



MINUTES OF THE MEETING OF THE BAROSSA COUNCIL

held on Tuesday 18 February 2025 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 5.31pm.

Mayor Lange addressed the Chamber to acknowledge the passing of former Elected Member, Russell Johnstone and highlighted his dedication to the Barossa community and to The Barossa Council.

1. ATTENDANCE RECORD

1.1 Members Present

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

Apologies

Nil

Not Present

Nil

Leave of Absence

Nil

2. CONFIRMATION OF MINUTES

2.1 Minutes of previous meetings – for confirmation:

MOVED Cr de Vries

That the Minutes of the Council meeting held on Tuesday 28 January 2025 at 5.30pm, as circulated, be confirmed as true and correct records of the proceedings of those meetings.

SECONDED Cr Hurn

CARRIED 2022-26/620

2.2 Matters arising from previous minutes

Nil

3. PROCEDURAL ITEMS

3.1 Petitions

Nil

3.2 Deputations/Visitors to the meeting

Nil

3.3 Notice of Motion

3.3.1 NAMING OF ROAD OR PUBLIC PLACE - CR PREECE 25/16962

MOVED Cr Preece

That Council instruct the Chief Executive Officer to nominate an appropriate street/road or open space/garden to be named after the late Julie Ann Combe who was a devoted Barossa Area Fundraisers for Cancer Chairperson and during her management oversaw and contributed to raising \$800,000 for cancer services in the Barossa and that the nomination be table by the April meeting of Council.

SECONDED Cr Barrett

CARRIED 2022-26/621

PURPOSE

To debate the notice of motion put forward by Cr Preece to name a road or public place after Julie Ann Combe.

REPORT

Rationale

To recognise the leadership and community contribution of Julie Ann Combe.

I have spoken to the family, and they are supportive of the gesture and recognition.

I will speak further to the motion at the meeting.

CEO Comments

Depending on the form of any road or public naming, a consultation process maybe required. Circumstances that this would be required is if Council elect to rename an existing road or public place. This can be accommodated, if necessary, within current budgets. Signage is not budgeted for but would not be significant.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Notice of Motion 
Supporting references

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCorporate Plan

CS6 Community - To help the prosperity and wellbeing of the community. Community grants programs. Support for community groups – networking, advice, input to The Big Project

Legislative Requirements

Section 219 of the Local Government Act

Regulation 12 of the Local Government (Procedures at Meeting) Regulations 2013

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

No impact on undertaking the research. Signage costs will be determined once a determination is made by Council.

COMMUNITY ENGAGEMENT

This will be dependent on any proposal accepted by Council. Cr Preece has informed Council that a preliminary engagement with the family they are supportive of the proposal.

3.4 Questions with Notice

Nil

4. MAYOR**4.1 Mayor's Report**

MOVED Cr Evans

That the Mayor's report be received.

SECONDED Cr Hurn

CARRIED 2022-26/622

5. COUNCILLORS' REPORTS

Nil

6. MATTERS FOR INFORMATION

- 6.1 Draft Dog and Cat Management (Cat Management) Amendment Bill 2024 - Update
- 6.2 Garage Sale Trail 2024 Impact Report
- 6.3 South Australia's Net Zero Strategy 2024 - 2030
- 6.4 Proposal to initiate an amendment to the Planning and Design Code - Tree Protection and Planting Code Amendment
- 6.5 Tour Down Under - Expression of Interest 2026
- 6.6 Draft Independent Remuneration Tribunal Chief Executive Officer Determination

7. DEBATE REPORTS

7.1 Office of the Mayor and CEO

7.1.1 GRAPEVINE TEXAS - VISIT APRIL 2025 AND DELEGATION SEPTEMBER 2025 25/16955

MOVED Cr de Vries

That Council in accordance with Clause 3.5.3 of the Elected Member Allowances and Benefits Policy and Clause 4.1.3 of the Employee Travel and Accommodation Policy (Attachment 2) noting flight time shall be greater than 8 hours, approve the formal delegation to Grapevine, Texas shall consist of the Mayor, Chief Executive Officer and Sister City Program Manager/Executive Officer to the Sister City Advisory Committee.

SECONDED Cr Evans

CARRIED 2022-26/623

PURPOSE

As Council is fully aware, 2025 will see the biennial activity centred on our sister city Grapevine, Texas. The report is to receive a short briefing on their visit and our mission to Texas in September 2025.

REPORT

Background

Following the signing of the intention to enter into a Sister City Accord with the City of Grapevine, Texas during their first visit in April 2023, the Barossa Council was invited to attend Grapevine's premier event, 'GrapeFest' 2023, in September to sign the official Sister City Accord.

The Sister City relationship is based on an alignment of our core values, with both cities incredibly passionate about preserving and upholding character, traditions and cultural identity. We are also equally aspirational about our future and the ways in

which we can innovate and diversify to maintain our international brand and build a region that is vibrant, sustainable and owns its place in a global marketplace.

Not only is the Sister City relationship about governance and corporate learning but it offers student exchanges, industry access and opportunities to the American and North American market and closely aligns with the States drive in Texas through its sister city relationship with Texas and a trade office in Houston.

Council has activated a Sister Cities Advisory Committee consisting mainly of community, industry, and business representatives. This committee is highly active and strongly planning with the support of Councils' Sister City Program Manager to the committee in the upcoming visit from Grapevine Delegates in April 2025 and our subsequent visit to Grapevine, Texas in September 2025.

Introduction

Plans for hosting the delegates from Grapevine is well advanced. Delegates will include elected officials, representatives from the banking industry, education, civic and community organisations. The dates of the official visit to the Barossa are 23 April 2025 - 30 April 2025.

The draft program of the visit includes:

- Experiences of the Barossa Vintage Festival
- Touch Down and Taste Off Event – Barossa v's Grapevine
- The award ceremony for the Barossa Young Ambassador
- Dinner with Rotary Barossa Valley
- Meeting with the Sister Cities Advisory Committee
- Barossa Vintage Parade
- Barossa Trade show
- Barossa Bushgardens BBQ – flora and fauna experiences

The Barossa Council delegation shall be as per the 2023 delegation consisting of the Mayor and Chief Executive Officer.

Further, as outlined at Attachment 1, due to the nature of this delegation including the award recipient of the Barossa Young Ambassador, 8 Nuriootpa High School agricultural students, and 2 teachers, and at least 4 committee members (all prior attending at their own costs). In addition, Barossa Australia and local wineries will also be attending 'Grapefest', it is recommended the Program Manager and Executive Officer to the Sister Cities Advisory Committee attend based on all advice, size of delegation and needs to attend to support the trip and to carry out the position of the Program Manager, as outlined in Attachment 1.

Discussion

The delegation from Grapevine will arrive in the Barossa on 23 April 2025 and depart on 30 April 2025.

The design and theme of the trip is expanded from that in 2023 with a program of high school students attending this year along with involvement in the Vintage Festival and the Committee including entering a float in the parade, all through voluntary effort. The high-level agenda is yet to be confirmed with more information and full itinerary to be completed with Grapevine in the next 4-6 weeks.

Our delegation to Grapevine will again be during Grapefest and will involve Civic, Cultural and Economic Development events and the School Tour. At this stage the official delegation (the Mayor, CEO and Program Manager/Executive Officer) will fly out on Tuesday 9 September 2025 arriving on the evening of the same day. The formal visit commences on 11 September 2025 and concludes on the evening of Sunday 14 September 2025. The costs to fly home on the following Monday were over \$2,000 dearer than coming home on Tuesday 16 September 2025, therefore they will fly home on that date arriving on Thursday 18 September 2025. Provision of access to systems and communications will mean the Chief Executive Officer is available and at work and therefore no Acting Chief Executive Officer needs to be appointed as the CEO is not on leave. Recent organisational reform has seen Ms Joanne Moen is appointed Deputy Chief Executive Officer and can exercise all necessary functions.

At this time a draft agenda is still being developed and will be provided in due course to members.

Summary and Conclusion

The biennial Grapevine Sister City delegations are upon us and are well advanced in planning for Grapevines visits. Preparation of our delegation visit has commenced.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 Sister City Members Correspondence 
Attachment 2 Employee Travel and Accommodation Policy 

Supporting references

[Elected-Members-Allowances-and-Benefits-Policy.pdf](#)

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan

- CS10 Economic Development - Facilitating the economic well-being and quality of life of the local businesses and the community.
- CS6 Community - To help the prosperity and wellbeing of the community. Community grants programs. Support for community groups – networking, advice, input to The Big Project.
- BS13 Strategic/Legislative Planning and Reporting - Provision of organisational performance report (outcomes), activity report (outputs), a range of statutory reporting (e.g. public health, tax, superannuation), financial reporting. Transparency and accountability regarding Council activity and expenditure provided.

Legislative Requirements

Part 5 of the Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Council will support the official delegation; this has been budgeted for at approximately \$7,000 to \$10,000. Grapevine reciprocates this support when our delegation visits Texas.

The costs of flights for a delegation of 3 flying business class have been budgeted for, as per Council policy (last time the delegation travelled over in premium economy

and back business class). Due to Fiji Airways recently offering a significant discount and sale for travel to the United States, but for a short period of time, have been preliminary booked. The cost for these flights was \$18,000 cheaper than the direct flights to Texas, with a short few hour's stopover in Fiji on the way over and on return.

With flights, incidentals, food, noting accommodation is supported by Grapevine, transfers and visa, the cost is estimated at \$30,000.

COMMUNITY ENGAGEMENT

Forms part of the annual budget which was consulted upon as part of the annual business plan and budgeting processes.

7.1.2 COUNCIL BEHAVIOUR SUPPORT POLICY - PUBLIC CONSULTATION RESULTS - ADOPTION OF POLICY **25/17043**

MOVED Cr Greatwich

That Council having reviewed the consultation feedback and proposed revisions to the Elected Member Behaviour Support Policy adopt the Policy as presented at Attachment 2, with revisions.

SECONDED Cr Evans

Cr Preece called for a **DIVISION**

The motion was set aside.

The division was taken with:

FOR the motion - Cr Angas, Cr Barrett, Cr de Vries, Cr Hurn, Cr Schilling, Cr Troup, Cr Evans, Cr Greatwich, Cr Lane, Cr Thompson

AGAINST the motion - Cr Preece

The Mayor declared the motion

CARRIED 2022-26/624

PURPOSE

To review public consultation submissions and consider the adoption of the revised Elected Member Behaviour Support Policy for public consultation.

REPORT

Background

As previously understood by members, Council received a petition at its meeting on 19 November 2024 pertaining to the application of the behaviour standards and policies, and resolved as follows.

MOVED Cr de Vries

That Council receive and note the petition and instruct the Chief Executive Officer to seek legal advice on the question proposed by the petitioners and the use of Section 75F of the Local Government Act 1999, and if legally acceptable, draft the said Council Behavioural Support Policy for presentation at the December 2024 meeting of Council and notify the lead petitioner of this direction.

SECONDED Cr Troup**CARRIED 2022-26/560**

A preliminary conversation has been had with Kelledy Jones Lawyers and they attested that a Policy can be developed under the Local Government Act (the Act) for the purposes sought, of course subject to wording and review of the document.

A draft Policy was therefore developed by reviewing other Council Policies, the LGA model Council Behaviour Support Policy, the Act, the intent of Councils instruction and the basis of the petition and provided to our solicitors for review and advice. The draft Policy was drafted with support of our solicitors, adopted for consultation by Council and consultation has now closed.

Introduction

The public consultation process for the Elected Member Behaviour Support Policy has been undertaken as instructed by Council. There were six online submissions and one letter provided by the close of the consultation process. The combined submissions and engagement report is at Attachment 1.

Discussion

The following table outlines the responses and any suggested revisions that have been incorporated into the policy for Council discussion and adoption.

Response Number	Summary Points	Supportive	Suggested Revisions to the Policy
1.	• Critical the policy succeeds. • Councillors should be pillars of our society and behaviour reflect this. • Behaviour that brings Council into disrepute should result in expulsion of the member immediately.	Yes	Nil
2.	• Brilliant and needed policy. • Behaviours of members needs to be managed.	Yes	Nil
3.	• Fantastic and needed to make sure politeness and no unnecessary speaking out of line	Yes	Nil
4.	• Policy needs to be made and witness benefits.	Yes	Nil

5.	• Supportive of all measures that support respectful community. • Suggests that the policy should be inclusively engaged with diverse members of our community including CALD backgrounds, LFBTIA+ and Aboriginal peoples. • Consequences of breaches could be strengthened.	Yes	Recommend change to strengthen as suggested to clause 1.2 and 3.1.5. Cannot alter the consequences these are prescribed by the Elected Member Policy and legislation.
6.	• Positive move to enact the Policy. • Elected members to be held to standards.	Yes	Nil
7.	• Restated the legal basis of support policies. • Agrees with legal advice regarding the clear line between personal / private life and public life. • Restates the petitioners request and the limitation that a policy needs to have and be consistent with the Elected Members Behavioural Policy. • Questions the statement of 'generally navigating the public realm and a community leader' and definitions of reasonable and impartial person. • Disagrees with the legal advice that the policy is not inconsistent with the Elected Member Behavioural Standards.	No	Policy has been carefully worded and checked legally to ensure there is reasonable separation between a Members' role and personal / private life. Reword 2.3 to make it clearer as pointed out by the submission. The tests of a reasonable and impartial is the test (not reasonable and/or impartial). This is a well-accepted "reasonable person test" in law. To assist a definition has been inserted.

Summary and Conclusion

Having now completed the community engagement process and considered the feedback it, including recommended drafting changes, the policy is now presented for final debate and consideration for adoption.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 Elected Member Behaviour Support Policy - Public Consultation Submissions 
- Attachment 2 Elected Member Behaviour Support Policy - With Recommended Revisions 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTSCorporate Plan

BS7 Governance - Provision of governance advice and support in the discharge of legislative responsibilities for policy development, delegations and authorisations, internal review of Council decisions, delegations and authorisations, Native Title claims

Legislative Requirements

Section 75F of the Local Government Act 1999

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil impact for the development of the policy, review of responses and engagement cost were minimal. The management of any complaints arising, and associated risks and costs with behavioural breaches or general behavioural matters cannot be predicted.

COMMUNITY ENGAGEMENT

Community engagement has taken place and has been tabled and summarised in this report.

7.2 Corporate Services, Strategy and Innovation**7.2.1 LAND ONLY LEASE - TANUNDA KINDERGARTEN**
25/16344**MOVED** Cr Preece

That Council:

- 1) Notes that the Tanunda Kindergarten, located at 41 MacDonnell Street Tanunda, has been occupying a portion of land owned by the Barossa Council and adjacent to the kindergarten for use as a playground under a long standing informal agreement.
- 2) Endorses the proposal to draft and offer the DoE a 10-year land-only lease, with a right of renewal for a further 5 years, over the portion of land known as 29 Bushman Street, Tanunda defined as Allotment 617 in Filed Plan 172068 described in Certificate of Title Volume 5843 Folio 102 (the Land), in accordance with Section 202 of the *Local Government Act 1999 (the Act)*. The Land is to be maintained by the DoE with a condition that the Land reverts to Council if the kindergarten is sold or ceases to operate during that period.

- 3) Notes that Council have previously endorsed a lease under the above terms at its meeting dated 19 March 2019, but that this matter never progressed.
- 4) Authorises Officers to undertake public consultation in accordance with Section 223 of the Act and Council's Public Consultation Policy by engaging with the community in the following manner:
 - a. Publish an advertisement in the Leader newspaper;
 - b. Make public the proposal on Council's website as a public notice; and
 - c. Make available a hard copy of the proposal to be collected from the Barossa Council offices located at 43-51 Tanunda Road, Nuriootpa.
- 5) Authorises the Deputy CEO & Director, Corporate Services, Strategy and Innovation to sign the agreement with the DoE, should no substantive objections be received. In the event that objections requiring review by Council are submitted, a further report shall be presented to Council for consideration and decision making.

SECONDED Cr Evans**CARRIED 2022-26/625****PURPOSE**

To seek in principle approval to negotiate a land-only lease agreement with the Department of Education (DoE) in respect of the longstanding use of Council land adjacent to the Tanunda Kindergarten site.

REPORTBackground

The Tanunda Kindergarten has occupied its current site at 41 MacDonnell Street, Tanunda since the 1960's. Over the years, the kindergartens' operations expanded onto an adjoining portion of land located at 29 Bushman Street, Tanunda defined as Allotment 617 in Filed Plan 172068 described in Certificate of Title Volume 5843 Folio 102 (the Land). A map identifying the Land is attached as *Annexure A – Site Plan*.

Records show that in the 1980's the District Council of Tanunda approved this Land to be fenced off by the kindergarten for use as a playground. The kindergarten has remained in possession of the Land since that time.

At its meeting held on 19th March 2019, pursuant to Section 202 and 223 of the Local Government Act 1999, Members of The Barossa Council resolved as follows:

MOVED Cr de Vries that Council:

- (1) Notes that the Tanunda Kindergarten located at MacDonnell Street, Tanunda has a long-standing use of a portion of Council owned land CT: Volume 5843 Folio 102 and marked B on Attachment 1 ref: 19/14572, but that a formal land use agreement has never been entered into between Council and the Department for Education.
- (2) Provides approval for Officers to negotiate a draft land only lease agreement with the Department for Education in respect of land marked B already in use by the Tanunda Kindergarten for an initial lease term of 10 years with a further 10 year right of

renewal, with a condition that the land reverts to Council if the Kindergarten is sold or ceases to operate during that period.

- (3) Authorises Officers to consult with the community in respect of the draft agreement in accordance with the requirements of the Local Government Act 1999 and Council's Public Consultation Policy.*
- (4) Authorises the Director Corporate and Community Services to sign the agreement unless there is community objection to the proposed agreement that requires further review by Council.*

Seconded Cr Hurn
CARRIED 2018-22/142

For reasons unclear to current administration officers, this matter did not progress. The kindergarten continues to occupy the Land, with no formal agreement in place.

Introduction

Any previous agreements between Council and either the DoE or the Tanunda Kindergarten that may have occurred over the years have now expired, and both parties seek to execute new leasing contracts in good faith.

The Land is owned by the Barossa Council and is classified as Community Land in accordance with relevant legislation.

This report seeks Council's endorsement to undertake public consultation for a new land-only agreement, and if no objections are received, to draft and execute an agreement between the Barossa Council and the DoE for use of the Land.

Discussion

The Land, and the Tanunda Kindergarten, is immediately adjacent to The Barossa Regional Gallery located within the Tanunda Soldier's Memorial Hall. Consideration has been given to whether this proposed lease agreement is likely to have an impact on the Barossa Creative Industries Centre (BCIC) project, which is scheduled to commence mid-2025. It has been determined through engagement with relevant stakeholders that this proposal will not have an impact on the BCIC project. The kindergarten's use of the Land is so long-standing and so familiar to the community, that any external landscaping and design appertaining to the BCIC project was done with the continued presence of the kindergarten's playground in its current location firmly in mind.

It is important to understand that this proposed agreement leases the land to the DoE for use by the Tanunda Kindergarten and does not constitute an obligation on the part of Council to undertake any improvements on the land, or in any way maintain the land. All responsibilities associated with use of the Land rest solely on the DoE as lessees.

Summary and Conclusion

The Tanunda Kindergarten have long occupied a portion of Community Land adjacent to the kindergarten for use as a playground. This portion of Land is identified as 29 Bushman Street, Tanunda defined as Allotment 617 in Filed Plan 172068 described in Certificate of Title Volume 5843 Folio 102. Despite the long-standing nature of the land use, there are no current agreements in place between Council and the Department of Education (DoE) authorising this activity.

Council resolved to enter into a lease with the DoE in 2019, however this matter was never progressed. This report seeks Council's endorsement to rectify this oversight and enter into a formal agreement with the DoE on behalf of the Kindergarten. The following conditions shall apply:

- Officers to undertake public consultation in accordance with the process set out in this reports' *Recommendations* in order to meet the requirements of Sections 202 and 223 of the *Local Government Act 1999*;
- The agreement shall be for land-use only, with the DoE having sole responsibility for maintenance and improvements upon the Land;
- The rent shall be peppercorn in recognition of the benefit this playground brings to the community;
- The initial term shall be for 10 years, with a further 5-year right of renewal to align the dates with Council's original resolution dated 19th March 2019;
- In the event that the kindergarten is sold or ceases to operate, the Land shall revert back to Council on the understanding that this agreement is not transferrable; and
- Should no objections be raised as part of the Public Consultation process, the Deputy CEO & Director, Corporate Services, Strategy and Innovation be authorised to sign the agreement with the DoE.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1	Annexure A - Site Plan, Tanunda Kindergarten 
Attachment 2	Annexure B - Proposed Public Consultation Press Announcement 
Attachment 3	Annexure C - Proposal Supporting Council's Public Consultation 
<u>Supporting references</u>	
Nil	

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Community and Culture

Goal

- 4 The Barossa fosters community resilience, connection and wellbeing through its social planning, recreation, safety, education, preventative health and social strategies especially for our youth and vulnerable people.

Strategies

- 4.1 Build on a strong sense of community pride with active community groups and individuals participating in local decision making and community building activities.
- 4.2 Continue creating strong and sustainable community networks, and support young people to actively participate in the community and develop the leaders of the future.
- 4.3 Embrace place-making principles when developing community infrastructure and regulate planning and development in public spaces and active recreation.

Legislative Requirements

Compliance with Sections 202 and 223 of the Local Government Act 1999 is a mandatory requirement. The granting of a lease or licence upon this portion of

community land will then be reflected in Council's appropriate Community Land Management Register.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Financial

A peppercorn lease fee is proposed. All maintenance costs and expenses associated with improvements upon the Land will be the responsibility of the DoE.

Resource

No additional Council resources are required.

Risk Management

Council is potentially at risk without the current arrangement being formalised in accordance with Section 202 of the Local Government Act 1999. Risks associated with the use of the Land shall be borne by the DoE as this Land is fenced for exclusive use by the kindergarten.

COMMUNITY ENGAGEMENT

Public Consultation is required in accordance with section 223 of the Local Government Act 1999 and Council's own Public Consultation Policy. Council Administration staff propose to engage with the community in the following manner:

- a. Publish an advertisement in the Leader newspaper (*Annexure B – Proposed Public Consultation Press Announcement*);
- b. Publish the proposal on the Barossa Council website as a public notice (*Annexure C – Proposal Supporting Council's Public Consultation*); and
- c. Make available a hard copy of the proposal to be collected from the Barossa Council offices located at 43-51 Tanunda Road, Nuriootpa.

Feedback is welcome, and any submissions will be assessed on merit. Should responses likely to impact the proposal be received, a further report will be presented for Council's consideration if required.

7.2.2 VARIATION TO DELEGATIONS REGISTER - UPDATES TO LEGISLATION **25/16578**

The Chief Executive Officer outlined that one delegation pertaining to the Independent Commission Against Corruption Act 2012 has not yet been gazetted and until that occurs the power is not available and will be noted with in the delegations as awaiting gazettal.

MOVED Cr de Vries

That Council, in exercise of the power contained in section 44 of the *Local Government Act 1999*, hereby delegates the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Attachment 1 of the report entitled "Amendments to the Delegation Register - Council Report Attachment - 18 February 2025," to the position of Chief Executive Officer except where otherwise indicated in the Attachment, subject to the conditions and limitations specified in each proposed Instrument of Delegation:

- Independent Commission Against Corruption Act 2012
- Instrument A - Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning & Design Code and Practice Directions of Powers of a Council as a Council; a Designated Authority; a Designated Entity Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning & Design Code and Practice Directions of Powers of a Council as a Council; a Designated Authority; a Designated Entity
- Local Government (General) Regulations 2013
- Supported Residential Facilities Regulations 2024

SECONDED Cr Preece**CARRIED 2022-26/626****PURPOSE**

To provide Council with an opportunity to consider updated and new provisions identified through legislative amendments for delegation to the Chief Executive Officer under various legislation.

REPORTBackground

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.

From time to time, legislation upon which Council's delegations are based change, requiring Council to review its relevant delegations on a periodic basis. Council may review its delegations at any time.

Introduction

In early 2020, the Local Government Association (LGA) advised councils it was undertaking a comprehensive review of the delegations' templates and revised its

approach to the service offered to councils. The resulting framework established a simpler and contemporary approach that will improve ease of use, reduce legal risk, and enhance flexibility for Council.

Each power and function now consist of a short description only, replacing the historic approach which substantially replicated the text of the legislation. This framework also expands the number of delegable provisions across Acts that were not previously included as part of the delegations.

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.

The framework is not intended to provide a compliance manual for delegates exercising statutory functions and powers. Providing guidance as to the legal requirements for the valid exercise of that delegated power or function is not the purpose of an instrument of delegation or sub-delegation. The purpose is to record formally the delegation of statutory functions or powers. The delegate or sub-delegate is responsible for exercising the delegated power or function lawfully. This requires compliance with:

- any conditions or limitations on the delegation;
- any statutory requirements which apply to the exercise of the power or function; and
- relevant principles of administrative law.

New Delegations

Independent Commission Against Corruption Act 2012

- Power to seek Supreme Court approval for the council to withhold investigation details from the subject.

Instrument A - Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning & Design Code and Practice Directions of Powers of a Council as a Council; a Designated Authority; a Designated Entity
Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning & Design Code and Practice Directions of Powers of a Council as a Council; a Designated Authority; a Designated Entity

- Power to initiate code amendment by submitting via the SA planning portal
- Power to initiate a code amendment for proposed changes to code policy
- Power to initiate a code amendment for affected area

- Power to initiate a code amendment that requires identifying relevant state planning policies and assessing alignment
- Power to initiate a code amendment for regional plan
- Power to initiate a code amendment for consultation
- Power to initiate a code amendment for planning merit statement
- Power to initiate a code amendment for investigations
- Power to initiate a code amendment for SA planning portal publication instructions
- Power to initiate a code amendment for designating a place of local heritage value
- Power to initiate a code amendment for designating a tree/s as significant
- Power to prepare a draft code amendment prior to consultation: investigations
- Power to prepare a draft code amendment prior to consultation: instructions
- Power to prepare a draft code amendment prior to consultation: proposal
- Power to prepare a draft code amendment prior to consultation: provide proposal to the department
- Power to prepare a draft code amendment prior to consultation: provide engagement plan
- Power to prepare a draft code amendment prior to consultation: amend engagement plan
- Power to support a draft code amendment following requirements
- Power to prepare engagement plan prior to consultation
- Power to prepare engagement plan prior to consultation: state planning policy
- Power to prepare engagement plan prior to consultation: code or design standard
- Power to prepare engagement report following consultation with amendments
- Power to prepare engagement report with feedback
- Power to prepare engagement report with evaluation
- Request for Minister to agree to complying changes
- Power to request early commencement of code amendment
- Regulations, planning and design code and practice directions added to delegation source and numbering updated

Local Government (General) Regulations 2013

- Power to prepare and maintain employee complaints policy

Updates

Periodic updates to legislation are facilitated by the LGA and their legal partners at Norman Waterhouse Lawyers. In this periodic update of delegations there have been changes to the following pieces of legislation being:

Instrument A - Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning & Design Code and Practice Directions of Powers of a Council as a Council; a Designated Authority; a Designated Entity

Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning & Design Code and Practice Directions of Powers of a Council as a Council; a Designated Authority; a Designated Entity

- Regulations, planning and design code and practice directions added to delegation source and numbering updated

Supported Residential Facilities Regulations 2024

- Updated delegation source year and removed registered from nurse
- Updated delegation source year and removed registered from nurse and to oversee
- Updated delegation source year and removed registered from nurse

Summary and Conclusion

Council is now asked to review and endorse the delegations as at Attachment 1. The delegations within this report do not detail the entirety of the delegation framework, only those provisions that have been identified as additional powers and functions not previously recognised as delegable or updates have been made to the wording of the delegation.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Amendments to the Delegation Register - Council Report
Attachment - 18 February 2025 

Supporting references

No further supporting references.

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan

BS7 Governance - Provision of governance advice and support in the discharge of legislative responsibilities for policy development, delegations and authorisations, internal review of Council decisions, delegations and authorisations, Native Title claims

Legislative Requirements

Under Section 44(1) of the Local Government Act 1999 a council may delegate a power or function vested or conferred under this or another Act, and it may be made to an employee of the council, a council committee, or an authorised person.

Council's Delegations Register is available on Council's website.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Risk mitigation is provided through the effective management of the delegation's processes and ensuring the CEO is aware of their responsibilities.

The risk of having ineffective or invalid delegations is minimised as the delegations being considered have been recommended by the LGA, who have engaged lawyers to ensure they are correctly set out with appropriate terminology. It is imperative that delegations are validly made as consequences of ineffective or invalid delegations include:

- the exercise of power may fail – i.e. the decision made may be liable to being overturned by a court;
- the cost of a successful challenge to a decision made without lawful delegation will likely be borne by the Council; and
- where the unlawful exercise of the power has caused loss or damage the Council may be liable for such loss or damage.

It is Council's decision as to whether it delegates any specific power, or not, under any legislation, except where otherwise directed. Section 44(3) of the Local Government Act 1999 also specifies Council decisions that cannot be delegated.

COMMUNITY ENGAGEMENT

Employees are informed through established internal procedures of any variation to instruments of delegations that affect their position.

Council's Register of Delegations is made available to the public via Council's website www.barossa.sa.gov.au as required by the *Local Government Act 1999*.

7.2.3 MINOR AMENDMENTS TO 2024-25 FEES AND CHARGES REGISTER - CHANGE IN GST STATUS FOR BURIAL RIGHTS **25/16583**

MOVED Cr Angas

That Council approves:

- (1) For the 2024-25 Fees and Charges Register to be updated to remove the GST from burial rights, thereby reducing the fees previously approved at the 18 June 2024 meeting, as outlined in Attachment 1. These new fees will be effective from the date of Council's resolution.
- (2) For any GST refund requests to be considered and dealt with on a case-by-case basis as and when they arise.

SECONDED Cr de Vries

CARRIED 2022-26/627

PURPOSE

The 2024-25 Fees and Charges Register was approved by Council at the 18 June 2024 meeting.

On 4 December 2024 the Australian Taxation Office (ATO) released Taxation Determination GSTD 2024/2 which states that a fee for the grant of burial rights by a council cemetery operator is now GST exempt, requiring the amendment of Council's Fees and Charges Register.

REPORTDiscussion

On 4 December 2024 the ATO released Taxation Determination GSTD 2024/2 dealing with the topic of GST on burial rights. GSTD 2024/2 states that on or after 4 December 2024 a fee for the grant of burial rights is GST exempt.

GSTD 2024/2 leaves it open to councils to make a decision regarding pricing - either reducing the price by the GST amount, or keeping the fee as is but no longer paying the GST. It is proposed that the fees approved at the 18 June 2024 meeting be reduced by the GST amount given there has been no change in the council's costs to provide these burial rights and therefore the GST saving should be passed on to the community.

GSTD 2024/2 is prospective rather than retrospective however this does not prevent past customers from making a claim on council for overcharged GST. The ATO states there is no obligation on a council to refund overcharged GST to customers and therefore there is no obligation on Council to actively seek out past customers and pay them the overcharged GST. However, customers do have the right to approach Council seeking a refund of the overcharged GST. In relation to refunds, the ATO has said that this is a private contractual matter between the supplier (Council) and the customer.

If a customer approaches Council requesting a refund for overcharged GST and a refund is provided, Council can obtain a refund of that GST from the ATO, via a BAS adjustment. Under the ATO refund rules, Council is permitted to charge an administration fee to the customer and the ATO will still pay the full refund to the Council. For example, if the customer was entitled to a \$200 refund and an administration fee of \$100 was determined to be appropriate, the net payment to the customer would be \$100. The ATO would still pay the Council \$200 provided the administration fees are reasonable and the customer agrees to the fee.

It is proposed that if any refund requests are received by Council for GST previously paid on burial rights, that these requests be considered and dealt with on a case-by-case basis as and when they arise.

The ATO is allowing councils three months to change their systems to fall in line with the requirements outlined in GSTD 2024/2. This means that the 2024-25 fees and charges register is required to be updated by 4 March 2025 to show that GST is no longer payable on burial rights.

GSTD 2024/2 also confirmed that there has been no change to the GST-status of fees for other goods and services made in relation to a burial or cremation, including memorial plaques and grave digging services, with these goods and services continuing to be taxable.

Summary and Conclusion:

The amended fees for burial rights are attached for Council consideration and approval.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Amendment to 2024-25 fees and charges register - burial rights - February 2025 - to Council 

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan

BS6 Finance - Transparency and accountability regarding Council activity and expenditure. Provision of organisational performance report (outcomes), activity report (outputs), a range of statutory reporting (e.g. public health, tax, superannuation), financial reporting

BS7 Governance - Provision of governance advice and support in the discharge of legislative responsibilities for policy development, delegations and authorisations, internal review of Council decisions, delegations and authorisations, Native Title claims

Legislative Requirements

ATO Taxation Determination GSTD 2024/2

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The current budget is aligned to the 2024-25 fees and charges register and this report represents no change in risk, financial outcomes and resource allocations.

COMMUNITY ENGAGEMENT

The revised 2024-25 fees and charges register will be made available on Council's website for the community to access once approved.

7.2.4 MONTHLY FINANCE REPORT AS AT 31 JANUARY 2025 **25/16743**

MOVED Cr Hurn

That Council receives and notes the monthly finance report as at 31 January 2025 as provided at Attachment 1.

SECONDED Cr de Vries

CARRIED 2022-26/628

PURPOSE

The monthly finance report as at 31 January 2025 provides information on the financial position and performance of the Council, including notes on material financial trends and transactions.

REPORT

The monthly finance report as at 31 January 2025 is attached. This report has been prepared comparing actuals to the original adopted 2024-25 budget.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Monthly finance report as at 31 January 2025 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan

BS6 Finance - Transparency and accountability regarding Council activity and expenditure. Provision of organisational performance report (outcomes), activity report (outputs), a range of statutory reporting (e.g. public health, tax, superannuation), financial reporting

Legislative Requirements

Local Government (Financial Management) Regulations 2011 Regulation 9(1)(b)
LGA information paper 25 – Monitoring Council Budget Performance

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

To enable Council to make effective and strategic decisions, a high-level monthly finance report is provided for Council's noting.

COMMUNITY ENGAGEMENT

Community consultation was part of the original budget adoption process in June 2024, as required by legislation. This report is advising Council of the monthly finance position compared to that budget.

7.2.5 BUDGET REVIEW - QUARTER 2 FOR THE 2024-25 FINANCIAL YEAR AS AT 31 DECEMBER 2024
25/16868

MOVED Cr de Vries

That Council, having reviewed the budget for 2024/2025 as at 31 December 2024 presented at Attachment 1, adopt the updates, variations and financial reports and budgets contained therein.

SECONDED Cr Lane

CARRIED 2022-26/629

PURPOSE

The review of the 2024-2025 budget as at 31 December 2024 is attached for Council consideration and adoption of budget variations.

REPORT

Background

On a quarterly basis the budgets of Council are to be reviewed in accordance with the *Local Government Act 1999* and associated regulations.

Budget managers undertake a review of all budget lines and adjust where budgets are trending over or under budget and where changes are required for capital programs or new or changed funding conditions.

Discussion

The reports provide information on the financial position of Council, containing budget update reports, variations and restated financial statements as normally presented. This quarter's report has also been reviewed to improve its readability and to provide improved information related to the operating, functional and capital budget. New information is provided on more detailed operational and functional budget performance as at 31 December 2024 and a revised capital budget report that directly aligns to the format of the adopted capital budget in the annual business plan and budget document.

At this time in the financial year the predicted borrowings for the year are \$23.5M significantly down from the first budget review and adopted budget.

The revised budget indicates continued alignment with the deliverables of the business plan and the operating and capital budget outcomes improve Council's cash position by over \$1M.

Summary and Conclusion

The review has been completed and is ready for Council consideration and endorsement.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Q2 Budget Update 2024-25 as at 31 December 2024 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan

- BS6 Finance - Transparency and accountability regarding Council activity and expenditure. Provision of organisational performance report (outcomes), activity report (outputs), a range of statutory reporting (e.g. public health, tax, superannuation), financial reporting
- BS7 Governance - Provision of governance advice and support in the discharge of legislative responsibilities for policy development, delegations and

authorisations, internal review of Council decisions, delegations and authorisations, Native Title claims

Legislative Requirements

Section 122 of the Local Government Act 1999

Section 123 of the Local Government Act 1999

Regulation 9 of the Local Government (Financial Management) Regulations 2011

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

The reports provide the best up-to-date estimates of financial and resource estimates to achieve the annual business plan and strategies set by Council and the stability of Council's long term financial position and operations.

COMMUNITY ENGAGEMENT

Community consultation was part of the original 2024-25 budget adoption process in June 2024.

7.3 Infrastructure and Environmental Services

Nil

7.4 Development and Community Services

7.4.1 COMMENCEMENT OF COMMUNITY ENGAGEMENT ON THE ACCOMMODATION DIVERSITY CODE AMENDMENT **24/114737**

MOVED Cr de Vries

That Council:

- (1) Authorise the draft submission to the State Planning Commission in relation to the Accommodation Diversity Code Amendment, contained in Attachment 1.
- (2) Authorises the Chief Executive Officer, or delegate, to make minor technical or typographical amendments to the submission.

SECONDED Cr Troup

CARRIED 2022-26/630

PURPOSE

To seek endorsement of a submission to the State Planning Commission in relation to the Accommodation Diversity Code Amendment.

REPORT

Background

The Code Amendment forms part of a number of initiatives by the State Government as part of the housing roadmap to facilitate increased housing supply and diversity. The Code Amendment has been introduced to encourage affordable and sustainable smaller housing types, greater flexibility in design requirements, address both self-contained and non self-contained housing types and to support greater capacity for retirement facilities and supported accommodation on large sites.

Introduction

The State Planning Commission has commenced community engagement on the draft Accommodation Diversity Code Amendment for a period of 12 weeks until 27 February 2025. An information report was presented to Council in relation to the Code Amendment at the 18 June 2024 Council Meeting.

The draft Code Amendment proposes to make changes to the Planning and Design Code to provide:

- Greater design flexibility to assist in the provision of apartment-type housing, to support the provision of alternative housing options and housing and supply;
- Additional capacity for the provision of retirement facilities and support accommodation in response to significant growing demand as a result of the state's ageing population.

Discussion

More specifically, the draft Code Amendment proposes to:

- Introduce a new "co-living" land use definition for residential accommodation that is not self-contained (ie. does not contain either a full kitchen) and provides shared facilities. Associated policy will promote "co-living in zones supportive of residential infill and guide the nature and design of shared facilities and new car parking rates and private open space for co-living;
- New and amended policy to improve apartment style accommodation including introduction of minimum habitable room dimensions in place of overall minimum floor area;
- New policies for the provision of communal recreation space and shared facilities for student accommodation;
- Update policies for communal open space to clarify that private open space can be substituted with communal open space, with a lower rate applying for apartments and new provisions guiding design such as solar access, planting areas and facilities;
- Introduce a new "Significant Retirement Facilities and Supported Accommodation Sites" Overlay to be applied in zones including the Established Neighbourhood Zone, Neighbourhood Zone and Master Planned Neighbourhood Zone, that:
 - o Allows for buildings up to four storeys on sites over one hectare and up to six storeys on sites over two hectares;
 - o Includes policy that seeks to mitigate interface impacts with adjoining properties;
 - o Supports compatible non-residential uses such as a café or consulting rooms for the provision of allied health services;

- Changes to public notification triggers to exempt significant retirement facility and supported accommodation sites from public notification.

A new draft *Practice Guideline – Communal Recreation Spaces and Shared Facilities* has also been prepared and provides guidance on the various features within and size of communal recreation spaces and shared kitchen/living. The new draft Guideline is being consulted on at the same time as the Code Amendment.

A draft submission is contained in Attachment A. The draft submission raises the following matters:

Co-Living Land Use Definition and Policies

The Code Amendment proposes to introduce the 'Co-Living' land use definition for development that involves six (6) or more residences in a single building which share facilities such as kitchens and/or bathroom and/or laundry. The most common example to such accommodation may be repurposing of a dwelling to a boarding house or similar.

A performance assessed pathway will apply to co-living in zones generally supportive of residential infill. New policy will exist to guide the nature and design of shared facilities for co-living accommodation and new car parking rates, bicycle parking rates and private open space/communal open space rates for co-living accommodation.

The car parking rates assigned for co-living residences will be 0.5 spaces per bedroom, meaning a proposal for co-living in nature of six persons would require three on-site car parking spaces. Private open space will be assigned at 2.5m² per bedroom or where in a communal arrangement, 2.5m² per residence, meaning co-living for six persons would require 15 square metres of communal open space.

The submission supports the land use definition. In respect to the policy settings, these are geared towards urban settings and are considered to be less appropriate for Barossa townships. It is suggested that car parking rates per bedroom and minimum open space requirements be increased. A suggestion could be to maintain the current rate but suggest a minimum provision of 4 spaces per site. In addition, it is suggested that an increase in private open space to 4m² per bedroom or 24m² minimum per site. The policy should also be explicit that open space is behind the building line and has minimum dimension of 3m.

Significant Retirement Facilities and Supported Accommodation Sites

This proposal will support increased building heights for retirement facilities and supported accommodation of up to four storeys on 1ha sites and up to six storeys on 2ha sites. The Code Amendment suggests the Overlay will apply to the Established Neighbourhood Zone and Neighbourhood Zone, which are existing zones applying to residential areas in all main Barossa townships. The Master Planned Neighbourhood Zone is also identified and is the zone expected to apply to majority of the Concordia Growth Area, as part of the Concordia Code Amendment.

It is acknowledged there are few sites exceeding 1ha in existing townships that would support a retirement facility of scale. Notwithstanding, the draft submission raises objection to the proposal to introduce increased building heights of this magnitude in Barossa townships. Neighbourhood and Established Neighbourhood Zones in

Tanunda, Nuriootpa and Angaston are presently subject to a single storey height limit and as such, the proposal to enable building heights of up to six storeys are considered to be in significant conflict with the existing policy framework.

Further, The Barossa Council has recently consulted with the community in relation to the Growth and Infrastructure Investment Strategy. Building heights were a matter of significant concern to the community and the general feedback from the consultation summary, received by Council in August 2024, was that increased building heights were not supported. As such, the submission seeks that the Overlay not apply to The Barossa Council.

The other concerns with this proposal are that:

- There is likely to be conflict with existing Historic Area Overlay policies that apply to the Established Neighbourhood Zone. The Historic Area Overlay seeks to reinforce historic themes and characteristics through conservation and contextually responsive development, design and adaptive reuse. Development in the scale of that identified in the Overlay has potential to be in conflict with the Desired Outcome and Performance Outcomes of the Historic Area Overlay.
- Public notification will not apply to owners/occupied of adjacent areas, given that developments that comply with the building height/envelope policy are exempt from public notification.

Summary and Conclusion

Council is requested to endorse the draft submission to the Accommodation Diversity Code Amendment and authorise the Chief Executive Officer, or delegate, to make minor technical or typographical amendments to the submission.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Submission to the Accommodation Diversity Code Amendment 

Supporting references

[Updating Planning Rules to Increase Accommodation Diversity | YourSAy](#)

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Natural Environment and Built Heritage

Goal

- 1 The Barossa has sustainable farmland providing diverse and stable returns, while protecting the unique natural environment and biodiversity of the region.

Strategies

- 1.1 Ensure land use planning and resource use protects the quality of the natural environment, the existing character of rural landscapes, historic significance and the high value of agricultural land.

- 1.2 Support tourism development that is sensitive to the natural environment and ensures that the unique character of the rural landscape is appropriately managed and promoted.

Corporate Plan

CS15 Land Use and Development - Assessment of development applications for construction, alteration or demolition of buildings, and the division of land and changes in land use.

Legislative Requirements

Planning, Development and Infrastructure Act 2016

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil

COMMUNITY ENGAGEMENT

The community have the opportunity to make public submissions as part of the current consultation process which concludes on 27 February 2025.

7.4.2 APPOINTMENT OF COUNCIL MEMBER TO THE BUILDING FIRE SAFETY COMMITTEE AND UPDATE TO THE TERMS OF REFERENCE AND BUILDING FIRE SAFETY POLICY **25/2448**

MOVED Cr de Vries

That Council:

- (1) Appoint Mr Grant Hewitt, Senior Assessment Officer – Building to The Barossa Council Building Fire Safety Committee, pursuant to Section 157(17) of the *Planning, Development and Infrastructure Act 2016*, for remainder of the current term of the Committee, expiring 30 June 2025.
- (2) Receive and adopt the draft Building Fire Safety Committee Terms of Reference contained in Attachment 1, pursuant to Section 157 of the *Planning, Development and Infrastructure Act 2016*.
- (3) Receive and adopt the draft Building Fire Safety Policy contained in Attachment 2.

SECONDED Cr Evans

CARRIED 2022-26/631

PURPOSE

To appoint the Senior Assessment Officer – Building to the Building Fire Safety Committee for duration of the current term of membership (30 June 2025) and to update the Building Fire Safety Committee Terms of Reference and Building Fire Safety Policy.

REPORTBackground

Mr Rick Stephen was appointed to the Building Fire Safety Committee (the "Committee") as the Council Member on 19 April 2022. Following his resignation in June 2024, the Council Member position has been vacant. With the appointment of a Senior Assessment Officer – Building, Mr Grant Hewitt in January 2025, there is a need to appoint Mr Hewitt as the Council Member to the Committee for remainder of the current term of the Committee, which expires 30 June 2025.

Discussion

The *Planning, Development and Infrastructure Act 2016* (PDI Act) requires Council to establish and designate a body to act as an appropriate authority under section 157(17) of the PDI Act. The "appropriate authority" is charged with authority to enter and inspect any building for the purpose of determining whether the fire safety of a building is adequate.

Mr Hewitt is an Accredited Professional pursuant to the Accredited Professionals Scheme established under the Act and holds Level 1 accreditation and prescribed qualifications in building surveying. Mr Hewitt was engaged by The Barossa Council on the 13 January 2025. Mr Hewitt is a suitable person in which to be appointed to the Committee pursuant to Clause 2.1.1 of the Terms of Reference.

It is recommended that Mr Hewitt be appointed to the Committee for the duration of the current term of membership, in order to align with the membership term of the other existing members. A further report will be presented to Council for its consideration to appoint members for the new 4 year term in coming months.

At the same time, the current Terms of Reference of the Building Fire Safety Committee and Building Fire Safety Policy are due for review on 1 April 2024. Some minor improvements to the Terms of Reference are identified in track changes within the draft Terms of Reference contained in Attachment 1 and Building Fire Safety Policy contained in Attachment 2 and are presented to Council for endorsement.

Summary and Conclusion

Council is requested to appoint the Senior Assessment Officer – Building, Mr Grant Hewitt, to the Committee for duration of the current term of membership, expiring 30 June 2025 and to endorse the draft Terms of Reference contained in Attachment 1 and draft Building Fire Safety Policy contained in Attachment 2.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Terms of Reference of the Building Fire Safety Committee 
Attachment 2 Building Fire Safety Policy - draft 18 February 2025 - pdf version 

COMMUNITY PLAN / CORPORATE PAN / LEGISLATIVE REQUIREMENTSCommunity Plan

Natural Environment and Built Heritage

Goal

- 1 The Barossa has sustainable farmland providing diverse and stable returns, while protecting the unique natural environment and biodiversity of the region.

Strategies

- 1.1 Ensure land use planning and resource use protects the quality of the natural environment, the existing character of rural landscapes, historic significance and the high value of agricultural land.

Corporate Plan

- BS7 Governance - Provision of governance advice and support in the discharge of legislative responsibilities for policy development, delegations and authorisations, internal review of Council decisions, delegations and authorisations, Native Title claims
- BS4 Council and Committees - Provision of support to Council and Committees through the provision of required information, agendas, and minutes. Council and Committees are provided with support to enable informed decisions
- CS15 Land Use and Development - Assessment of development applications for construction, alteration or demolition of buildings, and the division of land and changes in land use.

Legislative Requirements

Section 157, Planning, Development and Infrastructure Act 2016
 Planning, Development and Infrastructure (General) Regulations 2017.

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

An existing budget allocation exists for the ongoing activities of the Building Fire Safety Committee, which are not impacted by this appointment.

COMMUNITY ENGAGEMENT

Nil

7.4.3 NOMINATION FOR SOUTH AUSTRALIAN RAINBOW COUNCIL NETWORK **25/16404**

MOVED Cr Greatwich

That Council:

- (1) Endorse Courtney Dswonitzky (Team Leader Community Programs) as a representative for the Barossa Council on the South Australian Rainbow Network.
- (2) Nominate and endorse Cr Greatwich to represent the Barossa Council on the South Australian Rainbow Network.

SECONDED Cr de Vries

CARRIED 2022-26/632

PURPOSE

To nominate and endorse two representative members, consisting of one staff member and one Elected Member, to the South Australian Rainbow Council Network in response to the invitation for nominations.

REPORT

Discussion

The South Australia Rainbow Advocacy Alliance (SARAA) is seeking nominations from local councils for the Rainbow Council Network. Nominees will be required to attend quarterly online meetings in 2025. The Rainbow Council Project will equip councils and the Local Government sector with resources, guides and expert advice to help strengthen Local Government engagement with and inclusion of LGBTIQ+ people. The SARAA has recommended that nominations consist of a Council staff member and an Elected Member.

Summary and Conclusion

Participating in the Rainbow Council Network presents a valuable opportunity to further the Wellbeing Project and strategy for the LGBTIQ+ community. This collaboration will enable us to connect with other local councils, gaining insights, advice, and resources to enhance our support and engagement with the community while promoting inclusion in both the workplace and the broader community.

In summary, this partnership will strengthen our efforts in creating a more inclusive and supportive environment for the LGBTIQ+ cohort within our community.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

Attachment 1 Invitation to join the Rainbow Council Network 

Supporting references

<https://www.saraa.org.au/rainbow-council/>

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Health and Wellbeing

Goal

10 Our region enjoys the benefits of sustainable community groups, networks and facilities that encourage everybody to participate in the community.

Strategies

10.2 Advocate for and encourage services that ensure equity and support inclusion and at risk members of the community.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil

COMMUNITY ENGAGEMENT

Community consultation is not required under Legislation or Council Policy.

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7.4.4 DEED OF VARIATION - COMMONWEALTH HOME SUPPORT PROGRAM 2024-2025 25/16591

MOVED Cr de Vries

That Council approve the Mayor and Chief Executive Officer to affix the seal and sign the Commonwealth Government Deed of Variation in relation to Commonwealth Home Support Program funding increase of social support group services for 2024/25 in accordance with section 38 of the *Local Government Act 1999*.

SECONDED Cr Hurn

CARRIED 2022-26/633

PURPOSE

That approval be provided for the Mayor and Chief Executive Officer to sign and seal the Commonwealth Government Deed of Variation relating to the amendment of the increased funding amount for the provision of social support group services within the current Commonwealth Home Support Program funding for 2024/25.

REPORT

Additional funding for the provision of social support group services within the Commonwealth Home Support Program has been allocated to The Barossa Council as part of our monthly payments for the remainder of the 2024/25 financial year. Our Funding Agreement Manager has confirmed that this funding will also be included in our recurring funding offer for the period of 2025-2027.

The funding is allocated to social support group services to support programs such as the Out and About Social Groups and the Barossa Community Men's Shed, which are key offerings within this service type.

This funding was offered, following the monthly reporting of outputs, which highlighted that Council is exceeding the contractual outputs outlined in our agreement with the Department of Health and Aged Care. As a result, it was determined that additional funding is necessary to support the increased demand.

With the additional funding, the contractual outputs, as specified in the Activity Work Plan, have increased to 4,464 hours for the 2024/25 financial year, and staff are on track to meet this target.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 CHSP - Commonwealth Home Support Programme - deed of variation - 2024-2025 contract - 6 February 2025 
- Attachment 2 CHSP - Commonwealth Home Support Programme - 2024-2025 - contract agreement - 6 February 2025 
- Attachment 3 CHSP - Commonwealth Home Support Programme - Activity Work Plan - 2024-2025 - 6 February 2025 

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Community Plan



Infrastructure



Health and Wellbeing

Goal

- 8 To have a connected and safe transport network that meets the needs of our community
- 9 Our community has fair and equitable access to the resources and services they need to lead a safe, healthy, inclusive and connected lifestyle

Strategies

- 8.1 Support opportunities to increase community transport and access to services and facilities.
- 9.1 Work towards combating loneliness and social isolation and ensuring that people enjoy a sense of inclusion and feel connected.

Legislative Requirements

Nil

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil

COMMUNITY ENGAGEMENT

None required

**7.4.5 DRAFT SUBMISSION TO MINISTER FOR PLANNING - DEVELOPMENT APPLICATION 25001089 FOR DEMOLITION OF FORMER CARETAKERS RESIDENCE AT WHISPERING WALL RESERVOIR AND CONSTRUCTION OF A 1.2M HIGH FENCE
25/16677**

MOVED Cr Greatwich

That Council:

- (1) Authorise the draft submission to the Minister for Planning in relation to Development Application 25001089 for demolition of former caretakers residence at the Whispering Wall Reservoir and construction of a 1.2m high fence, contained in Attachment 1.
- (2) Authorises the Chief Executive Officer, or delegate, to make minor technical or typographical amendments to the submission.

SECONDED Cr Evans

CARRIED 2022-26/634

PURPOSE

To seek endorsement of a submission to the Minister for Planning in relation to Development Application 25001089 for demolition of former caretakers residence at the Whispering Wall Reservoir and construction of a 1.2m high fence.

REPORT

Background

SA Water lodged Development Application 25001089 to the Minister for Planning on 22nd January 2025 seeking demolition of the former caretakers residence at the Whispering Wall Reservoir. The Whispering Wall is listed on the State Heritage Register pursuant to the *Heritage Places Act 1993* (State Heritage ID 16929). The listing is described in the notes as follows:

The wall is listed as it is recognised as a significant structure in the history of engineering in South Australia. Completed in 1902, the concrete arch dam was the first of its type in the state and among the first of the true thin wall arch dams to be built in the world. The reservoir wall was the highest dam in Australia at the time of its completion. An unusual phenomenon is created by the location and curve of the downstream wall of the dam which has resulted in it being called the "Whispering Wall". Due to the curvature of the dam wall a person speaking quietly on one abutment can be clearly heard by a person on the opposite abutment.

While the caretakers residence is not mentioned within the extent of the State Heritage listing, demolition of the building requires development approval, noting that demolition of a building on the site of a State Heritage Place is not exempt from development pursuant to the *Planning, Development & Infrastructure Act 2016* (the Act).

Development by an agency or instrumentality of the Crown is assigned to the Commission for assessment as the Relevant Authority. The Commission must give notice of an application containing particulars of the development to the Council.

Council is provided four weeks in which to report to the Commission on the application.

Introduction

Council is requested to provide comments in respect of a development application for demolition of the former caretakers residence at the Whispering Wall Reservoir. The development application is contained within Attachment 2 and includes a planning report, photos of the building and proposal plans.

Whilst staff have delegation to provide comments to the Minister for Planning it is considered appropriate for Council to endorse the submission in this instance given the application has attracted some media attention due to the heritage listing of the site.

Discussion

The former caretakers residence is located adjacent the eastern end of the Whispering wall car park, approximately 90m from the eastern side of the Whispering Wall. The caretakers residence is presently fenced around the perimeter with chain mesh wire to preclude public access. Photos of the building are contained in Attachment 2.

The caretakers residence forms an important part of the history of the Whispering Wall. Records of the site suggest there was a large construction camp near the work site during construction of the dam. It is believed that the residence was the office of the Chief Engineer during construction. Following completion, the cottage was used as a Caretaker's / Manager's residence for a number of years. It was common practice at reservoirs in South Australia to build a residence for the caretaker to manage and maintain the infrastructure associated with the reservoir.

SA Water have requested demolition of the building and construction of a 1.2m tall 'pool fence' to the east of the demolished building to prevent access to SA Water infrastructure. The proposed development consists of the following works:

- Removal and disposal of asbestos and hazardous materials;
- Removal of all plant, equipment, utilities, furniture etc. that is not part of the building structure and dispose of;
- Recycle all scrap metals and materials worthy of local recycling;
- Demolish above ground and underground steel, concrete, electrical, plumbing infrastructure and level to ground;
- Grade land and ensure site is clear and tidy;
- Install 1.2m tall 'pool fencing' to the east.

SA Water have requested demolition of the building on basis that the building is in a dilapidated state and is not economic to repair. SA Water have advised they will investigate options to retain materials for incorporation into future elements of infrastructure in the public spaces.

As part of the assessment, the application has been referred to Heritage SA for comment pursuant to Schedule 9(3)(17) of the *Planning, Development and Infrastructure (General) Regulations*. Heritage SA will provide commentary on the impact of the demolition upon the State Heritage Place.

A draft submission outlining Council's submission in respect to the proposal is contained in Attachment 1. The draft submission acknowledges the dilapidated state of the building and the need for action to be taken to address the condition of the building. In its current form, the building clearly detracts from the site and its ongoing retention in this condition is clearly not desired by the community.

While the preferred option of SA Water is to seek demolition, the cottage has been assessed by Council's Heritage Advisor as run-down but not unsound and could be rehabilitated. The lack of explicit heritage listing of the caretaker's residence under the listing of the Whispering Wall is acknowledged, however, the building is considered to have a tangible link and relationship to the Whispering Wall and the demolition of the residence would be a loss to the understanding and context of the construction and management of the reservoir wall and site.

The submission therefore encourages the retention of the former caretaker's residence. In event that Heritage SA and the Minister for Planning do not agree, the proposal to incorporate some of the materials of the demolished building into future elements of the infrastructure in the public spaces is supported. Further telling of the story of the building at the location is also encouraged as well as further ongoing investment and upgrade of the public spaces of the Reservoir to support tourism attraction and recreation space for the community.

Summary and Conclusion

Council is requested to endorse the draft submission to the Minister for Planning in relation to Development Application 25001089 and authorise the Chief Executive Officer, or delegate, to make minor technical or typographical amendments to the submission.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- | | |
|--------------|---|
| Attachment 1 | Draft Submission to Minister for Planning - Development Application 25001089  |
| Attachment 2 | Crown - Development application - 25001089: 176 South Para Rd Williamstown SA 5351 - Consolidated Documents  |

Supporting references

Nil

COMMUNITY PLAN / CORPORATE PLAN / LEGISLATIVE REQUIREMENTS

Corporate Plan

- CS15 Land Use and Development - Assessment of development applications for construction, alteration or demolition of buildings, and the division of land and changes in land use.

Legislative Requirements

Planning, Development & Infrastructure Act 2016

FINANCIAL, RESOURCE AND RISK MANAGEMENT CONSIDERATIONS

Nil

COMMUNITY ENGAGEMENT

Public notification is not required for the development proposal as the total development cost is less than \$10 million, pursuant to Section 131(13) of the Act.

8. CONFIDENTIAL REPORTS

8.1 Office of the Mayor and CEO

8.1.1 TOWN OF GAWLER BOUNDARY PROPOSAL - EXTRACT OF CONSULTANTS REPORT FOR COUNCIL COMMENT **25/17078**

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 information has been provided by the State on condition of confidentiality to allow the information provided to be validated.

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 Chief Executive Officer, Director Corporate Services, Strategy and Innovation, Director Development and Community Services, Director Infrastructure and Environmental Services and the Minute Secretary, in order to consider in confidence a report relating to 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 in order that the information has been provided by the State on condition of confidentiality to allow the information provided to be validated.

SECONDED Cr Preece

CARRIED CO 2022-26/635

The meeting moved into confidence at 6.03pm

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 18 February 2025 in relation to item 8.1.1 Town of Gawler Boundary Proposal - Extract of Consultants Report for Council Comment be kept confidential and not available for public inspection and authorise the Chief Executive Officer to review and revoke the order.

SECONDED Cr Preece

CARRIED CO 2022-26/636

Resumption of open council meeting at 6.11pm

8.1.2 SUPREME COURT CASE MATTER - QUARTERLY UPDATE **25/17124**

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 it contains information that is related to the Supreme Court Case between Councils and TTEG

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 Preece

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, Strategy and Innovation, Director Development and Community Services, Director Infrastructure and Environmental Services and the Minute Secretary, in order to consider in confidence a report relating to being information that must be considered in confidence pursuant to:

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

information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;

- (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 it contains information that is related to the Supreme Court Case between Councils and TTEG

SECONDED Cr Hurn

CARRIED 2022-26/637

The meeting moved into confidence at 6.12pm

MOVED Cr de Vries

That Council:

- (1) Council resolution
- (2) Having considered this matter in confidence under Sections 90(2) and 90(3)(i) 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 18 February 2025 in relation to item 8.1.2 Supreme Court Case Matter - Quarterly Update be kept confidential and not available for public inspection and authorise the Chief Executive Officer to review and revoke the order.

SECONDED Cr Troup

CARRIED CO 2022-26/638

Resumption of open council meeting at 6.12pm

8.1.3 CONCORDIA GROWTH AREA QUARTERLY UPDATE**25/17247**

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 it contains confidential information shared under deed agreement with State Government.

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 Preece

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, Strategy and Innovation, Director Development and Community Services, Director Infrastructure and Environmental Services, Senior Strategy Advisor and the Minute Secretary, in order to consider in confidence a report relating to 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 in order that contains confidential information shared under deed agreement with State Government.

SECONDED Cr Barrett**CARRIED 2022-26/639**

THE MEETING MOVED INTO CONFIDENCE AT 6.13PM

MOVED CR PREECE

THAT COUNCIL:

- (1) COUNCIL RESOLUTION
- (2) 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 18 FEBRUARY 2025 IN RELATION TO ITEM 8.1.3 CONCORDIA DEVELOPMENT QUARTERLY UPDATE BE KEPT CONFIDENTIAL AND NOT AVAILABLE FOR PUBLIC INSPECTION AND AUTHORISE THE CHIEF EXECUTIVE OFFICER TO REVIEW AND REVOKE THE ORDER.

SECONDED CR HURN**CARRIED CO 2022-26/640***RESUMPTION OF OPEN COUNCIL MEETING AT 6.40PM***9. URGENT OTHER BUSINESS**

Nil

10. NEXT MEETING

Tuesday 18 March 2025 at 5.30pm

11. CLOSURE

Mayor Lange declared the meeting closed at 6.40pm

Confirmed at Council Meeting on 18 March 2025

Date:.....

Mayor:.....