



VISION & ASPIRATIONS

A vibrant and growing community to be supported by quality infrastructure, a sustainable environment and excellent services that meet everybody's needs and maintains our unique lifestyle.

LATE AGENDA ITEM 11.5 & 13.2

for the meeting of

LIGHT REGIONAL COUNCIL

in the

COUNCIL CHAMBER
93 Main Street, Kapunda

TUESDAY, 16 MARCH 2010, at 4.30pm

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Recommendation

That the report on Late Agenda Item 11.5 referring to *Tripartite Land Exchange Agreement – DTEI, Gawler Harness Racing Club and Light Regional Council – Progress Report* be received and considered by Council.

<p>11.5</p> <p>Tripartite Land Exchange Agreement – DTEI, Gawler Harness Racing Club and Light Regional Council – Progress Report</p> <p>File: 3151157009 Vol 3</p> <p>Appendix: Newspaper Article Extract</p> <p>Please find below an overview of events associated with preparation and execution of the Tripartite Land Exchange Agreement.</p> <p>Elected Members may have read in recent times in the local newspapers articles pertaining to the Gawler Harness Racing Club and their keenness to develop the training facility on Council land adjacent to Two Wells Road (see attached extract).</p> <p>Elected Members will note that the Gawler Harness Racing Club President, Mr Peter Bain, has been quoted as saying recurrent delays with the land handover are “<i>beyond a joke</i>”.</p> <p>This Memorandum seeks to set the record straight insofar as delays are concerned whereby the commentary contained below reinforces the due diligence on Council’s part in seeking a timely resolution to this matter.</p> <p>OVERVIEW OF EVENTS</p> <ul style="list-style-type: none"> • March 2008 – preliminary discussions LRC/NW and initial LRC resolution in relation to land exchange terms • April 2008 – initial correspondence with Commonwealth regarding discharge of encumbrance • April 2008 – preliminary discussions with Adelaide Soaring Club regarding aerodrome lease arrangements • End April – first draft LEA sent out • May 2008 – DTEI advise that proceeding with compulsory acquisition of GHRC land, rather than land exchange with GHRC • May 2008 – negotiations with ASC in relation to lease arrangements • May/June 2008 – interim access arrangements negotiated with DTEI/ASC to enable DTEI to access aerodrome and commence works • May 2008 – draft ASC lease documents prepared and distributed • May/June 2008 – licence agreement negotiated with GHRC to enable GHRC to have use of LRC land for temporary track • July/August 2008– GHRC require changes to track design – this happened several times and impacted on plans of division and Council position (as changed land areas) • August 2008 – discussions with Commonwealth regarding discharge of encumbrance over aerodrome – verbal position that only willing to partially discharge • August 2008 – changes to DTEI plans required – amended version of LEA held off • September 2008 – written advice from Commonwealth regarding partial discharge over corridor only – further 	<p>James Miller, Acting General Manager, Infrastructure & Works</p>
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<p>submissions required in relation to discharge over balance Southern portion</p> <ul style="list-style-type: none"> • September 2008 – negotiations with GHRC in relation to land management agreement to restrict the use of land to training facility • October 2008 – GHRC request larger area to be transferred to GHRC – required further Council resolution • November 2008 – amended plans of division from DTEI showing GHRC parcel • November 2008 – amended versions of ASC lease documents sent out for further consideration • 21 November 2008 – amended LEA provided to all parties for further consideration and approval • 14 December – no response received - DTEI/GHRC advised that Council had resolved to enter into and that it was intended that execution copies would be sent out by NW for execution prior to Christmas • 18 December 2008 – letter received from GHRC – allegation that land to be sold to GHRC is contaminated – NW were advised that GHRC engaging an expert on an urgent basis to undertake an inspection – other issues raised in relation to land management agreement • 29 January 2009 – no contact from GHRC in relation to the contamination – no contact from DTEI re the amended LEA • 30 January 2009 – amended land management agreement sent to GHRC – response requested to contamination issue as no correspondence received • 3 February – letter received from GHRC – advised that meeting had been scheduled on site with DTEI and local member to assess contamination • March 2009 – no further contact from GHRC or DTEI regarding contamination or LEA • March 2009 advice put to LRC re options to progress – LRC determine to amend LEA to give GHRC due diligence period in relation to contamination (with ability not to proceed to settlement) and give GHRC time limit to execution LEA or deal falls over • 10 March 2009 – GHRC and DTEI advised of Council resolution • 1 April 2009 – further amended version of land exchange agreement sent to GHRC and DTEI • April 2009 – GHRC sign LEA – sent to DTEI for execution • 14 May 2009 – issues raised by DTEI in regard to LEA (costs, GST, issues with GHRC infrastructure – GHRC want further works than originally agreed) • 27 May 2009 – meeting with DTEI and Crown re DTEI issues • 19 June 2009 – meeting with DTEI/LRC/NW re DTEI issues • July/August 2009 – further discussion/negotiation re resolving DTEI issues • 7 September 2009 – meeting with LRC/NW, DTEI, GHRC and ASC to try and resolve all outstanding issues • September 2009 – summary of actions agreed at meeting sent out by NW to DTEI/GHRC/ASC • November 2009 – no responses from ASC/DTEI/GHRC • Email to NW from Peter Watson of the AGS on 23 November. While the Commonwealth had agreed to consent to the discharge of the encumbrance, this could not progress as one of the plans of division (creating the “NEXY corridor” parcel and the “Southern” parcel) had not been approved. The plan had not been approved because a portion of that land (the corridor) was intended to be acquired and this had not yet happened 	
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- DTEI appear to have kept the compulsory acquisition process running, while at the same time continuing to negotiate the land exchange agreement (the intention of which was always to make compulsory acquisition unnecessary, although this was pursued in relation to the land owned by the GHRC)
- the process for revocation of the community land classification has in turn been affected by the delay in the discharge of the Commonwealth encumbrance
- fax received by NW from John Bolton dated 4 December, advising that as far as the GHRC was concerned, there were no further impediments to settlement. Prior to this, there had been no communication since the meeting between all stakeholders in early September, at which the various outstanding issues and next steps had been discussed.
- NW spoke with John Bolton on 14 December in relation to his fax and he confirmed that the GHRC were prepared to take the land “as is” and accepted their liability for stamp duty (these had been two significant issues preventing the finalisation and execution of the LEA at that time)
- NW spoke with Jim Tuppin of DTEI on 17 December. He confirmed that all works had been done to GHRC’s satisfaction. Jim was to follow up the situation in relation to the ongoing compulsory acquisition (it was his and NW view that this was unnecessary and undermined the purpose of the LEA) and also whether DTEI still intended to amend the division plans further to obtain some “extra” land (amounting to a fairly minor adjustment in the overall amount of land to be acquired by DTEI from the Council)
- NW spoke with Jim Tuppin at DTEI 12 January. He was to follow up the relevant officers at DTEI regarding the plans and the status of the compulsory acquisition
- 22 January amended LEA sent to DTEI/GHRC for final approval prior to execution copies being prepared – written confirmation of approval requested
- End February/beginning March - no response by DTEI or GHRC in relation to LEA
- End February/beginning March – attempts to schedule meeting for parties to sign LEA notwithstanding no response – neither DTEI or GHRC raised issues with a meeting being set up, so implication that LEA acceptable
- Scheduling difficulties meant that LEA required to be sent out to LRC, DTEI and GHRC for separate execution

13. **CONFIDENTIAL ITEMS**

13.2 **Capital Works for FY 2009/2010 – Project Delivery Strategy for Seppeltsfield Road, Plush St and Lyndoch Rd**

File: 255-2-152, 275-5-7, 275-5-8

Recommendation

1. That under the provisions of Section 90(2) and (3) (k) of the Local Government Act 1999, an order be made that with the exception of those persons listed all other persons present and the public be excluded from attendance at the meeting in order to consider this matter pertaining to Capital Works for FY 2009/2010 – Project Delivery Strategy for Seppeltsfield Road, Plush St and Lyndoch Rd in confidence.
2. That Light Regional Council is satisfied that it is reasonably foreseeable that the public disclosure or discussion of the information at the meeting could cause significant damage to the interests of Council, because of the public disclosure or discussion relating to tenders for the supply of goods, the provision of services or the carrying out of works;.
- 3 That accordingly, on this basis, the principle that meetings of Light Regional Council should be conducted in a place open to the public has been outweighed by the need to keep the discussion confidential.

Recommendation

Pursuant to Section 91(7) of the Local Government Act 1999, the Council orders that the minute report and associated documents pertaining to item 13.2 of the meeting held on 16 March 2010, relating to a matter that was considered in confidence pursuant to Section 90(2) and (3) (k) be kept confidential until the matter is finalised.