 5.2.3 has a broad application through the application of the words "Unless otherwise determined by Council". It is therefore open to Council to determine the recommended extension.

Summary

The current makeup of the committee is a sound mix of experience and new members, an approach to the market is not considered necessary and presents greater risk.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Application for Extension to Audit and Risk Committee - Mr Ian Swan

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan

How We Work - Good Governance

Corporate Plan

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

Legislative Requirements

Section 126 of the Local Government Act 1999.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

Costs related to advertising for the Independent Members are allowed for in the Budget.

Resource

Managed within existing officer resources.

Risk Management

The consideration and adoption of recommendations of Council committees and adherence to their Terms of Reference is a risk management tool.

COMMUNITY ENGAGEMENT

There is no legal or policy requirement to consult with the community prior to consideration of this matter.

Cr Lane left the meeting at 6:18 pm.

Cr Lane returned to the meeting at 6:20 pm.

- Item 3.2.2 Barossa Australia's, CEO Scott Hazeldine and Ben Patten, Head of Destination presented to Council on their annual activities and future direction of the organisation.

7.1.3 BAROSSA AUSTRALIA - 2023-2024 FUNDING AGREEMENT 23/43869

MOVED Cr de Vries

That Council approve the Funding Agreement between Barossa Australia and the Barossa Council, authorising the Chief Executive Officer to make any minor final amendments and execute the agreement as presented at [Attachment 1](#).

SECONDED Cr Greatwich

CARRIED 2022-26/223

PURPOSE

To seek endorsement of the draft Funding Agreement between Barossa Australia and The Barossa Council for 2023-24.

REPORT

Background

Council has been a long-term funder of Tourism activity through its previous relationship with Tourism Barossa Inc. Tourism Barossa Inc and Barossa Grape and Wine Association merged in January 2022 and a new agreement and relationship has formed with Barossa Australia.

Introduction

Barossa Australia fulfils the role of the Regional Tourism Organisation (RTO) for the State government defined Barossa tourism region - a role that was previously carried out by Tourism Barossa Inc.

Barossa Australia has carefully reviewed its resources, capability and governance to meet this vital role for the region and aims to work collaboratively for greater alignment across the wine, food and tourism industries. The organisation is committed to partnering with local government to continue to deliver value to The Barossa Council and grow the visitor economy in line with the Regional Visitor Strategy 2025.

In early 2023, the South Australian Tourism Commission (SATC) engaged with external consultants to conduct an independent review of regional tourism with an aim to identify an optimum structure that will support growth of the visitor economy of South Australia.

In June 2023 an initial report was provided by SATC to the Regional Tourism Organisation Chairs and Regional Managers to share the key findings and to outline the next steps. The review investigated opportunities for increased strategic and operational alignment between and across regional tourism organisations, industry stakeholders, and state and local government, as well as opportunities in resourcing,

management, marketing, product development and industry capability building. It outlined five possible business models, with a recommendation that the preferred options be explored further.

In addition to the ongoing SATC review, Council has also committed to a review of its own Tourism strategy and resourcing model which will inform its ongoing relationship with Barossa Australia and roles and responsibilities for regional and local tourism activation.

In light of this, a one-year agreement is proposed whilst further work is undertaken over the next 9-12 months to determine which models to take forward at both State and Council level, including preparing a business and financial case for possible future structures, with a likely model to be confirmed by June 2024.

Barossa Australia are committed to working through the outcomes with The Barossa Council and other key stakeholders in the region to ensure that the best possible outcomes are achieved.

Discussion

There are no significant changes within the draft agreement with Barossa Australia compared to the previous agreement. Key dates have been updated and some minor grammatical changes have been made. A summary of additional changes is outlined in the below table.

2022-23 Funding Agreement	2022-24 Funding Agreement
3.3 Term, page 3	Amendment to 90 days – more time will be required to consider findings of the State Regional Tourism Review
Barossa Australia signatory, page 10	Updated to new Barossa Australia CEO, Scott Hazeldine
Schedule 1, page 11	Funding amount updated to \$49,133 to allow for Adelaide CPI All groups June Quarter index of 6.9%
Schedule 2, item 2, Delivery of Key Events, page 13	Barossa Australia announced cancellation of 2023 'A little More Barossa' due to significant changes and resourcing levels. Delivery of this event in 2023/24 has been removed. However Barossa Australia have committed to plan for delivery of 2024 winter event and Barossa Vintage Festival (both events fall outside of funding term).
Schedule 2, item 4, Destination and Product Development, page 14	Removal of: "Complete a product and experience Gap analysis and share outcomes within the agreement term". Covered in existing clause: "Work collaboratively with Local Government and Regional Development Australia to address product and experience gaps in line

	with Regional Visitor Survey 2025 and consumer research focused areas".
Schedule 2, item 5, Destination Marketing, page 14	Removal of: "Utilising consumer research develop with stakeholders a Destination Marketing Plan, associated creative and deliver campaign activities." Amend to: "Deliver Marketing Activities as outlined in the Barossa Australia annual operating plan with specific focus on Destination."
Schedule 2, item 6, Destination Management, page 15	Added: "Complete two-phase Barossa Vintage Festival review in consultation with stakeholders." "Deliver the Destination Barossa training program to enhance visitor experience and staff retention. International Trade Ready (ITR) – deliver the ITR Roadmap in partnership with ATEC to grow internationally bookable product, includes the MyBarossa.com microsite and BA's attendance at ATE on behalf of region." "Agri-tourism – working with RDA Barossa engage directly with the SA Agri-tourism action plan and the opportunity presented for Barossa." "Engage with the State Government 'Regional Tourism Review' process and partner with local government to review outcomes in early 2024 to facilitate planning for 2024/25 year." "Actively engage with the Barossa Council Tourism Services Review as appropriate." "Clarify Events position on Barossa.com and support the increase of region wide events being inputted into ATDW."
Schedule 2, item 7, Collaboration with Council Tourism Services, initiatives and activities, page 16	Added: "Review and update the digital (website and socials) MOU between Council and Barossa Australia. "Provide Monthly Reporting from Localis and event reporting upon mutual agreement"

Summary and Conclusion

The draft agreement has been negotiated, revised and endorsed by council's manager tourism services and representatives of Barossa Australia and as such is at a level of maturity for it to be considered formally by council.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Barossa Australia Funding Agreement - 2023-24 - Final Draft 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCommunity Plan

Business and Employment

Goal

- 12. We are a visitor destination of choice.
- 11. The Barossa has a strong local economy that adapts, innovates and thrives on change and strives for a diverse industry base that provides a sustainable range of business and job opportunities for people.

Strategies

- 12.1. Encourage and support the sector to further promote and develop tourism experiences including ecological, cultural and agricultural tourism.
- 12.2. Support economic development and destination awareness through events, festivals, creative enterprise and attractions.
- 12.3. Provide experiences and infrastructure that continue to support the needs of the tourism market.
- 11.1. Work closely with State Government, Federal Government and other key stakeholders to support economic growth, development and job creation.
- 11.3. Promote the Barossa as a place for business's to thrive, invest, innovate, take measured risks and prosper.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Funding of \$48,720 has been budgeted in 2023/24. A minor budget adjustment of \$413 will be facilitated in Quarter 1 to provide for the application of the Adelaide CPI all groups June quarter index increase of 6.9%, with total funding increasing from \$45,962 (excl. GST) in 2022/23 to \$49,133 (excl. GST) in 2023/24.

COMMUNITY ENGAGEMENT

Consultation and engagement at officer level has taken place to develop the new agreement, there is no requirement for public consultation.

7.2 Corporate Services and Business Innovation

7.2.1 REVIEW OF COUNCIL DELEGATIONS

23/42451

MOVED Cr Hurn

That Council, having reviewed the delegations in force under section 44 of the *Local Government Act 1999*, confirm no changes are made to the delegations to the Chief Executive Officer.

SECONDED Cr Angas

CARRIED 2022-26/224

PURPOSE

For Council to review delegations in force under section 44 of the *Local Government Act 1999* (the Act).

REPORT

Background

Council has powers and functions that must be performed under a range of legislation. In most cases, the relevant Acts grant these powers and functions directly to Council. The ways in which Council may exercise its powers and functions are:

- when the Council itself exercises the power or function at a formally constituted meeting; and
- where the legislation enables it, a power or function may be delegated to a Council employee, in most cases being the Chief Executive Officer.

Delegations enable Council to apportion its powers and functions to the Chief Executive Officer (CEO) who in turn may sub-delegate to Council staff who have the relevant expertise and experience to improve the efficiency and timeliness of carrying out Council's decisions.

Under Section 44 of the Act, Council must within 12 months of a periodic election, review the delegations in force.

This report does not include legislation changes or pending updates but is a review of delegations currently permitted to the Chief Executive Officer including those that either have or have not been delegated.

Introduction

The Council may delegate its statutory powers and functions pursuant to section 44 of the *Local Government Act 1999* and powers of delegation under other legislation. These are delegated to the Chief Executive Officer who enacts their powers under section 101 of the Act to sub-delegate further to employees or authorised persons, enabling Council to operate as an effective entity.

Without these powers being delegated, Council ceases to achieve its required functions of council under section 7 of the Act.

Discussion

The statutory power of delegation under section 44 of the *Local Government Act 1999* enables the delegation of the statutory powers and functions vested or conferred on a council. Other statutory delegation powers permit the delegation of powers or functions vested in a council in a particular capacity (eg as a relevant authority under the *Safe Drinking Water Act 2011* or an enforcement agency under the *Food Act 2001*).

A column providing for the capacity in which the Council is acting is included in the tables of delegable statutory powers and functions. This is to assist Governance Officers to identify the powers and functions which are relevant to the council and which the council wants to delegate. It will also assist Council in ensuring the correct powers of delegation are referenced in the instrument of delegation.

Council may not delegate:

- (a) power to make a by-law or to determine that a by-law applies only within a part or parts of the area of the council;
- (b) power to declare rates or a charge with the character of a rate;
- (c) power to borrow money or to obtain other forms of financial accommodation;
- (d) power to adopt or revise a strategic management plan of the council;
- (da) power to adopt or revise an annual business plan or budget of the council;
- (e) power to approve expenditure of money on works, services or operations of the council not contained in a budget adopted by the council;
- (g) power to approve payment or reimbursement of expenses that may be paid at the discretion of the council and for which the council has not adopted a formal policy or made specific financial provision;
- (h) power to establish a subsidiary, or to participate in the establishment of a regional subsidiary;
- (i) power to make an application or recommendation, or to report or to give a notice, to the Governor or the Minister, being an application, recommendation, report or notice for which provision is made by or under this or another Act;
- (j) power to fix, vary or revoke a fee under section 188(1)(d) to (h);
- (ja) the power to revoke the classification of land as community land under section 194;
- (k) a power or function excluded from delegation by the regulations.

Delegations are subject to condition and limitations determined by the Council or specified by regulations and are revocable at will. Delegations do not prevent Council from acting in a matter.

Summary and Conclusion

Council is now asked to review, and confirm the delegations as attached, no alterations to the current delegations are recommended at this time.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Delegations to Chief Executive Officer 

Supporting references

[Local Government Act 1999 \(legislation.sa.gov.au\)](http://legislation.sa.gov.au)

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



How We Work - Good Governance

Corporate Plan

- 6.2. Ensure that Council's policy and process frameworks are based on principles of sound governance and meet legislative requirements.
- 6.12. Ensure that our people (workers including employees, volunteers and contractors) have the skills, resources and understanding of organisational processes to do their job.

Legislative Requirements

Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

In considering this report, Council will have completed its legal requirement under Section 44 of the Local Government Act 1999.

COMMUNITY ENGAGEMENT

There is no requirement to consult with the community on this matter. The community may access the delegations register via the Council website.

7.2.2 MONTHLY FINANCE REPORT AS AT 31 JULY 2023 **23/44370**

MOVED Cr de Vries

That Council receive and note the Monthly Finance Report as at 31 July 2023, Attachment 1.

SECONDED Cr Hurn

CARRIED 2022-26/225

PURPOSE

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

REPORT

The Monthly Finance Report (as at 31 July 2023) is Attached. The report has been prepared comparing actuals to the original adopted budget 2023/24.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Monthly Finance Report Council July 23 

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



How We Work - Good Governance

Corporate Plan

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

Legislative Requirements

Local Government (Financial Management) Regulations 2011, Regulation 9(1)(b) LGA Information paper no.25 – Monitoring Council Budget Performance

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

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

COMMUNITY ENGAGEMENT

Community Consultation was part of the original budget adoption process in June/July 2023, as per legislation. This report is advising Council of the monthly finance position compared to that budget.

7.2.3 MINOR AMENDMENT OF FEES AND CHARGES REGISTER 2023-2024 23/44420

MOVED Cr Barrett

That Council approve the amended Fees and Charges for the 2023/2024 budget year included as Attachments 1 and 2 and backdate their application to 1 July 2023.

SECONDED Cr Preece

CARRIED 2022-26/226

PURPOSE

Following Council's recent approval of the 2023/2024 Fees and Charges Register, a small number of additional fees were identified as requiring update from 2022/23 and a minor anomaly was identified within BelgraviaPRO charges for the Mount Pleasant Caravan Park requiring correction and Council approval for the 2023-2024 financial year.

REPORT

Discussion

At its meeting of 18 July 2023, Council adopted a list of Fees and Charges for 2023/2024. The list was intended to be encompassing of all sundry fees charged by Council in its general service provision, however Officers subsequently identified a further seven fees requiring update and formal approval of Council. These fees relate to Rate Notice Charges, Assessment Book Extracts and Debt Collection and are included for Council consideration at Attachment 1.

In addition to the above fees and charges inclusions, a minor amendment is also required to the fees and charges list for Mount Pleasant Caravan Park to revise the maximum stay period for longer term powered and unpowered sites from 90 days to the 42-day maximum stay period adopted by Council at its meeting of 20 June 2023. An amended Fees and Charges extract for the Mount Pleasant Caravan Park is provided at Attachment 2.

Summary and Conclusion

Additional and amended fees and charges are attached for Council consideration and approval.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Draft Fees and Charges Additions - 2023-24 
Attachment 2 Mount Pleasant Caravan Park Fees and Charges - 2023-24 - Draft
 Amendments 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



How We Work - Good Governance

Corporate Plan

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

Legislative Requirements

Section 188 of the Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The current budget is aligned to the Fees and Charges register and this report represents no change in risk, financial outcomes, or resource allocations.

COMMUNITY ENGAGEMENT

The revised fees and charges will be available for the Community to access on Council's website once approved.

7.3 Infrastructure and Environment Services

7.3.1 WINTON ROAD UPGRADE

23/41092

MOVED Cr Greatwich

That Council:

- (1) With reference to The Barossa Council "Infrastructure Asset Management Plan (IAMP) Transport", the service level classification for the unmade section of Winton Road, Rosedale, from the driveway entrance to 67 Winton Road to the northern road end at the intersection with Dalgety Road, be amended to have the following asset assessment rating scores:

- 1. Function Priority - Score 2 (Class 5: Local Access, < 5 dwellings)

2. Social Priority – Score 2 (Low Social Importance, < 5 dwellings)
3. Freight Priority – Score 0 (No commercial vehicles)
4. Tourist Priority – Score 0 (No tourist potential)
5. Economic Priority – Score 0 (No development potential)
6. Accident History – Score 0 (No accident history)

- (2) Construct the unmade section of Winton Road, Rosedale, from the driveway entrance to 67 Winton Road to the northern road end at the intersection with Dalgety Road, - a distance of approximately 1,100 metres - be constructed to a sheeted rural road level of service.

SECONDED Cr Lane

CARRIED 2022-26/227

PURPOSE

A number of Customer Requests have been received for construction of the unmade section of Winton Road, Rosedale, from the entranceway to 67 Winton Road to the northern road end at the intersection with Dalgety Road.

REPORT

Background

The section of Winton Road, Rosedale, forming the subject of this report is the unmade section of road from the existing compacted rubble road formation adjacent the driveway entrance to 67 Winton Road, to the northern road end at the intersection with Dalgety Road - a distance of approximately 1,100 metres. Refer Attached general locality plan.

A number of customer requests have been received from nearby property owners requesting the section of unmade Winton Road be constructed with an all-weather road surface for road safety reasons. Customer Request references include 30859, 31776 and 178597.

Introduction

The Barossa Council "Infrastructure Asset Management Plan (IAMP), Transport" outlines service level classifications for all roads across the Council area, defined in terms of Community Levels of Service and Technical Levels of Service. The maintenance interventions of Council roads are determined from the rated score on the six measures of road assessment:

1. Function
2. Social Importance
3. Freight Use
4. Tourist Importance
5. Development Potential
6. Accident History

Council's asset management data base currently identifies the section of Winton Road in question as a rural road reserve with an unmade natural clay earth track. It is signed as "Dry Weather Road Only" and is currently graded as required to maintain a safe surface at this Level of Service.

This section, however, becomes very slippery and deeply rutted when wet due to the natural clay earth formation of the unmade road. There is an increase in the frequency of vehicles getting stuck or bogged at various times of the year due to the nature of the unmade road surface.

Separately, the first 700 metres of Winton Road is sheeted with compacted rubble to single lane width rural road formation. There is no formed road shoulder. This section provides the principal all weather access to the residential property addressed 67 Winton Road.

Discussion

The section of unmade road in question is not currently registered as a road asset on Council's IAMP and therefore is not included in Council's road maintenance plans.

The road is deemed to be fit for purpose in its current form for dry weather access only. In wet weather, however, the local stormwater drainage flow path is directed longitudinally along the road, resulting in significant rutting and areas of silty clay bog.

Any upgrade of the unmade section of Winton Road will require the road to be allocated with a Level of Service classification in accordance with Council's IAMP. The appropriate Level of Service would be the same as the first 700 metres of Winton Road (north of McCallum Road), which is the lowest classification for a rural road in Council's IAMP and is consistent with other roads in the nearby area, with similar uses and community expectations.

The proposed Level of Service scores for the unnamed section of Winton Road is as follows:

1. Function Priority - Score 2 (Class 5: Local Access, < 5 dwellings)
2. Social Priority - Score 2 (Low Social Importance, < 5 dwellings)
3. Freight Priority - Score 0 (No commercial vehicles)
4. Tourist Priority - Score 0 (No tourist potential)
5. Economic Priority - Score 0 (No development potential)
6. Accident History - Score 0 (No accident history)

The average daily traffic counts on the unmade road are very low.

There has been no recorded crash accident history on the unmade road, but there is an increase in the frequency of vehicles getting bogged in winter due to the natural clay earth formation of the unmade road which becomes very slippery and deeply rutted when wet. Assistance from adjacent residents is increasingly being sought by road users to help with bogged vehicles.

The section of unmade road does not provide access to residential properties not already serviced by the existing made road segment but does provide access to several rural paddocks.

The section of unmade road is currently traversable in dry weather only, and is sign posted as such. It is a shortcut between McCallum Road and Rosedale Road and has experienced increased traffic counts over the years, with corresponding decrease in the condition of the unmade road and increase in the frequency of grading required beyond what is normally required to ensure it is passable.

The construction of the unmade road would require the addition of minimum 200mm compacted rubble so that the road can be graded and maintained in accordance with Council's IAMP.

The construction of the unmade road would also have the following advantages:

- improved all-weather safe access for stock truck and fire appliance vehicles to access the rural properties,
- improved safe and convenient local area connectivity.

Summary and Conclusion

For construction of the unmade section of Winton Road, Council is required to approve the creation of a new road asset and assign an appropriate level of service.

The new road will provide all-weather safe and convenient access for the expected range of truck and car vehicle uses with improved local area connectivity.

The new road will incur future capital upgrade grading and operational maintenance interventions as outlined in Council's IAMP. The frequency of grading is expected to be as required, subject to inspection and would not be more than once per year.

The budget cost estimate for construction of the approximately 1.1 kilometre unmade section of Winton Road to a rural unsealed road is approximately \$95,000

The scope of works would notionally include:

- 6 metres width minimum road formation
- 200mm depth compacted rubble pavement
- Allowance for 2 x 375 diameter RCP stormwater pipe culvert crossings

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Winton Road - Rosedale - Proposed Upgrade - site plan 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Infrastructure

Goal

7. Community infrastructure planning is aligned to both current and the future needs of the community
8. To have a connected and safe transport network that meets the needs of our community

Strategies

- 7.2. Ensure both current and future infrastructure needs are met in a proactive rather than reactive way.

- 8.2. Ensure a high quality road, shared paths and footpath network throughout the Barossa in partnership with all levels of government.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The budget cost estimate for construction of the approximately 1.1 kilometre unmade section of Winton Road to a rural unsealed road is approximately \$95,000

With acceptance of this asset rating amendment recommendation the road upgrade cost of \$95,000 will require a budget adjustment to be funded from the unallocated road re-sheet budget.

Any increase to the levels of service associated with a road upgrade will require a commensurate increase in the necessary capital road upgrade and operational road maintenance budgets.

With acceptance of this asset rating recommendation the operations maintenance budget is required to be increased to accommodate the costs of approximately one grade per year along the length of the constructed road section.

COMMUNITY ENGAGEMENT

The IAMPS have previously been presented for community review.

7.3.2 BALMORAL ROAD - LEVEL OF SERVICE CHANGE 23/41099

MOVED Cr de Vries

That Council, with reference to The Barossa Council "Infrastructure Asset Management Plan (IAMP) Transport", the road level of service for Balmoral Road, Sandy Creek, be designated as Rural Sealed Road - bitumen spray seal surface.

SECONDED Cr Angas

CARRIED 2022-26/228

PURPOSE

Planned upgrade work on Balmoral Road, Sandy Creek, requires Council to confirm the designated road surface seal treatment.

REPORT

Background

Balmoral Road, Cockatoo Valley is a sealed Rural Arterial road connecting between Calton Road, Kalbeeba, and Williamstown Road, Cockatoo Valley. Refer Attached general locality plan.

With reference to The Barossa Council "Infrastructure Asset Management Plan (IAMP) Transport", the road level of service is designated as Rural Sealed Road, bitumen surface.

Introduction

The Balmoral Road pavement seal is currently a mix of bitumen Hotmix surface (from Calton Road to Davies Road) and 2 coat bitumen spray seal surface (from Davies Road to Williamston Road).

The Hotmix section surface was applied in 2011 as a trial energy efficient 'warm mix' asphaltic Hotmix experiment, in conjunction with Boral Asphalt. The Hotmix treatment was offered to Council with at a reduced rate at the time, however, is inconsistent with the Rural Arterial Road surface treatment of 2 coat bitumen spray seal provided on other roads in the Council area functioning at the same level of service.

A recent condition assessment of Balmoral Road has identified that some sections with severe longitudinal cracking requiring considerable capital interventions, especially between Kalperri Road and Davies Road. The cost of continuing a Hotmix surface on Balmoral Road is significantly more expensive than the spray seal treatment otherwise allocated for a road of this level of service, for both the initial construction and whole of life costs.

Discussion

With reference to The Barossa Council "Infrastructure Asset Management Plan" (IAMP), the Level of Service allocation for Balmoral Road, Sandy Creek, is as follows:

- Road Function Score - 9 - Rural Road, Sealed
- Function Priority - Class 3: Rural Arterial (mainly non local, between towns, greater than 300 vehicles per day)
- Social Priority - Critical Social Importance
- Freight Priority - Light Industry Use (all year round)
- Tourist Priority - No Tourist Importance

The segment of Balmoral Road between Kalperri Road and Davies Road, approximately 1.3 kilometres, has been identified with significant dilapidation and is planned to be upgraded in the current financial year sealed road upgrade program. This segment has currently has a Hotmix surface as mentioned above.

The default remedial treatment of planing the existing Hotmix surface down and replacing with new 50mm depth Hotmix is more than 4 times the cost of the more standard 2 coat spray seal treatment for this type of road asset. The Hotmix 'plane and replace' treatment will cost approximately \$290,000 whilst the 2 coat spray seal treatment will cost approximately \$65,000.

Given that the Balmoral Road Hotmix surface was applied in 2011 without consideration of the high whole of life cost implications for the road, and that Council's Infrastructure Asset Management Plan designates this road and all other roads functioning at a similar level of service with a 2 coat bitumen spray seal surface, and that two thirds of Balmoral Road (from Davies Road to Williamstown Road) already has a 2 coat spray seal surface - it would be reasonable to assign a 2 coat spray seal surface to Balmoral Road for all new upgrade work on the road.

Summary and Conclusion

The advantages of designating a bituminous 2 coat spray seal road wearing course are summarised as:

- Reduced construction and resealing costs - more than 4 times less than a Hotmix treatment over the whole of life of the road,
- Reduced repair costs when remedial intervention is required,
- Importantly, a more flexible road seal treatment to better protect the road against water ingress in the highly reactive clay soils at this location,
- Provides a more cost effective, durable and flexible pavement surface commensurate to the required level of service,
- Maintains better alignment with the whole of life cost of the road asset and the long term financial plan,
- Creates greater alignment of consistent road surface treatments across the Council Region.

The disadvantage of designating a bituminous 2 coat spray seal road wearing course is the higher level of road noise from the more granular surface. This would be alleviated by applying a smaller 14mm / 7mm stone size, to reduce the roughness and road travel noise.

It is therefore recommended, in alignment with the Barossa Council Infrastructure Asset Management Plan, to designate the road level of service for Balmoral Road, Sandy Creek, as Rural Sealed Road - bitumen spray seal surface.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Balmoral Road - Sandy Creek - Site plan 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Infrastructure

Goal

7. Community infrastructure planning is aligned to both current and the future needs of the community
8. To have a connected and safe transport network that meets the needs of our community

Strategies

- 7.1. Build on sound asset management practices to deliver sustainable services to ensure that infrastructure is adequate to support the community.
- 7.2. Ensure both current and future infrastructure needs are met in a proactive rather than reactive way.
- 8.2. Ensure a high quality road, shared paths and footpath network throughout the Barossa in partnership with all levels of government.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

To maintain a Hotmix surface on Balmoral Road will incur an overall long term reseal upgrade cost of more than 4 times the cost of a regular 2 coat spray seal surface.

COMMUNITY ENGAGEMENT

The IAMPS have previously been presented for community review.

7.3.3 ELECTRIC VEHICLE (EV) CHARGING STATION - NURIOOTPA SOLDIERS MEMORIAL HALL
23/41101

MOVED Cr Greatwich

That Council:

- (1) Resolves to undertake public consultation in accordance with Council's Public Consultation Policy in respect to the proposed registration of a licence to NRMA for an EV charging station, over the Nuriootpa Soldiers Memorial Hall Car Park, 8-10 Park Avenue, Nuriootpa.
- (2) Should objections not be received during the period of public consultation under Resolution 1, approves for the Chief Executive Officer to negotiate a licence in support of an EV charging station facility by NRMA and to approve the technical design to enable construction of the facility under the terms of the license.
- (3) Subject to Resolution 1 and 2, authorises the Chief Executive Officer to enter into a licence, or if the document must be sealed, authorise the Mayor and Chief Executive Officer to sign and seal the said license, as described under Resolution 1 above.

SECONDED Cr Evans

CARRIED 2022-26/229

PURPOSE

To endorse proposal by NRMA to establish an electric vehicle (EV) charging station facility at the Nuriootpa Soldiers Memorial Hall Car Park, 8-10 Park Avenue, Nuriootpa, subject to undertaking public consultation.

REPORTBackground

In April 2023, NRMA and the Australian Government formally announced a partnership program to build a national EV fast charging network with a focus on connecting regional communities. The \$78.6 million funding partnership will see the creation of

117 fast charging sites across the national highway network. A copy of the NRMA's Energy's EV statement is contained in Attachment 1.

NRMA approached The Barossa Council in April 2023 to invite discussions regarding possible Council sites that may be suitable to establish a new EV charging station in the vicinity of Nuriootpa township, following NRMA establishing its first site in The Barossa Council at the Tanunda Visitor Information Centre in December 2020.

NRMA undertook an initial feasibility of sites within and near Nuriootpa based on a number of operational requirements including proximity to the national highway network, availability of high voltage power to the site and proximity of the charging site to local amenities including public toilets and shops.

Following the site feasibility process, the Nuriootpa Soldiers Memorial Hall car park, 8-10 Park Avenue, Nuriootpa was identified as the preferred site to establish an EV charging station. NRMA have subsequently progressed discussions and Council staff have executed a letter of intent with NRMA to enable this proposal to be pursued, subject to Council support.

A copy of the signed letter of intent is contained in Attachment 2.

Introduction

NRMA is proposing to establish an EV charging station at the Nuriootpa Soldiers Memorial Hall car park, 8-10 Park Avenue, Nuriootpa. The proposal is to establish 4 bay DC fast chargers which will be powered by two 150kW Kempower or ABB charges capable of delivering 75kWs of charge to 4 vehicles simultaneously.

The proposed charging station will represent the latest in EV technology available to support the customer demand of the future to charge vehicles efficiently to avoid queuing. The proposed facility will supplement the existing destination charging station at the Tanunda Visitor Information Centre.

A preliminary design has been prepared for the facility which is contained in Attachment 3.

Discussion

The 4 bay DC fast charges is proposed to be sited in the central aisle of the Nuriootpa Soldiers Memorial car park and will occupy five car parks on the southern side of the central aisle, nearest to Murray Street. The proposal would necessitate repurposing of five existing car parks for electric vehicle charging, comprising two pairs of EV charging bays and a central car park occupied by bollards.

While the proposed license would not seek to create exclusive rights of use, clearly the four car parking bays would only be available for EV charging. A car parking survey has not been undertaken at this time but anecdotal observations of use of this car park suggest the car park is not frequently at capacity and could therefore accommodate the additional demands generated by the proposed facility.

The location for the four bays has been selected as these are the ones nearest to the existing pad mount transformer, that is located next to the existing public toilets at the site. Works will be required within the site in order to underground new electric cabling

to connect the charging bay infrastructure to the pad mount transformer. The central bollards would mean there will be loss of one car parking space.

It is proposed that all costs associated with the installation of the vehicle charging bays and associated works will be borne by NRMA. NRMA is proposing a license agreement to occupy the site and NRMA's preference is for a 5 year plus 5 year license period.

Should the Council wish to support the proposal for the proposed EV charging facility at this site, it is proposed that further negotiation regarding the terms of the license between Council and NRMA be delegated to the CEO. NRMA have provided a draft license agreement which is contained in Attachment 4. The technical design for the EV charging bays would also be approved under the terms of the license.

The Nuriootpa Soldiers Memorial Hall car park is identified within Council's Community Land Register and Management Plan 4 – 2019 as '*Institutes and Halls*'. Pursuant to Section 202 of the *Local Government Act 1999*, a council may grant a lease or license over community land, however, before the Council grants a lease or license, it must undertake public consultation.

Summary and Conclusion

The proposed facility will form part of the national EV charging network that is being proposed by NRMA in partnership with the Commonwealth Government.

With the growth in the electric vehicle market, facilities of this kind will be critical to supporting customer needs and to ensure that electric vehicles are viable for regional travel. At the same time, this facility will support economic development in Nuriootpa and surrounds by encouraging visitors to stop and spend time within the region.

The proposed site is considered to represent an optimal location for an EV charging facility, having regard to the site's proximity to the main street environs, availability of public toilets, high voltage power and the car park being of adequate capacity to ensure ongoing car park provision for all users.

It is therefore recommended that Council endorse the proposal to establish an EV charging facility at the Nuriootpa Soldiers Memorial Hall, subject to public consultation. It is proposed that the terms of a license agreement be delegated to the CEO as well as final approval of the technical design for the facility.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Nil

Supporting references

- | | | |
|--------------|--|---|
| Attachment 1 | NRMA Energy - EV Statement |  |
| Attachment 2 | NRMA - EV Charging Station - Signed Letter of Intent |  |
| Attachment 3 | NRMA - Draft License Agreement - EV Charging Station |  |
| Attachment 4 | NRMA - Preliminary Design - EV Charging Station |  |
| Attachment 5 | NRMA - EV Charging Station - Communications Plan |  |

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.
7. Community infrastructure planning is aligned to both current and the future needs of the community
8. To have a connected and safe transport network that meets the needs of our community

Strategies

- 6.3. The use of new and emerging technologies, alternative and renewable materials where appropriate and cost effective will be trailed.
- 7.2. Ensure both current and future infrastructure needs are met in a proactive rather than reactive way.
- 8.2. Ensure a high quality road, shared paths and footpath network throughout the Barossa in partnership with all levels of government.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

NRMA will bear all costs associated with construction of the electric vehicle charging facility.

COMMUNITY ENGAGEMENT

Community consultation will be required pursuant to Section 202(2) of the *Local Government Act 1999*.

A Communications Plan has been prepared, pursuant to Council's Public Consultation Policy and is contained in Attachment 5.

7.4 Development and Community Services**7.4.1 DOGS (MISCELLEANEOUS) AMENDMENT BY-LAW 2023
23/37745****MOVED** Cr Hurn

That Council:

- (1) Pursuant to Section 246 of the *Local Government Act 1999*:

- 1.1 There being at least two-thirds of the members of Council present; and
- 1.2 Having considered the Dogs (Miscellaneous) Amendment By-law 2023 in light of the National Competition Policy and the Report prepared; and
- 1.3 Acknowledging the public submissions received; and
- 1.4 Having considered the response from the Dog and Cat Management Board,

Makes the Dogs (Miscellaneous) Amendment By-law 2023 in exercise of the powers contained in the *Legislation Interpretation Act 2021*, *Dog and Cat Management Act 1995*, and *Local Government Act 1999*.

- (2) Endorses the Report to the Legislative Review Committee.
- (3) Endorses the Report prepared on the National Competition Policy.
- (4) Authorises the Chief Executive Officer to:
 - 4.1 Sign the By-law as made by Council; and
 - 4.2 Sign the Legislative Review Committee Report as adopted by Council; and
 - 4.3 Arrange for the By-law and all other necessary documentation to be provided to the Legislative Review Committee; and
 - 4.4 Publish a notice of the making of the By-law in a newspaper circulating within the area in accordance with section 249(7) of the *Local Government Act 1999*; and
 - 4.5 Arrange for the By-law to be published in the Government Gazette.

SECONDED Cr Angas

CARRIED 2022-26/230

PURPOSE

To consider submissions received during the community consultation on the Draft Dogs (Miscellaneous) Amendment By-Law 2023 ([Attachment 1](#)), and to endorse the By-law.

REPORT

Background

At its General Meeting of 16 May 2023 Council endorsed the Draft Dogs (Miscellaneous) Amendment By-law 2023, and further, authorised the Chief Executive Officer to enter a period of public consultation, and report to the Dog and Cat Management Board on the proposed By-law, as required by Legislation.

Public consultation concluded on 28 June 2023, at the expiration of the prescribed timeline. A favourable response has been received from the Dog and Cat Management Board in respect of the draft By-law (see [Attachment 2](#)).

Introduction

The *Legislation Interpretation Act 2021*, *The Local Government Act 1999* and the *Dog and Cat Management Act 1995* provides local governments with the framework to make by-laws. The various Acts set out the process by which a council must follow in preparation of by-laws.

Discussion

The purpose of the Dogs (Miscellaneous) Amendments By-law 2023 is to make minor amendment to Council's Dogs By-law 2021 upon the recommendation of the Legislative Review Committee (LRC), made in 2022.

The LRC wanted clarity on the potential passive risk of offending should a person be walking their dogs on a road or formed path within 5 meters of a child's playground, as it stood in the Dogs By-law 2021, having consideration to the definition of what a child's playground is in the By-law.

The Dogs (Miscellaneous) Amendment By-law 2023 deletes the words 'within 5 meters of' and substitutes the word 'in' so that section 5.4 of the Dogs By-law 2021 would read...

'in a children's playground or skate park'

Council also took the opportunity to amend the By-law adopting gender neutral terminology and wherever 'his' or 'her' presented is replaced by 'the person'.

Council is now required to consider any submissions received during the public consultation period and any associated reports and proceed to make the By-law.

Public Consultation took place between 7 and 28 June 2023, and was advertised on Council's website, Council's Facebook page and in the Leader newspaper.

A total of four submissions were received in respect of the By-law. Two were submitted anonymously via Council's online portal and two submissions / comments were received via Facebook.

The submissions are summarised below along with any recommended action by Council should it be deemed necessary. No submissions received warrant a review of the By-law as presented for public consultation.

Item	Submission / Comment	Name of Person (De-identified). Or entity that raised the issue.	Action by the Council in response to the concern.
1.	Support changes that reflect contemporary language. Reference to the 'Board' should be a clear reference to the Dog and Cat Management Board.	Anonymous via online portal	No action required. The term 'Board' as used in the existing by-law, is defined in the Dog and Cat Management Act 1995. This definition applies to the By-law by virtue of section 12 of the Legislative Interpretation Act 2021.
2.	Only a couple of words are proposed to be changed. The proposed changes sound like nonsense and the Council is wasting time.	Anonymous, via online portal	No action required; the feedback is noted.
3.	Only a couple of words to be changed, sounds like woke bureaucracy. Surely	NL. Via Facebook	No action required; the feedback is noted.

	the Council has better things to do.		
4.	The changes are woke rubbish. I am sick of Council overreach.	JB, via Facebook	No action required; the feedback is noted.

In making any by-law Council must consider the National Competition Policy and be satisfied that any benefit of the By-law does not impede competition. Legal opinion indicates that the By-law does not have the potential to restrict competition (see [Attachment 3](#)).

The Legislative process requires that the By-law be legally certified, and a 'Certificate of Validity' has been received from Council's solicitors, a copy of which is provided at [Attachment 4](#).

Should Council endorse the making of the By-law, a signed copy of the By-law and associated report will be forwarded to Councils Solicitors for presentation to the LRC. A copy of the LRC report is supplied at Attachment 5.

Legislation provides that the By-law must be published in the Government Gazette, and this will be undertaken simultaneously with the reporting to the LRC. The By-law will come into effect four months after the date of publication in the Gazette, unless disallowed by the LRC.

Summary and Conclusion

Having completed legislative processes to seek opinion from the Dog and Cat Management Board, and undertaken public consultation inviting feedback on the draft By-law, Council is now asked to;

- a) Make the By-law;
- b) Endorse the Report to the Legislative Review Committee;
- c) Endorse the Report prepared on the National Competition Policy; and
- d) Authorise the Chief Executive Officer to:
 - (1) Sign the By-law as made by Council; and
 - (2) Sign the Legislative Review Committee Report as adopted by Council; and
 - (3) Arrange for the By-law and all other necessary documentation to be provided to the Legislative Review Committee; and
 - (4) Publish a notice of the making of the By-law in a newspaper circulating within the area in accordance with section 249(7) of the Local Government Act 1999; and
 - (5) Arrange for the By-law to be published in the Government Gazette.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1	Dogs (miscellaneous) Amendment By-Law 2023 
Attachment 2	Dog and Cat Management Board Draft By-law letter 
Attachment 3	National Competition Policy Report - Dogs (Miscellaneous) Amendment By-law 
Attachment 4	Certificate Of Validity - Dogs (Miscellaneous) Amendment By-Law 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCommunity Plan

How We Work - Good Governance



Community and Culture



Health and Wellbeing

Corporate Plan

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

Legislative Requirements

Local Government Act 1999

Dog and Cat Management Act 1995

Legislation Interpretation Act 2021

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

There will be no on-going financial cost to Council in the making of this by-law. Immediate costs are inclusive of Solicitors fees, Government Gazette publication fees and local newspaper publication fees. In Total estimated to be \$3,000.00.

The *Local Government Act 1999* provides for a maximum penalty, on summary conviction of \$1250 for a contravention of a by-law. Council has set an expiation fee of 25% of the maximum fee, therefore the expiation fee associated with a breach of any Council by-law is \$312.50.

There will be no additional on-going resource requirements to what is currently required for the implementation of the Dogs By-law 2021 and other by-laws.

There are no identified risk management issues in the making of this By-law. To the contrary, the intention of this By-law to support the Dogs By-law 2021, is to minimise the risk to community members, particularly children from negative canine behaviours in and around playgrounds and skate parks.

COMMUNITY ENGAGEMENT

The *Local Government Act 1999* and the *Legislation Interpretation Act 2021*, provides the process by which a council must follow when considering making a by-law. In addition, if the by-law is for the purpose of managing dogs and / or cats, the *Dog and Cat Management Act 1995* also makes provisions.

Council has fully satisfied the consultation requirements of those articles of Legislation.

A report and copy of the draft Dogs (Miscellaneous) Amendment By-law 2023 was sent to the Dog and Cat Management Board. The Boards response, attached hereto, is supportive of the By-law and its intentions.

Due to the nature and intent of the Draft Dogs (Miscellaneous) Amendment By-law 2023, it was considered sufficient to publicise in the principal circulating newspaper within the Barossa municipal area (The Leader). Notification was also made on Council's website and this consultation period was for a period of 21 days commencing 7 June 2023 and concluding on 28 June 2023. The outcome of that public consultation is noted previously in the body of this report.

Cr de Vries left the meeting at 6:38 pm

Cr de Vries returned to the meeting at 6:39 pm

8. CONFIDENTIAL REPORTS

8.1 Infrastructure and Environment Services

A.1 TANUNDA RECREATION PARK - OVAL - PROJECT SCOPE **23/44504**

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 as the matter has been requested to be considered confidential due to the commercially sensitive nature of the potential event.

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.

MOVED Cr Hurn

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 Acting Chief Executive Officer, Director Infrastructure and Environmental Services, Acting Director Corporate Services and Business Innovation, Senior Manager Development, Health Services and Community Safety, Senior Manager Community Services, Team Leader Communications and Engagement and the Minute Secretary, in order to consider in confidence a report relating to A.2 - Tanunda Recreation Park - Oval - Reconstruction Tender 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;
- (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 as the matter has been requested to be considered confidential due to the commercially sensitive nature of the potential event.

SECONDED Cr Troup**CARRIED CO 2022-26/231**

The meeting moved into confidence at 6.38 pm

MOVED Cr de Vries

That Council:

- (1) Council resolution
- (2) Council resolution
- (3) 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 15 August 2023 in relation to item A.1 - Tanunda Recreation Park - Oval - Project Scope be kept confidential and not available for public inspection until a formal State Government announcement by the Department of Premier and Cabinet and authorise the Chief Executive Officer to review and revoke the order.

SECONDED Cr Hurn**CARRIED CO 2022-26/232**

Resumption of open council meeting at 7.35pm

A.2 TANUNDA RECREATION PARK - OVAL - RECONSTRUCTION TENDER

23/42188

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

In this matter, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest are that the disclosure would unreasonably expose commercial in confidence information provided by tenderers through the tender process for the Tender T0235/2023 - Tanunda Recreation Park - Oval - Reconstruction and the Council Report, attachments and associated documentation; and the disclosure would give an unfair advantage to a person with whom Council proposes to do business.

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.

MOVED Cr de Vries

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 Acting Chief Executive Officer, Director Infrastructure and Environmental Services, Acting Director Corporate Services and Business Innovation, Senior Manager Development, Health Services and Community Safety, Senior Manager Community Services, Team Leader Communications and Engagement and the Minute Secretary, in order to consider in confidence a report relating to A.2 - Tanunda Recreation Park - Oval - Reconstruction Tender being information that must be considered in confidence pursuant to:

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

tenders for the supply of goods, the provision of services or the carrying out of works;

- (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 the disclosure would unreasonably expose commercial in confidence information provided by tenderers through the tender process for the Tender T0235/2023 - Tanunda Recreation Park - Oval - Reconstruction and the Council Report, attachments and associated documentation; and the disclosure would give an unfair advantage to a person with whom Council proposes to do business.

SECONDED Cr Hurn

CARRIED 2022-26/233

The meeting moved into confidence at 7.35 pm

MOVED Cr de Vries

That Council:

- (1) Council resolution
- (2) Council resolution
- (3) Council resolution
- (4) Council resolution
- (5) Having considered this matter in confidence under Sections 90(2) and 90(3)(k) 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 15 August 2023 in relation to item A.2 Tanunda Recreation Park - Oval - Reconstruction Tender be kept confidential and not available for public inspection until end of all tender works and authorise the Chief Executive Officer to review and revoke the order.

SECONDED Cr Hurn**CARRIED CO 2022-26/234***Resumption of open council meeting at 7.40 pm***9. URGENT OTHER BUSINESS**

Nil

10. NEXT MEETING

Tuesday 19 September 2023 at 5.30pm

11. CLOSURE

Mayor Lange declared the meeting closed at 7.40 pm

Confirmed at Council Meeting on 19 September 2023

Date:.....

Mayor:.....