VISION
Respecting the Past,
Creating our Future.

CORE PRINCIPLES
Light Regional Council is guided by a focus on ‘Core Principles’ of Growth; Reform; Innovation and Discipline.

MINUTES
from the Meeting of

LIGHT REGIONAL COUNCIL

held in the
COUNCIL CHAMBER
93 Main Street, Kapunda

TUESDAY, 26 MARCH 2019

Principal Office: 93 Main Street
                 Kapunda  5373

Branch Office:  12 Hanson Street
                Freeling  5372

Telephone:  8525 3200
Facsimile:  8566 3262
MINUTES OF THE MEETING OF
LIGHT REGIONAL COUNCIL HELD ON TUESDAY,
26 MARCH 2019, IN THE COUNCIL CHAMBER,
93 MAIN STREET, KAPUNDA

1. PRESENT

Bill O’Brien  
Mayor
Cr Lynette Reichstein  
Light Ward
Cr Mark Frankcom  
Light Ward
Cr Bill Close  
Mudla Wirra Ward
Cr Samantha Mitchell  
Mudla Wirra Ward
Cr Simon Zeller  
Mudla Wirra Ward
Cr Peter Kennelly  
Laucke Ward
Cr Sharron Lewis  
Laucke Ward
Cr Jason Grain  
Dutton Ward
Cr Deane Rohrlach  
Dutton Ward
Cr David Mosely  
Dutton Ward
Mr Brian Carr  
Chief Executive Officer
Mr Richard Michael  
General Manager, Governance
Mr Richard Dodson  
General Manager, Infrastructure & Environment
Mrs June Austin  
General Manager, Business & Finance
Mr Kieren Chappell  
General Manager, Economic Development
Ms Pepper Mickan  
Library Services Manager
Mr Joe Scordo  
Finance Manager
Mr Andrew Philpott  
Coordinator Horticulture and Biodiversity
Ms Liz Heavey  
Tourism Development Manager
Mr Andrew Chown  
Manager, Strategy
Mr Brandon Elliott  
Compliance Coordinator
Mr Simon Sherriff  
Manager, Strategic Projects
Ms Terry Savage  
Executive Assistant

2. OPENING
Mayor Bill O’Brien declared the meeting open at 5:01pm

3. APOLOGIES AND LEAVE OF ABSENCE
Mr Craig Doyle  
General Manager, Strategy & Development
Mr Bill Zhang (late attendance at 5:56pm)  
Manager Engineering and Assets

4. MINUTES
4.1 CONFIRMATION OF COUNCIL MINUTES

Moved Cr Grain  
Seconded Cr Mitchell
That the minutes and confidential minutes of the meeting of Council held Tuesday, 25 February 2019 be confirmed as a true and correct record of that meeting.

CARRIED
5. **COMMUNICATIONS**

Ms Terry Savage left the meeting at 5:07pm and returned at 5:08pm

5.1 **MAYOR’S COMMUNICATIONS**

26/2 Pre-Council Briefing Mayor, Deputy Mayor, CEO GM’s
26/2 Council meeting
1/3 SA Premiers Invitation - Adelaide Superloop 500 Car Race
4/3 Kapunda Primary School Presentation - Council Chambers
6/3 SA Regional Organisation of Councils Board Meeting - Adelaide
8/3 Kapunda Car Cruz Charity - Send Off - Kapunda Hospital Helipad
8/3 Chinese Business Delegation - Seppeltsfield
12/3 Barossa Tourism Board Inc Chairman - Chris Pheiffer
13/3 Federal Member for Barker Tony Pasin MP
13/3 Light Regional Council Infrastructure Committee Meeting
13/3 Light Regional Council Strategy Committee Meeting - Freeling
14/3 Media Interview- Triple BBB/FM - Tanunda
14/3 Light Regional Council Economic Development Panel Meeting
18/3 Planning Matter - Mr David Letch Greenock
20/3 SALGA Media Training - Mayors, CEO, & Senior Staff- Gawler
22/3 Australian Citizenship Ceremony - Harmony Day
23/3 Official Opening - Kapunda Town Square
24/3 Presentation Day- Triple BBB/FM Tanunda
25/3 Eudunda Kapunda Health Advisory Council - Eudunda

5.2 **ELECTED MEMBERS’ REPORTS**

5.2.1 **ICAC FORUM held 28 February 2019 by Cr Deane Rohrlach**

5.3 **SCHEDULE OF MEETINGS ATTENDED**

Cr Rohrlach
26/2 Council meeting
28/2 ICAC Seminar in Adelaide.
10/3 Kapunda Car Cruise Charity Event.
13/3 Federal Member for Barker Tony Pasin MP
13/3 Light Regional Council Infrastructure Committee meeting.
14/3 Craft Shop Meeting.
14/3 Chaired Light Regional Council Economic Development Special Meeting.
20/3 Media training session.
21/3 Citizenship ceremony.
23/3 Official Opening of Kapunda Town Square

5.4 **DELEGATE / REPRESENTATIVE REPORTS**

Nil

5.5 **REQUESTED DOCUMENTS/CORRESPONDENCE TO BE TABLED**

Nil

6. **PETITIONS**

Nil
7. **DEPUTATIONS**

7.1 **PUBLIC COMMUNICATIONS** *(Including Public Forums)*

Nil

7.2 **PRESENTATIONS**

7.2.1 **Presentation – Tourism Barossa**

The presentation by Ms Cathy Wills representing Tourism Barossa was deferred to a future meeting of Council to be confirmed.

7.2.2 **Presentation – Roseworthy Garden Town**

(Refer Item 15 – Confidential Items at page 2019/118)

7.2.3 **Presentation – Barossa Zone Emergency Management Committee**

At 5:11pm Mayor O’Brien invited Ms Kate Savage, Emergency Management Project Officer and Mr Richard Dodson in his capacity as Chair, Barossa Zone Emergency Management Committee to present an update to Council relating to emergency management and to receive questions from elected members.

Mr Dodson left the Chamber at 5:27pm and returned at 5:30pm

7.2.4 **Presentation – Climate Emergency**

At 5:27pm Mayor O’Brien invited Ms Kathryn Warhurst, Environmental Scientist and Ms Donna Lee-Edwards to present to Council relating to climate emergency strategies and to receive questions from elected members.

(Refer also to Item 14.3.2 Climate Emergency – Notice of Motion by Cr Simon Zeller, Mudla Wirra Ward of these Minutes)

7.2.5 **CEO Performance Evaluation Process**

At 5:41 Mayor O’Brien invited the Chief Executive Officer, Mr Carr to present a powerpoint relating to the strategies and achievements since his commencement with Council in 2017 to date and his future vision and strategies for the Council.

Mr Bill Zhang entered the Chamber at 5:56pm

Cr Rohrlach, Mr Philpott, Ms Austin left the Chamber at 6:09pm

7.3 **YOUTH FORUM**

Nil

8. **ADJOURED BUSINESS**

Nil

9. **BUSINESS ARISING**

Current Status of all matters noted.

Ms Austin re-entered the Chamber at 6:10pm
10. **MINUTES – COMMITTEE MEETINGS**

### 10.1 INFRASTRUCTURE COMMITTEE

Ms Austin returned at 6:10pm

**Recommendation 1**

Moved Cr Mitchell  
Seconded Cr Zeller  
That the agenda, reports and minutes of the meeting of the Light Regional Council Infrastructure Committee held Wednesday, 13 March 2019 be received.  
CARRIED

**Recommendation 2**

Moved Cr Reichstein  
Seconded Cr Kennelly  
That the reports and recommendations of the meeting of the Light Regional Council Infrastructure Committee held Wednesday, 13 March 2019 numbered 1 to 7, as listed below, be adopted.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>IC10.4.1/2019</td>
<td>Infrastructure Committee - Review of Terms of Reference</td>
</tr>
<tr>
<td></td>
<td>Folder ID:</td>
<td>1773</td>
</tr>
<tr>
<td></td>
<td>Author:</td>
<td>Tara Kneebone, Team Leader Business Support – Infrastructure and Environment</td>
</tr>
<tr>
<td></td>
<td>Report Presenter:</td>
<td>Richard Dodson, General Manager – Infrastructure and Environment</td>
</tr>
</tbody>
</table>

**Recommendation**

That Council adopt the reviewed Terms of Reference for the Infrastructure Committee as detailed below:

1. **Establishment of the Infrastructure Committee**  
Pursuant to Section 41(7) of the Local Government Act, 1999 ("the Act") a Committee may establish a sub-committee to assist in a matter. Membership of the Sub-Committee may comprise any elected member and independent expertise as determined by Council.

2. **Committee**  
Pursuant to Section 41 of the Local Government Act 1999 ("the Act") the Council establishes a Committee to be known as the **Infrastructure Committee** ("the Committee").

3. **Functions**
   3.1 Subject to compliance with all legislation, policies, plans and procedures of the Council, the functions of the Committee are to be focused on the strategic management and delivery of matters relative to:
   - Infrastructure & Asset Management including;
   - Bridges;
   - Community Wastewater Management Schemes;
• Drainage;
• Land and Buildings;
• Stormwater;
• Transport;
• Infrastructure Projects;
• Water Reuse Schemes;
• Road & Traffic Safety;
• Plant and Equipment Replacement;
• Waste Management;
• Communications;
• Council policies, including review of existing policies and consideration of proposals for new policies, as appropriate.
• Management of Open Space;
• Policy Matters;
• Vegetation Management;
• Cemeteries;
• Council’s Infrastructure and Assessment Management Plan;
• Traffic Safety; and
• Water (CWMS/Harvesting Schemes).

3.2 Any other matter which is within the powers and functions of the Council and which is referred to the Committee by the Council.

3.3 Pursuant to Section 41 (7) a Committee may establish a sub-committee to assist in a matter. Membership of the Sub-Committee may comprise any elected member and independent expertise as determined by Council.

4. Composition of the Committee

Members:
A minimum of Four (4) Elected Members (including the Deputy Mayor) of which:
• One (1) is Presiding Member; and
• One (1) is Deputy Presiding Member (Appointed by the Infrastructure Committee)

Ex-officio:
• Mayor may attend as ex-officio pursuant to Section 41(6) of the Act

Administrative Support:
• General Manager, Infrastructure and Environment

4.1 A Member of the Committee will, subject to Section 41(5) of the Act and Clause 4.3 of these Terms of Reference, hold office as a Member of the Committee for a period of up to two (2) years, or until the conclusion of the next general election of the Council.
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2</td>
<td>The office of a Member of the Committee shall become vacant upon the Council removing that person from office as a Member of the Committee or upon the Member ceasing to hold office as an Elected Member of the Council.</td>
</tr>
<tr>
<td>4.3</td>
<td>In the event of a vacancy in the office of a Member of the Committee, the Council shall, if it deems fit, appoint another person as a Member of the Committee on the same basis as, and for the balance of the term of, the original appointment.</td>
</tr>
<tr>
<td>4.4</td>
<td>No additional allowance will be paid to the elected member representative over and above the allowance already received by the elected member in accordance with the Local Government (Members Allowances and Benefits) Regulations 2010.</td>
</tr>
<tr>
<td>5.</td>
<td><strong>Office Bearers</strong></td>
</tr>
<tr>
<td>5.1</td>
<td>The Presiding Member of the Committee shall be appointed by the Council for a period of two (2) years.</td>
</tr>
<tr>
<td>5.2</td>
<td>The office of the Presiding Member shall become vacant if:</td>
</tr>
<tr>
<td>5.2.1</td>
<td>the Council removes the Presiding Member from office; or</td>
</tr>
<tr>
<td>5.2.2</td>
<td>the Presiding Member ceases to be a Member of the Committee.</td>
</tr>
<tr>
<td>6.</td>
<td><strong>Meetings</strong></td>
</tr>
<tr>
<td>6.1</td>
<td>Meetings of the Committee will be conducted in accordance with the Act, Part 2 of the Local Government (Procedures at Meetings) Regulations 2013, these Terms of Reference and any Code of Practice for Meeting Procedures adopted by the Council and applicable to the Committee.</td>
</tr>
<tr>
<td>6.2</td>
<td>Insofar as the Act, the Local Government (Procedures at Meetings) Regulations 2013, these Terms of Reference and any Code of Practice for Meeting Procedures adopted by the Council and applicable to the Committee do not specify a procedure to be observed in relation to the conduct of a meeting of the Committee, then the Committee may determine its own procedure.</td>
</tr>
<tr>
<td>6.3</td>
<td>In accordance with, and subject to, the Act and the Local Government (Procedures at Meetings) Regulations 2013 all meetings of the Committee shall be open to the public unless the Committee has resolved to exclude the public from a meeting or part of a meeting pursuant to the Act.</td>
</tr>
<tr>
<td>6.4</td>
<td>The Committee shall meet on the first Wednesday of each month at a time set down by Council.</td>
</tr>
<tr>
<td>6.5</td>
<td>Minutes together with corresponding Agenda and Appendices of a meeting of the Committee shall be presented for consideration of its recommendations and/or discussion to the next meeting of the Council.</td>
</tr>
<tr>
<td>6.6</td>
<td>In accordance with the Act, the minutes of a meeting of the Committee shall be provided to all Council members within five (5) days after the meeting of the Committee.</td>
</tr>
<tr>
<td>6.7</td>
<td>A quorum for a meeting of the Committee shall be one half of the total number of Members of the Committee in office (ignoring any fraction) plus one. No business can be transacted at a meeting of the Committee unless a quorum is present.</td>
</tr>
<tr>
<td>6.8</td>
<td>All recommendations to the Council of the Committee shall be made on the basis of a majority decision of the Members present.</td>
</tr>
<tr>
<td>6.9</td>
<td>All members of the Committee, including the Presiding Member, shall have a deliberative vote, and in the event of an equality of votes, the Presiding Member shall have a casting vote.</td>
</tr>
</tbody>
</table>
6.10 If the Presiding Member of the Committee is absent from a meeting of the Committee, the Deputy Presiding Member will preside at the meeting.

6.11 If both the Presiding Member or Deputy Presiding Member of the Committee are absent from a meeting, a member of the Committee shall be chosen from those present to undertake the role of Presiding Member at that meeting.

6.12 The General Manager, Infrastructure & Environment shall be responsible for ensuring that accurate minutes are kept (to be confirmed at the next meeting of the Committee) of all proceedings of the Committee.

6.13 In all of its dealings and activities the Committee shall have regard to the Guiding Principles under Local Government (Proceedings at Meetings) Regulations 2013 Part 1 Regulation 4.

7. **Review**

These Terms of Reference will be subject to review by the Council on a two (2) year basis or as determined by Council.

8. **Tenure**

The Committee will continue in existence until wound up by resolution of the Council.

9. **History**

1. The Infrastructure Committee established pursuant to a resolution of Council dated 18 November 2014 (Minutes Item 4.3.6 Page 2014/376).

2. Terms of Reference Adopted by Council Tuesday, 24 February 2015 (refer Minutes at Item IC9.5.1/2015 page 2015/49)

3. Terms of Reference Reviewed by Council Tuesday, 28 February 2017 (refer Minutes at Item IC9.4.5/2017 page 2017/61)

4. Terms of Reference Reviewed by Council Tuesday, 22 August 2017 (refer Minutes at item IC9.4.1/2017 page 2017/284)

5. Terms of Reference Reviewed by Council Tuesday, 26 March 2019 (refer Minutes at item 10.1 (IC10.4.1/2019) at page 2019/101

2. **IC10.4.2/2019 Wasleys Clubroom Funds**

   **Folder ID:** 55641

   **Author:** Megan Renzella, Property & Facilities Manager

   **Report Presenter:** Megan Renzella, Property & Facilities Manager

   **Recommendation**

   That Council;

   1. Carry forward the amount of $100,000 from budget line 1555.610.330 from the 2018/2019 financial year to the 2019/2020 financial year, and

   2. Attribute the developer contribution funds of $172,840 due from Allworth Pty Ltd to budget line 1555.610.330 for the 2019/2020 financial year;

   For the purposes of providing a community facility at the Wasleys Recreation Park.
### 3. IC10.4.3/2019  The Gap Road – Road Process Order

**Folder ID:** 65633  
**Author:** Megan Renzella, Property & Facilities Manager  
**Report Presenter:** Megan Renzella, Property & Facilities Manager  

**Recommendation**  
That Council:

1. Does not proceed with the Road Process Order for a portion of The Gap Road Fords, or a portion of Public Road 70;  
2. Does not support the closure of a section of The Gap Road Fords namely a 580 metre length to the western portion of road known as Road ID 00073005 Segment 5 as a result of the discussions with affected parties;  
3. Does not support the closure of a section of road namely Road ID 00070001 Segment 1 known as Public Road 70, if the closure of The Gap Road results in land merged with Section 2 of Hundred 160500; and  
4. Advises all affected parties and property owners of the decision to not proceed with the Road Process Order for The Gap Road or Public Road 70, Fords.

### 4. IC10.4.4/2019  Hansborough Road – Road Name Change

**Folder ID:** 66708  
**Author:** Megan Renzella, Property & Facilities Manager  
**Report Presenter:** Megan Renzella, Property & Facilities Manager  

**Recommendation**  
That Council subject to concurrence with the Regional Council of Goyder;  
1. The request to change the name of Hansborough Road to Waldhuter Road, be refused, and  
2. The applicant and directly affected parties be advised of the outcome of the decision to retain the existing name of Hansborough Road.  
3. In recognition of the contribution of the Waldhuter family to the region, recommend the name be used to name a currently unnamed public road within the region or road that may be derived from a future land division.

### 5. IC10.4.5/2019  Funding Requirements for CWMS 4-Year Capital Works Program

**Folder ID:** 69186  
**Author:** Bill Zhang, Manager Engineering & Assets  
**Report Presenter:** Richard Dodson, General Manager Infrastructure and Environment  

**Recommendation**  
That Council adopt the 2019-2023, CWMS 4 Year Capital Works Program subject to the adoption of the 2019/2020 Budget & Annual Business Plan.
<table>
<thead>
<tr>
<th></th>
<th>IC10.4.6/2019</th>
<th>Strategic Infrastructure Funding Plan 2019-2023</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Folder ID:</td>
<td>64336</td>
</tr>
<tr>
<td></td>
<td>Author:</td>
<td>Richard Dodson, General Manager Infrastructure and Environment</td>
</tr>
<tr>
<td></td>
<td>Report Presenter:</td>
<td>Richard Dodson, General Manager Infrastructure and Environment</td>
</tr>
</tbody>
</table>

**Recommendation**
That Council:
1. Receive this report;
2. Acknowledge the various funding sources available for infrastructure projects; and
3. Adopt the year by year funding program contained in this report.

<table>
<thead>
<tr>
<th></th>
<th>IC10.4.7/2019</th>
<th>2019-2020 10 Year Plant &amp; Fleet Replacement Program</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Folder ID:</td>
<td>55927</td>
</tr>
<tr>
<td></td>
<td>Author:</td>
<td>Richard Dodson, General Manager Infrastructure and Environment</td>
</tr>
<tr>
<td></td>
<td>Report Presenter:</td>
<td>Richard Dodson, General Manager Infrastructure and Environment</td>
</tr>
</tbody>
</table>

**Recommendation**
That Council acknowledge and endorse the 2019/2020 10 Year Plant and Fleet Replacement Programs subject to the adoption of the 2019/2020 Budget and Annual Business Plan.

CARRIED

Cr Rohrlach returned to the Chamber at 6:12pm.

Mr Elliott left the Chamber at 6:12pm and returned at 6:13pm

Mr Chown left the Chamber at 6:13pm and returned at 6:15pm
Moved Cr Reichstein
Seconded Cr Mitchell

1. That Council adopt the 2019-2023, 4 Year Capital Program subject to the adoption of the 2019/2020 Budget & Annual Business Plan and any adjustments to the roads program where possible.
2. That Nottle Road be listed for consideration by the Infrastructure Committee at its April 2019 meeting

<table>
<thead>
<tr>
<th>Road Name</th>
<th>Nature of Work</th>
<th>From</th>
<th>To</th>
<th>Estimate Project Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>College Road</td>
<td>New Construction (Council contribution towards a Heavy Vehicle Safety &amp; Productivity Programme Application - $1,200,000 of works)</td>
<td>Mudla Wirra Road</td>
<td>Twartz Road</td>
<td>$600,000</td>
</tr>
<tr>
<td>Lyndoch Road</td>
<td>New Construction (Council contribution towards a Special Local Roads Programme Application - $1,130,000 of works)</td>
<td>Gomersal Road</td>
<td>Ford</td>
<td>$464,000</td>
</tr>
<tr>
<td>Nottle Road</td>
<td>Resheeting</td>
<td>Redbanks Road</td>
<td>Parkers Road</td>
<td></td>
</tr>
<tr>
<td>Nottle Road</td>
<td>Resheeting</td>
<td>Parkers Road</td>
<td>Wards Belt Road</td>
<td></td>
</tr>
<tr>
<td>Stockport Road</td>
<td>Resheeting</td>
<td>Horrocks Highway</td>
<td>O’Brien Road</td>
<td>$64,000</td>
</tr>
<tr>
<td>Stockport Road</td>
<td>Resheeting</td>
<td>O’Brien Road</td>
<td>Gill Road</td>
<td>$87,625</td>
</tr>
<tr>
<td>Stockport Road</td>
<td>Resheeting</td>
<td>Gill Road</td>
<td>Argent Road</td>
<td>$87,625</td>
</tr>
<tr>
<td>Stockport Road</td>
<td>Resheeting</td>
<td>Argent Road</td>
<td>Muster Road</td>
<td>$76,069</td>
</tr>
<tr>
<td>Stockport Road</td>
<td>Resheeting</td>
<td>Muster Road</td>
<td>Bullock Road</td>
<td>$65,125</td>
</tr>
<tr>
<td>Stockport Road</td>
<td>Resheeting</td>
<td>Bullock Road</td>
<td>Start of seal</td>
<td>$62,700</td>
</tr>
<tr>
<td>Coffey Road</td>
<td>Resheeting</td>
<td>Kernich Road</td>
<td>Ayliffe Road</td>
<td>$72,217</td>
</tr>
<tr>
<td>Coffey Road</td>
<td>Resheeting</td>
<td>Ayliffe Road</td>
<td>Ryan Road</td>
<td>$26,950</td>
</tr>
<tr>
<td>Haydon Road</td>
<td>Resheeting</td>
<td>Boundary Road</td>
<td>Redbanks Roads</td>
<td></td>
</tr>
</tbody>
</table>
### Haydon Road

- **Wasleys Road**: Resheeting (work to be delivered in conjunction with Accelerated Infrastructure Programme works)

<table>
<thead>
<tr>
<th>Road</th>
<th>Callahan Road</th>
<th>Mudla Wirra Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Woolshed Road</td>
<td></td>
<td>Selleck Road</td>
</tr>
<tr>
<td>Selleck Road</td>
<td></td>
<td>Lines Road</td>
</tr>
<tr>
<td>Lines Road</td>
<td></td>
<td>Mullen Road</td>
</tr>
<tr>
<td>Mullen Road</td>
<td></td>
<td>Mudla Wirra Road</td>
</tr>
<tr>
<td>Wasleys Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lines Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Woolshed Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Selleck Road</td>
<td></td>
<td></td>
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<tr>
<td>Lines Road</td>
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<tr>
<td>Mullen Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mudla Wirra Road</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Woolshed Road**

- **Selleck Road**

- **Lines Road**

- **Mullen Road**

- **Mudla Wirra Road**

### Total: $2,275,611

### 10.2 STRATEGY COMMITTEE

**Recommendation 1**

Moved Cr Zeller  
Seconded Cr Close  
That the agenda, reports and minutes of the meeting of the Light Regional Council Strategy Committee held Wednesday, 13 March 2019 be received.  

CARRIED

Cr Frankcom left the Chamber at 6:22pm and returned at 6:23pm
**Recommendation 2**

Moved Cr Reichstein
Seconded Cr Lewis
That the reports and recommendations of the meeting of the Light Regional Council Strategy Committee held Wednesday, 13 March 2019 numbered 1 as listed below, be adopted.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong></td>
<td><strong>STR9.3.1/2019</strong> Draft Planning, Development and Infrastructure (General) (Development Assessment) Regulations and Practice Directions – LRC Submission</td>
</tr>
<tr>
<td>File:</td>
<td>53494</td>
</tr>
<tr>
<td>Author:</td>
<td>Andrew Chown – Manager, Strategy</td>
</tr>
</tbody>
</table>

**Recommendation**

That Council receive and acknowledge the submission titled 'Draft Planning, Development and Infrastructure (General) (Development Assessment) Variation Regulations and Practice Directions' as forming Light Regional Council's response to the State Planning Commission and Department of Planning, Transport and Infrastructure on these matters.

**CARRIED**

--

**10.3 ECONOMIC DEVELOPMENT PANEL**

**Recommendation 1**

Moved Cr Grain
Seconded Cr Zeller
That the Agenda, reports and minutes of the Special Meeting of the Light Regional Economic Development Panel held Thursday, 14 March 2019 be received.

**CARRIED**

**Recommendation 2**

Moved Cr Grain
Seconded Cr Rohrlach
That the reports and recommendations of the Special Meeting of the Light Regional Council Economic Development Panel held Thursday, 14 March 2019 numbered 1, as listed below, be adopted.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong></td>
<td><strong>5.5.1 Light Tourism Dedicated Logo</strong></td>
</tr>
<tr>
<td>Folder ID:</td>
<td>67502</td>
</tr>
<tr>
<td>Author:</td>
<td>Liz Heavey, Tourism Development Manager</td>
</tr>
<tr>
<td>Report Presenter:</td>
<td>Liz Heavey, Tourism Development Manager</td>
</tr>
</tbody>
</table>

**Recommendation**

That Council:
- Endorses the development and implementation of a tourism logo design and secondary colour palette for tourism destination marketing for Light Region as distinctive from Light Regional Council’s corporate logo and colour palette, as proposed by Council’s designer of its new Destination Tourism Website.
Endorses the use of lightsouthaustralia.com as the Domain name for the Destination Tourism Website for Light Region.

CARRIED

### Facility Management - Freeling Agricultural Multi-Purpose Centre

As president of the Light Basketball Association Cr Mitchell declared an interest in item 5.5.2 Facility Management Agricultural Multi-Purpose Centre and left the Chamber at 6:25 prior to any discussion taking place.

**Folder ID:** 55755

**Author:** Simon Sherriff, Manager – Strategic Projects

**Report Presenter:** Kieren Chappell, General Manager Economic Development

**Recommendation**

Moved Cr Reichstein

Seconded Cr Frankcom

That Council:

1. Receives this 'Facility Management – Freeling Agricultural Multi-Purpose Centre' report, with 3 attachments (letter to Council from Rec Park Committee, Draft Letter of Intent to Belgravia Leisure, and minutes of Rec Park Committee Meeting on 7 March 2019);

2. Ratify the resolution of the Freeling Community Recreation Park Management Committee Incorporated meeting of 7 March 2019, being:
   a. "FRPMC agree with the recommendation from the FAMPC steering committee and commit Belgravia as the managing body of the FAMPC, acknowledging the potential risk it may run at a first-year loss which is FRPMC responsibility"

3. Instruct the Chief Executive Officer, who may delegate to the Council’s General Management, to liaise with Freeling Community Recreation Park Management Committee Incorporated and Belgravia Leisure to enable opening on 6th April 2019 and actively promote the Freeling Agricultural Multi-Purpose Centre to the community.

CARRIED

Mr Elliott left the Chamber at 6:27pm and returned at 6:29pm

Cr Mitchell re-entered the Chamber at 6:33pm

### 10.4 AUDIT COMMITTEE

### 10.5 OTHER

### 11. REPORTS FOR INFORMATION

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<td>11.1 Update on the Thomson Building Usage</td>
<td>June Austin – General Manager, Business and Finance</td>
<td>June Austin – General Manager, Business and Finance</td>
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11.2 Council Visit by Mr Tony Pasin MP Member for Barker
Folder ID: 1458
Author: Richard Michael, General Manager, Governance
Report Presenter: Richard Michael, General Manager, Governance

Author: Claire McNamara, Accountant
Report Presenter: Joe Scordo, Finance Manager

Mr Dodson left the Chamber at 6:39pm and returned at 6:40pm

11.4 Freeling RSL 2019 Anzac Day Dawn Service – Road Closure
Folder ID: 2392
Author: Madeline Thompson, Administration Officer
Report Presenter: Richard Dodson, General Manager Infrastructure and Environment

11.5 Kapunda RSL 2019 Anzac Day Dawn Service – Road Closure
Folder ID: 2392
Author: Madeline Thompson, Administration Officer
Report Presenter: Richard Dodson, General Manager Infrastructure and Environment

11.6 Immersive Technologies in Farming, Agriculture and Viticulture Sessions: Barossa and Light Regional Science Hub Event
File: 21878
Author: Pepper Mickan, Library Services Manager
Report Presenter: Pepper Mickan, Library Services Manager

11.7 Business Case Submissions 2019-2020 Budget
Folder ID: 68756
Author: Joe Scordo, Finance Manager
Report Presenter: Joe Scordo, Finance Manager

Moved Cr Reichstein
Seconded Cr Mitchell
That the reports for information be received and the contents therein be noted by Council. CARRIED
12. STATUTORY REPORTS FOR DECISION

Recommendation 1
Moved Cr Rohrlach
Seconded Cr Close
That the Agenda and reports presented under Item 12. – Statutory Reports for Decision of this ordinary meeting of the Light Regional Council held Tuesday, 26 March 2019 be received.

Recommendation 2
Moved Cr Close
Seconded Cr Grain
That the reports of the meeting of the Light Regional Council held Tuesday, 26 March 2019 and the associated recommendations as set out below under Item 12. Statutory Reports for Decision be adopted.

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<th>Report Heading (Index of Statutory Reports for Decision)</th>
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<td>Request to Extinguish Easement over Allotment 3 (11) Heyworth Road Gawler Belt</td>
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<td>Mining – Kapunda Mine Historic Site – Request for Land Access</td>
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12.1 CHIEF EXECUTIVE OFFICER
NIL REPORTS

12.2 GENERAL MANAGERS, BUSINESS & FINANCE and GOVERNANCE
NIL REPORTS

12.3 GENERAL MANAGER, STRATEGY & DEVELOPMENT

12.3.1 Request to Extinguish Easement over Allotment 3 (11) Heyworth Road Gawler Belt

Folder ID: 313/D016/17 and VG 3151023000

Author: Maxine Lovett, Senior Development Officer – Planning

Report Presenter: Craig Doyle, General Manager – Strategy and Development

Consensus Motion
Moved Cr Close
Seconded Cr Grain
That pursuant to Section 38 and 44 of the Local Government Act 1999 Council delegate authority to the Mayor and Chief Executive Officer to affix Council seal to the Certificate of Consent for the Deposit of a Plan of Division associated with the extinguishment of easement marked ‘A’ in Deposited Plan 30136 associated with land division application 313/D016/17.

CARRIED
12.3.2 Mining – Kapunda Mine Historic Site – Request for Land Access

Folder ID: 58045

Author: Andrew Chown, Manager, Strategy
Craig Doyle, General Manager - Strategy and Development

Report Presenter: Craig Doyle, General Manager - Strategy and Development

Consensus Motion
Moved Cr Close
Seconded Cr Grain
That Council:

1. Receives and notes this report;

2. Authorises the Chief Executive Officer, who may delegate to relevant Council officers, to hold further discussions with Terramin Exploration Pty Ltd and Environmental Copper Recovery Pty Ltd with respect to appropriate settlement of classifications of each party under the South Australian Work, Health and Safety Regulations, 2012 and related arrangements including provision of appropriate indemnifications to Council, final Work Health and Safety documentation etc. prior to enabling further site access for mineral research activities; and

3. Subject to the satisfactory conclusion of Item No. 2 above, authorises the Chief Executive Officer, who may delegate to relevant Council Officers, to issue a permit to Environmental Copper Recovery Pty Ltd (and Terramin Exploration Pty Ltd) under Council By-law No 4 – Local Government Land (subject to any conditions as required and having regard to the terms of the ‘Agreement for Access’ provided by Environmental Copper Recovery Pty Ltd), to access the Kapunda Mine Historic Site for the purpose of undertaking activities which are removed from the Mining Act 1971 as described in the document titled Research Work Proposed for Council Property provided by Environmental Copper Recovery Pty Ltd as follows:
   a. Pit face mapping; and
   b. Water sampling.

CARRIED

12.4 GENERAL MANAGER, INFRASTRUCTURE & ENVIRONMENT
Nil

12.5 GENERAL MANAGER, ECONOMIC DEVELOPMENT
Nil

13. POLICY REPORTS FOR DECISION

13.1 CHIEF EXECUTIVE OFFICER
Nil
13.2 GENERAL MANAGERS, BUSINESS & FINANCE and GOVERNANCE

13.2.1 The Legatus Group, Subsidiary Audit Committee

Folder ID: 1875

Author: Richard Michael, General Manager, Governance

Report Presenter: Richard Michael, General Manager, Governance

Moved Cr Zeller
Seconded Cr Close

That the Light Regional Council, with reference to Section 126 and Schedule 2 Clause 30 of the Local Government Act 1999, and to Regulation 18 of the Local Government (Financial Management) Regulations 2011; advise the Legatus Group of which Council is a constituent member, that it offers its support for the Region’s proposed application to the Minister for Transport, Infrastructure and Local Government to exempt it from the provisions of the Local Government Act and Regulations requiring the Regional Subsidiary to establish an Audit Committee.

CARRIED

13.3 GENERAL MANAGER, STRATEGY & DEVELOPMENT

Nil

13.4 GENERAL MANAGER, INFRASTRUCTURE & ENVIRONMENT

13.4.1 Kapunda CWMS Recycled Water Consumer Agreements 2019-2024

Folder ID: 25593

Author: Bill Zhang

Report Presenter: Richard Dodson

Moved Cr Rohrlach
Seconded Cr Reichstein

That Council:

1. Based on the National Water Pricing Principles, approves the rate of $1.10/kL for the sale of recycled water supplied by Kapunda Community Wastewater Management Scheme (CWMS) Treatment Plant to be included in the recently adopted Schedule of non-legislative Fees and Charges 2019/2020;

2. Subject to the adoption of Recommendation 1, provides a community recycled water rebate to the Kapunda Golf Club, Kapunda Harness Racing Club and Dutton Park Incorporated of $0.80/kL that will be applied to the purchase of the recycled water for the period 1 April 2019 and 30 June 2020;

3. Pursuant to Sections 38 and 44 of the Local Government Act 1999, authorises the Mayor and Chief Executive Officer to sign and affix Council’s common seal to the Recycled Water Consumer Agreement with Kapunda Golf Club Incorporated;

4. Pursuant to Sections 38 and 44 of the Local Government Act 1999, authorises the Mayor and Chief Executive Officer to sign and affix Council’s common seal to the Recycled Water Consumer Agreement with Kapunda Harness Racing Club Incorporated;
5. Pursuant to Sections 38 and 44 of the Local Government Act 1999, authorises the Mayor and Chief Executive Officer to sign and affix Council’s common seal to the Recycled Water Consumer Agreement with Dutton Park Incorporated; and

6. Instruct staff to complete annual reviews of the water supply cost with the Consumers noted in points 2, 3, and 4 by 31 March each year, and in consultation with the Consumers provide a recommendation to Council for adoption that shall include a community recycled water rebate for the ensuing financial year. CARRIED

13.5 GENERAL MANAGER, ECONOMIC DEVELOPMENT

Nil

14. PROCEDURAL MATTERS

14.1 QUESTIONS WITHOUT NOTICE

Rules per Regulations -

- Questions and replies are not entered in the minute book unless expressly required by resolution.
- No debate shall be allowed on any question or the reply to any question.
- If required by the Mayor, such questions shall be put in writing.
- The Mayor may direct that a reply be given at the next meeting.

Nil

14.2 QUESTIONS ON NOTICE

Rules per Regulations –

- These questions must be in writing and given to the Chief Executive Officer five (5) clear days prior to the meeting.
- Chief Executive Officer shall place these items in the agenda.
- They shall be answered by the Mayor at the meeting.
- Questions and replies shall be entered into the minute book.

14.2.1 Contamination Rate of Unrecyclable Materials – Question on Notice by Cr Samantha Mitchell, Mudla Wirra Ward

Question:
What is the contamination rate of non-recyclable materials being placed in recycling bins within Light Regional Council?

Response:

- Holistically there is no mechanism to measure Light Regional Council’s total contamination rate.
- When recycling is transported to the Northern Adelaide Waste Management Authority (NAWMA) everything is sorted and a total measure of the contamination rate is done (of all Councils utilising NAWMA).
- Nearly 30% is the current rate.
- As part of Light Regional Council’s contract with SOLO an audit of ‘sample’ bins is undertaken; this is not a complete check, and an indication of the contamination rate is provided.
- Solo Resource Recovery have advised of a mobile APP they have developed to assist with combatting contamination.
- A report will be provided to a future meeting of Council.
14.3 NOTICE OF MOTION

14.3.1 Disposition of Volunteer and Community Groups in Council owned or rented premises – Notice of Motion by Cr Peter Kennelly, Lauke Ward

Moved Cr Kennelly
Seconded Cr Mosley
That the disposition of Volunteer and Community Groups in Council-owned or rented premises, being a Policy matter, be decided by the Elected Council Body.

CARRIED

14.3.2 Climate Emergency – Notice of Motion by Cr Simon Zeller, Mudla Wirra Ward

Original Notice of Motion
That Council:

1. Acknowledges we are in a state of climate emergency that requires urgent action by all levels of government, including local Councils.

2. Declares a climate emergency and in doing so accepts that the containment of climate change and its serious social and economic implications is a duty of utmost priority.

3. Factors in the impact on the climate in all its dealings and will, whenever possible, attend to those issues as a matter of priority, which do have the potential to mitigate climate change and its implications.

4. Orients itself in all future actions to combat climate change on the reports of the Intergovernmental Panel on Climate Change (IPCC).

5. Establishes a working group to develop a broadly based response to this emergency

Moved Cr Mitchell
Seconded Cr Zeller
That leave be given to accept an amended Notice of Motion as tabled to the meeting.

CARRIED

Ms Austin left the Chamber at 7:13pm and returned at 7:15pm
Ms Savage left the Chamber at 7:22pm and returned at 7:24pm
Ms Mickan left the Chamber at 7:23pm and returned at 7:24pm

Moved Cr Zeller
Seconded Cr Mitchell
That Council:

1. Acknowledges we are in a state of climate emergency that requires urgent action by all levels of government, including local Councils.

2. Declares a climate emergency and in doing so accepts that the containment of climate change and its serious social and economic implications is a duty of utmost priority.
3. Establishes a working group to develop a broadly based response to this emergency by considering and reporting to the Council on (amongst other things) the ways in which the Council may:

- factor in the impact on the climate in its dealings and, whenever possible, attend to those issues which as a matter of priority, do have the potential to mitigate climate change and its implications; and

- orient itself in its future actions to combat climate change on the reports of the Intergovernmental Panel on Climate Change (IPCC).

4. Notes that the working group be established subject to advice from the Chief Executive Officer (by way of a future report to the Council) as to the best mechanism for establishment of the same and as to the terms of reference and membership of the group.

The Mayor called for the vote which was tied 5 FOR the motion and 5 AGAINST the motion. The Mayor, having the casting vote, voted for the motion which was then CARRIED.

Cr Mitchell called for a division.

For the motion: Mayor O’Brien, Councillors Zeller, Close, Mitchell, Mosely, and Kennelly

Against the motion: Councillors Rohrlach, Reichstein, Grain, Lewis and Frankcom

14.4 MOTIONS WITHOUT NOTICE

Nil

15. CONFIDENTIAL ITEMS

15.1 Strategy Committee - STR12.1/2019 -8 Parkers Road, Gawler Belt

Folder ID: VG 3124027006

Mr Chappell left the Chamber at 7:28pm and returned at 7:30pm

Moved Cr Grain
Seconded Cr Zeller

1. That under the provisions of Section 90(2) and (3) (a) and (h) of the Local Government Act 1999, an order be made that with the exception of those persons listed:

- Bill O’Brien Mayor
- Cr Lynette Reichstein Light Ward
- Cr Mark Frankcom Light Ward
- Cr Bill Close Mudla Wirra Ward
- Cr Samantha Mitchell Mudla Wirra Ward
- Cr Simon Zeller Mudla Wirra Ward
- Cr Peter Kennelly Laucke Ward
- Cr Sharron Lewis Laucke Ward
- Cr Jason Grain Dutton Ward
- Cr Deane Rohrlach Dutton Ward
- Cr David Mosely Dutton Ward
- Mr Brian Carr Chief Executive Officer
- Mr Richard Michael General Manager, Governance
- Mr Richard Dodson General Manager, Infrastructure & Environment
- Mrs June Austin General Manager, Business & Finance
- Mr Kieren Chappell General Manager, Economic Development
- Ms Pepper Mickan Library Services Manager
- Mr Joe Scordo Finance Manager
- Mr Andrew Chown Manager, Strategy
all other persons present and the public be excluded from attendance at the meeting in order to consider in confidence a report 15.1 STR12.1/2019 8 Parkers Road, Gawler Belt relative to the provision of:

(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and

(h) legal advice.

2. 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.

CARRIED

Moved Cr Close
Seconded Cr Reichstein
Pursuant to Section 91(7) of the Local Government Act 1999, the Council orders that the report, minute and associated documents pertaining to 15.1 STR12.1/2019 8 Parkers Road, Gawler Belt of the meeting held on 26 March 2019 relating to a matter that was considered in confidence pursuant to Section 90(2) and (3)(a) and (h) be kept confidential until the matter is finalised.

CARRIED

At 7:31pm Mayor O’Brien sought leave of the meeting to adjourn for dinner.

At 8:18pm the meeting resumed.

7.2.2 Presentation – Roseworthy Garden Town

Moved Cr Reichstein
Seconded Cr Mitchell
1 That under the provisions of Section 90(2) and (3)(b) and (d) of the Local Government Act 1999, an order be made that with the exception of those persons listed:

Bill O’Brien Mayor
Cr Lynette Reichstein Light Ward
Cr Mark Frankcom Light Ward
Cr Bill Close Mudla Wirra Ward
Cr Samantha Mitchell Mudla Wirra Ward
Cr Simon Zeller Mudla Wirra Ward
Cr Peter Kennelly Laucke Ward
Cr Sharron Lewis Laucke Ward
Cr Jason Grain Dutton Ward
Cr Deane Rohrlach Dutton Ward
Cr David Mosely Dutton Ward
Mr Brian Carr Chief Executive Officer
Mr Richard Michael General Manager, Governance
Mr Richard Dodson General Manager, Infrastructure & Environment
Mrs June Austin General Manager, Business & Finance
Mr Kieren Chappell General Manager, Economic Development
Mr Joe Scordo Finance Manager
Mr Andrew Chown Manager, Strategy
Mr Brandon Elliott Compliance Coordinator
Mr Simon Sherriff Manager, Strategic Projects
Ms Terry Savage Executive Assistant
Mr Michael Hickinbotham Managing Director - Hickinbotham Group
Ms Julie Dixon Chief Financial Officer - Hickinbotham Group
Mr Martyn Evans Consultant – Hickinbotham Group
Mr Michael Visintin Consultant Urban Designer - Hickinbotham Group

all other persons present and the public be excluded from attendance at the meeting in order to consider in confidence a presentation under Item 7.2.2 - Presentation – Roseworthy Garden Town relative to the consideration of—

(b) information the disclosure of which –
   (i) could reasonably be expected to confer a commercial advantage on a person with whom
   the council is conducting, or proposing to conduct, business, or to prejudice the commercial
   position of the council; and
   (ii) would, on balance, be contrary to the public interest;

and

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of
which—
   (i) could reasonably be expected to prejudice the commercial position of the person who
   supplied the information, or to confer a commercial advantage on a third party; and
   (ii) would, on balance, be contrary to the public interest;

2 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.

Moved Cr Reichstein
Seconded Cr Rohrlach

Pursuant to Section 91(7) of the Local Government Act 1999, the Council orders that the report, minute and associated documents pertaining to Item 7.2.2 - Presentation – Roseworthy Garden Town of the meeting held on 26 March 2019, relating to a matter that was considered in confidence pursuant to Section 90(2) and (3) (b) and (d) be kept confidential until the matter is finalised.

CARRIED

15.2 5 Shilling Estate – Activation Proposal

File: 58298

Moved Cr Mitchell
Seconded Cr Grain

1 That under the provisions of Section 90(2) and (3)(b) and (d) of the Local Government Act 1999, an order be made that with the exception of those persons listed:

Bill O’Brien Mayor
Cr Lynette Reichstein Light Ward
Cr Mark Frankcom Light Ward
Cr Bill Close Mudla Wirra Ward
Cr Samantha Mitchell Mudla Wirra Ward
Cr Simon Zeller Mudla Wirra Ward
Cr Peter Kennelly Laucke Ward
Cr Sharron Lewis Laucke Ward
Cr Jason Grain Dutton Ward
Cr Deane Rohrlach Dutton Ward
Cr David Mosely Dutton Ward
Mr Brian Carr Chief Executive Officer
Mr Richard Michael General Manager, Governance
Mr Richard Dodson General Manager, Infrastructure & Environment
Mrs June Austin General Manager, Business & Finance
Mr Kieren Chappell General Manager, Economic Development
all other persons present and the public be excluded from attendance at the meeting in order to consider in confidence a report at Item 15.2 – 5 Shilling Estate – Activation Proposal relative to the consideration of —

(b) information the disclosure of which —
(i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
(ii) would, on balance, be contrary to the public interest;

and

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
(ii) would, on balance, be contrary to the public interest;

2 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.

CARRIED

Moved Cr Grain
Seconded Cr Mitchell

Pursuant to Section 91(7) of the Local Government Act 1999, the Council orders that:

- the report, minute and associated documents from the confidential meeting of 26 March pertaining to Item 15.2 – 5 Shilling Estate – Activation Proposal be released immediately, with the exception of the document titled “the Kidman Ridge Estate, Kapunda Draft Memorandum of Understanding”
- the document titled “the Kidman Ridge Estate, Kapunda Draft Memorandum of Understanding” be kept confidential until the matter is finalized
- the report, minute and associated documents from the confidential meeting of 26 February 2019 pertaining to Item 15.1 – 5 Shilling Estate – Activation Proposal be released immediately

This resolution pertains to matters listed above that were considered in confidence pursuant to Section 90(2) and (3) (b) and (d).

CARRIED
15. **CONFIDENTIAL ITEMS** (Agenda report of 26 February 2019)

15.1 5 Shilling Estate – Activation Proposal

Folder ID: 58298

**Appendix:**
- 15.1A – Previous Council Report – 24 July 2018
- 15.1B – Revised Stage 1C Site Plan
- 15.1C – Draft Supplementary Deed
- 15.1D – Draft Land Management Agreement

**Author:** Craig Doyle – General Manager, Strategy & Development

**Report Presenter:** Craig Doyle – General Manager, Strategy & Development

**Executive Summary**

**Report highlights**

This report is provided to update Council with respect to a potential activation proposal concerning the 5 Shilling Estate development at Kapunda. This estate is being developed by Aqua Reef P/L (the Developer).

Since Council’s consideration of this matter in July 2018, the potential ‘activation’ model has been developed further with input from Council’s Legal Advisers, Norman Waterhouse.

The particulars of this are expressed in a draft Supplementary Deed, attached as Appendix 15.1C.

In this Deed, Council’s investment in the road construction would be secured as a mortgage against the balance of the land and repaid incrementally as land is sold from a new allotment release (revised Stage ‘1C’) and a previous release (Stage ‘1B’), through the Developer’s agreement to:

- Re-energise the development by setting aside certain Lots for ‘Display Homes’ and ‘House and Land’ developments at a reduced price to activate building activity, based upon:
  - 5 allotments being made available along the Sir Sidney Kidman (entrance) Boulevard for purchase by Builders (only) as ‘Display Home’ lots - at a set price of $95,000 (+ GST) per allotment, with a $10K rebate and a deferred payment arrangement – initially due 6 months following Settlement (unless extended under certain circumstances - for a maximum of 2 years);
  - a further 3 allotments being made available for purchase by Builders (only) as ‘House and Land’ allotments - at a set-price of $95,000 + GST) with a deferred payment arrangement – due 6 months after Settlement (and secured by the Vendor as a caveat over the land);

- Transfer certain requirements to Builders purchasing the nominated Lots on the abovementioned terms;

- sell the remaining lots as ‘Public Lots’ (for not less than $95,000 + GST per lot), with the marketing plan to be consulted/ approved by Council;

- Ongoing reporting from the Developer to Council on information related to the marketing and sale of the allotments, until Council’s investment (Contract Sum) is repaid;

- Council receiving 60% of all sales proceeds from Lot sales in both Stages ‘1B’ and ‘1C’ (43 Lots in total) until the Council’s investment (Contract Sum) is repaid;

- Provide ‘step-in’ rights to Council to sell any allotments if needed for Council to recoup its funding;

- Repay Council’s contribution in 2 years.

While the Developer is generally aware of the particulars of the proposal, the related documentation has not been provided to the Developer as yet, pending the Council’s consideration of its merits.
The revised costing estimate for the updated works (Kapunda Street (south of Day Street), Kapunda Street (north of Day Street), Butler Crescent (internal) and Sir Sidney Kidman Boulevard (entrance) is $1,308,500.00

The monies required to undertake this work would be in the form of borrowings and subject to a separate borrowing agreement.

As noted, the costs (Contract Sum) would then be repaid as per the activation strategy agreed with the Developer and this will be explained more fully in a presentation at the Council meeting.

The original Deed and Variation Deed are not secured by Land Management Agreement to the subject land, as has occurred, by comparison, for the subject land for the Roseworthy Township Expansion. If this proposal progresses, it is recommended that this needs to be rectified with a subsequent Land Management Agreement (LMA) suited to this purpose. A draft LMA has been prepared, based upon the example used for the Roseworthy Township Expansion (refer to Appendix 15.1D).

The draft Supplementary Deed attached will also need to be finalised once the engineering plans are available from the Developer, which is understood to be underway.

Moving forward, if supported by Council the confidentiality of this proposal is a consideration. This consideration relates to the public/market potentially being aware of 8 Lots being sold to builders at a below-market cost to incentivise building activity, which could potentially then artificially distort market expectations.

Accordingly, should the matter proceed it is considered that while the Deed and Variation Deed should be linked to the subject land via LMA, given its particulars key parts of the draft Supplementary Deed (such as the proposed pricing arrangements) should remain ‘in confidence’ until the activation arrangement is finalised. These are highlighted in clause 9.6 in the draft Supplementary Deed, however it is expected that these will be subject to discussions with the Developer.

Based on legal advice, it is not considered that the Supplementary Deed needs to be linked to the subject land in the same way as the other Deeds, mainly as it includes other provisions to secure the Council’s investment (Contract Sum).

If discussions with the Developer are advanced, the matter of confidentiality will be brought back to Council for further consideration with respect to how the arrangement is publicly described.

This activation proposal would enable a further 23 lots (in Stage ‘1C’) to be realised and improve the accessibility of the 20 Lots within Stage 1B. Council’s management has reported previously (in August 2015) on the importance of activating this development in the interests of and as a part of broader regional economic strategies. This remains the case and on this basis this proposal has been developed to leverage the AIP activities in vicinity of the 5 Shilling Estate and to use this opportunity to progress this long-standing development, incentivising it through the tailored approach to display home and house and land package construction.

**Budget Impact**

**Estimated Cost:** $1.31M off-set and/ or secured by equivalent land value

☑ No

**Suggested Funding Source:** Accelerated Infrastructure Program

**Recommendation**

That Council:

1) Receives this report and the updated activation proposal detailed therein; and

2) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to provide the Developer, Aqua Reef P/L, with the draft Supplementary Deed as prepared by Council’s Legal Advisers and to complete final negotiations and enable the draft
Supplementary Deed to be refined and finalised as required, which may include (but is not necessarily limited to) the following:

a. Completing the Schedules, including updating of the estimated costings – to be informed by/ based upon receipt of engineering details, plans and drawings for the required works (reasonably expecting that these costs will not increase);

b. Finalising particulars with respect to reasonable timeframes to allow to require new dwellings to be constructed on the designated Display Home and House and Land Lots, and for these sites to subsequently be landscaped (which may be informed by discreet enquiries to industry); and

c. Finalising particulars with respect to reasonable timeframes to require that the display homes be open, noting that such related staff often work on commission and for practical reasons, this arrangement may need to be managed through local real estate agents (settlement of which may also be informed by discreet enquiries to industry).

3) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to make any discreet enquiries of industry as may be needed to inform and finalise the Supplementary Deed;

4) Subject to the cost estimate for the works not increasing, provides an authorisation and delegation to the Chief Executive Officer to consider and negotiate on any minor modifications or final details with respect to the draft Supplementary Deed, draft Land Management Agreement or borrowing arrangements that do not substantially alter the intended direction of the draft Supplementary Deed/ 5 Shilling Estate Proposal, if necessary to finalise this matter on behalf of Council;

5) Based upon the above, supports the delivery of the upgrade of Kapunda Street and new construction of Sir Sidney Kidman Boulevard and Butler Crescent (Brumby Court link) (5 Shilling Estate Activation Proposal);

6) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to secure the funding required to deliver the 5 Shilling Estate Activation Proposal described herein;

7) Requires that the Deed of Agreement – Off-site Works, Kidman Ridge Estate, Kapunda (Deed) and Deed of Variation to Infrastructure Agreement (Variation Deed) be secured by a Land Management Agreement against the balance of the subject land for the 5 Shilling Estate;

8) Pursuant to Sections 38 and 44 of the Local Government Act 1999 authorises the Mayor and Chief Executive Officer to then sign and affix Council’s common seal to all related documentation including the final form of the draft Supplementary Deed, Land Management Agreement, funding documentation and any other documentation required to complete this process; and

9) When the formal arrangements are in place, authorises the completion of the works outlined as the 5 Shilling Estate Activation Proposal described herein.

Reasons for the decision
To explore further activation of the 5 Shilling Estate development by seeking to facilitate sustainable development and ensure a proper balance between economic, social, environmental and cultural considerations.

Detailed Report

Purpose
This report is provided to update Council with respect to a potential activation proposal concerning the 5 Shilling Estate development at Kapunda. This estate is being developed by Aqua Reef P/L (the Developer).
Background
Council initially considered a report with respect to this matter at its meeting held on 24 July 2018 (refer to the previous report at Appendix 15.1A).

In brief, the background to this matter may be summarised as follows:

- An approx. 55 hectare area on the north-western side of Kapunda was rezoned for new residential development in March 2008. This was augmented with rezoning of an additional (approx. 20 hectare) area of on the north-eastern side of Kapunda for residential and retirement living development in April 2012.

- The 5 Shilling Estate was approved in July 2009 as a staged development. It involves a land division creating 330 new residential allotments as an addition to the north-west of the township together with the associated upgrade of Gundry’s Hill Reserve. This reserve incorporates a lookout with interpretive signage in an elevated position overlooking the township of Kapunda. The land division approval includes a Land Management Agreement (LMA) and Deed of Agreement – Off-site Works, Kidman Ridge Estate, Kapunda (Deed) outlining external works requirements necessary to support the development.

- The original LMA includes controls with respect to fencing, further land division, split-level dwellings/excavation/filling and retaining walls, driveway locations, cladding on outbuildings (sheds), restrictions on transportable dwellings and appropriate building materials;

- Per the abovementioned Deed, the 5 Shilling Estate Developer is responsible for constructing upgrades to external roads listed in its Annexure ‘B’, with timing required to align with the construction of the stage of the land division adjacent to the subject road. Kapunda Street is listed in this Annexure, as are Nash Street and Day Street (for a distance of 30 metres in each instance from their respective intersections with Kapunda Street).

- To date, only 10 allotments have been created and sold adjacent to Maxwell Street as ‘Stage 1A’. These have been supported by external Community Wastewater Management System (CWMS) upgrades and downstream stormwater augmentation works.

- In August 2012, Council agreed to the Developer’s proposal to amend Stage ‘1B’ to enable temporary vehicular access across the 1.0 metre reserve adjacent the Brumby Street cul-de-sac, effectively connecting Brumby Court and Kapunda Street. This agreement was documented in a subsequent Deed of Variation to Infrastructure Agreement (Variation Deed) on or around March 2013;

- Stage, ‘1B’, has been completed recently been completed in October 2018.

- Following the construction of Stage 1C, the Developer is required to reinstate the cul-de-sac head and reserve buffer at its cost Council’s satisfaction;

- Since early 2017, Council has advanced its Accelerated Infrastructure Program (AIP). Using a $12M investment by the Council to leverage an additional $3M in funding through the State-Local Government Infrastructure Partnership, this program will see 72 township roads sealed across the Council district as well as footpaths and stormwater upgrades. Where possible work will also include street lighting and street trees; and

- It has been noted that the abovementioned LMA did not link the Deed or the Variation Deed to the subject land.

The AIP program has included roads in vicinity of the 5 Shilling Estate as well as Kapunda Street. There are strong community expectations for these improvements to be delivered in advance of the 5 Shilling Estate’s timing.

The Kapunda Street works involve reconstruction of a section of Kapunda Street between Maxwell Street and through to its intersections with Nash Street to Day Street, with a spray-seal treatment intended for the section of Kapunda Street heading west through to Moyle Road.

Council’s management has reviewed this situation in consultation with the Developer, leading to an ‘activation’ proposal, guided by:
The prospect of adjacent AIP works proposed for Kapunda Street;

The desirability of a ‘compact’ configuration focussed upon the Maxwell Street/ Kapunda Street locality, rather than simply adding housing allotments in a ribbon form along an extended section of the western side of Kapunda Street;

“Tying-in” with the works completed to date for Brumby Court-Butler Crescent/ Stage 1B, thus improving its accessibility; and

Facilitating the subsequent development of new housing (through ‘display’ and ‘house and land’ arrangements) to activate/ re-energise the development.

The activation proposal involves Council delivering roadworks for the section of Kapunda Street (Maxwell Street through to Day Street) and the entrance (Sir Sidney Kidman) Boulevard to the development, on behalf of the Developer. These works would include service provision (water, sewer, street-lighting and conduit for later electricity and telecommunications to be provided by the Developer).

The costs to Council of undertaking this would be secured against the allotment releases that are facilitated by the works.

At its meeting held on 24 July 2018, Council resolved as follows:

Moved Cr Shannon
Seconded Cr Rohrlach

That Council:

1) Receives this report and activation proposal included therein; and

2) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to prepare and release an Expression of Interest to appropriate prospective building firms with respect to establishing a Display Village at the Five Shillings Estate; and

3) Supports the delivery of the upgrade of Kapunda Street as a part of the Accelerated Infrastructure Program; and

4) Authorises the Chief Executive Officer, who may delegate to appropriate staff, to continue discussions with the Developer with respect to progressing a suitable commercial arrangement to enable the delivery of the activation strategy being contemplated, inclusive of an appropriate legal framework as required.

5) That Council be presented with a progress report at either the 25 September 2018 or 23 October 2018 meeting of Council for further review

CARRIED

Cr Kennelly called for a Division:

For the Motion: Cr Reichstein, Cr Kerin, Cr Mitchell, Cr Close, Cr Keith Ellis, Cr Shannon, Cr Rohrlach and Cr Lewis

Against the Motion: Cr Kennelly

A further discussion occurred with respect to this matter at Council’s meeting held on 23 October 2018 with no motions passed.

Council’s management prepared an Expression of Interest document for discussions with prospective builders, which took place on 20 August 2018.

Further to this, the potential model has been developed further with input from Council’s Legal Advisers, Norman Waterhouse. The particulars of this are expressed in a further Deed (draft Supplementary Deed), attached as Appendix 15.1C.

In this Deed, Council’s investment in the road construction would be secured as a mortgage against the balance of the land and repaid incrementally as land is sold from a new allotment release (revised Stage ‘1C’) and a previous release (Stage ‘1B’), through the Developer’s agreement to:
Re-energise the development by setting aside certain Lots for ‘Display Homes’ and ‘House and Land’ developments at a reduced price to activate building activity, based upon:

- 5 allotments being made available along the Sir Sidney Kidman (entrance) Boulevard for purchase by Builders (only) as ‘Display Home’ lots - at a set price of $95,000 (+ GST) per allotment, with a $10K rebate and a deferred payment arrangement – initially due 6 months following Settlement (unless extended under certain circumstances - for a maximum of 2 years);
- a further 3 allotments being made available for purchase by Builders (only) as ‘House and Land’ allotments - at a set-price of $95,000 + GST) with a deferred payment arrangement – due 6 months after Settlement (and secured by the Vendor as a caveat over the land);

- Transfer certain requirements to Builders purchasing the nominated Lots on the abovementioned terms;
- sell the remaining lots as ‘Public Lots’ (for not less than $95,000 + GST per lot), with the marketing plan to be consulted/approved by Council;
- Ongoing reporting from the Developer to Council on information related to the marketing and sale of the allotments, until Council’s investment (Contract Sum) is repaid;
- Council receiving 60% of all sales proceeds from Lot sales in both Stages ‘1B’ and ‘1C’ (43 Lots in total) until the Council’s investment (Contract Sum) is repaid;
- Provide ‘step-in’ rights to Council to sell any allotments if needed for Council to recoup its funding;
- Repay Council’s contribution in 2 years.

Builders purchasing a ‘Display Home Lot’ will be required to (n.b. highlights below show areas for further consideration/to be settled)

1. build a display home on the Lot, with practical completion to occur within 10 months of Settlement;
2. landscape the Lot to the quality expected of a display home within 3 months of completion of the related dwelling which for the avoidance of doubt must:
   - comprise reasonably high quality design and materials;
   - include open style front fencing (if any front fencing is constructed); and
   - include vegetation which is maintained and nurtured to a reasonably high standard, with any vegetation that has died or failed to thrive being replaced within 28 days.
3. ensure that the display home constructed is open to the public for at least 5 hours per week for no less than six months from practical completion of the display home.

Builder’s purchasing a ‘House and Land’ Lot will be required to:

1. landscape the Land to the quality expected of a display home which for the avoidance of doubt must:
   - comprise reasonably high quality design and materials;
   - include open style front fencing (if any front fencing is constructed); and
   - include vegetation which is maintained and nurtured to a reasonably high standard, with any vegetation that has died or failed to thrive being replaced within 28 days.

History

- 16 March 2010 – Item 10.5.2 – 2010/43 – Five Shillings Estate–Directional Street Signs
Discussion/Analysis

As noted, this proposal has been developed in consultation with Council’s Legal Advisers. While the Developer is generally aware of the particulars of the proposal, the related documentation has not been provided to the Developer as yet, pending the Council’s consideration of its merits.

Accelerated Infrastructure Program

The cost contribution originally estimated in July 2018 was as follows:

- Kapunda Street: $550,000 (inclusive of water supply and stormwater infrastructure)
- Sir Sidney Kidman Boulevard: $330,000

Total: $880,000

These figures for Kapunda Street and Sir Sidney Kidman Boulevard were reviewed and revised in September 2018. Also, the section of Kapunda Street north of Day Street to Moyle Road (spray-seal) was added as well as the internal link between Brumby Court and Sir Sidney Kidman Boulevard (identified as ‘Butler Court’). The revised estimates are as follows:

- Kapunda Street (south of Day Street): $628,300
- Kapunda Street (north of Day Street): $232,000
- Brumby Street/Butler Crescent: $46,200
- Sir Sidney Kidman Boulevard: $402,000

Total: $1,308,500

It is noted however that any estimate needs to be verified against detailed design drawings to be provided by the Developer. Hence the Deed allows for the Contract Sum to be determined based on engineering documents and other information provided by the Developer as verified by a quantity surveyor.

The monies required to undertake this work would be in the form of borrowings and subject to a separate borrowing agreement.

As noted, the costs (Contract Sum) would then be repaid as per the activation strategy agreed with the Developer and as outlined in the ‘Background’ section. This will be explained more fully in a presentation at the Council meeting.

As has been noted, Council’s investment would be secured as a ‘first-ranking’ mortgage over the whole of the Land, except for the areas marked as Stage 1B and Stage 1C on the Site Plan (where Council would have separate ‘step-in’ provisions to act with respect to these).

Legal Arrangements
As noted earlier, the Deed and Variation Deed are not secured by Land Management Agreement to the subject land, as has occurred, by comparison, for the subject land for the Roseworthy Township Expansion.

If this proposal progresses, it is recommended that this needs to be rectified with a subsequent Land Management Agreement (LMA) suited to this purpose. A draft LMA has been prepared, based upon the example used for the Roseworthy Township Expansion (refer to Appendix 15.1D).

The draft Supplementary Deed attached will also need to be finalised once the engineering plans are available from the Developer, which is understood to be underway. Also, it is intended that an updated Site Plan is provided to the draft Supplementary Deed at its Schedule 4.

Confidentiality

This matter has to date been considered in confidence on the basis of section 90(3)(b)(i) & (ii) of the Local Government Act, 1999 (the Act) – being:

(b) information the disclosure of which –

(i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and

(ii) would, on balance, be contrary to the public interest;

Should this matter be progressed, consideration needs to be given to the confidentiality of such an arrangement going forward.

The proposed land prices for the Display Home Lots and the House and Land Lots in the draft Supplementary Deed between the Developer and Council, contains information that may then qualify as per section 90(3)(d) of the Act, as follows (underlining my emphasis):

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—

(i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and

(ii) would, on balance, be contrary to the public interest;

This consideration relates to the public/ market potentially being aware of 8 Lots being sold to builders at a below-market cost to incentivise building activity, which could potentially then artificially distort market expectations.

Accordingly, should the matter proceed it is considered that while the Deed and Variation Deed should be linked to the subject land via LMA, given its particulars key parts of the draft Supplementary Deed (such as the proposed pricing arrangements) should remain ‘in confidence’ until the activation arrangement is finalised. These are highlighted in clause 9.6 in the draft Supplementary Deed, however it is expected that these will be subject to discussions with the Developer.

Based on legal advice, it is not considered that the Supplementary Deed needs to be linked to the subject land in the same way as the other Deeds, mainly as it includes other provisions to secure the Council’s investment (Contract Sum).

If discussions with the Developer are advanced, the matter of confidentiality will be brought back to Council for further consideration with respect to how the arrangement is publicly described.

Conclusion

This activation proposal would enable a further 23 lots (in Stage ‘1C’) to be realised and improve the accessibility of the 20 Lots within Stage 1B.

Council’s management has reported previously (in August 2015) on the importance of activating this development in the interests of and as a part of broader regional economic strategies. This remains the case and on this basis this proposal has been developed to leverage the AIP activities in vicinity of the 5 Shilling Estate and to use this opportunity to progress this long-standing development, incentivising it through the tailored approach to display home and house and land package construction.
References

Legislation
Development Act, 1993
Planning, Development and Infrastructure Act, 2016
Local Government Act, 1999

Council Policies
Developer Engagement Statement of Business Ethics Policy

Strategic Plan
Priority Area 3 – Economic Wellbeing
Goal 3.0 – Industry, Innovation & Infrastructure
  3.2 – Strengthen and diversify the regional economic base.
  3.3 – Advocate on behalf of regional opportunities.

15. CONFIDENTIAL ITEMS (Minutes of 26 February 2019)

15.1 5 Shilling Estate – Activation Proposal

Folder ID: 58298

Author: Craig Doyle – General Manager, Strategy & Development

Report Presenter: Craig Doyle – General Manager, Strategy & Development

Moved Cr Rohrlach
Seconded Cr Grain

That Council:

1. Receives this report and the updated activation proposal detailed therein; and

2. Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to provide the Developer, Aqua Reef P/L, with the draft Supplementary Deed as prepared by Council’s Legal Advisers and to complete final negotiations and enable the draft Supplementary Deed to be refined and finalised as required, which may include (but is not necessarily limited to) the following:

3. Completing the Schedules, including updating of the estimated costings – to be informed by/ based upon receipt of engineering details, plans and drawings for the required works (reasonably expecting that these costs will not increase);

4. Finalising particulars with respect to reasonable timeframes to allow to require new dwellings to be constructed on the designated Display Home and House and Land Lots, and for these sites to subsequently be landscaped (which may be informed by discreet enquiries to industry); and

5. Finalising particulars with respect to reasonable timeframes to require that the display homes be open, noting that such related staff often work on commission and for practical reasons, this arrangement may need to be managed through local real estate agents (settlement of which may also be informed by discreet enquiries to industry).

6. Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to make any discreet enquiries of industry as may be needed to inform and finalise the Supplementary Deed;
7. Subject to the cost estimate for the works not increasing, provides an authorisation and delegation to the Chief Executive Officer to consider and negotiate on any minor modifications or final details with respect to the draft Supplementary Deed, draft Land Management Agreement or borrowing arrangements that do not substantially alter the intended direction of the draft Supplementary Deed/5 Shilling Estate Proposal, if necessary to finalise this matter on behalf of Council;

8. Based upon the above, supports the delivery of the upgrade of Kapunda Street and new construction of Sir Sidney Kidman Boulevard and Butler Crescent (Brumby Court link) (5 Shilling Estate Activation Proposal);

9. Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to secure the funding required to deliver the 5 Shilling Estate Activation Proposal described herein;

10. Requires that the Deed of Agreement – Off-site Works, Kidman Ridge Estate, Kapunda (Deed) and Deed of Variation to Infrastructure Agreement (Variation Deed) be secured by a Land Management Agreement against the balance of the subject land for the 5 Shilling Estate;

11. Pursuant to Sections 38 and 44 of the Local Government Act 1999 authorises the Mayor and Chief Executive Officer to then sign and affix Council’s common seal to all related documentation including the final form of the draft Supplementary Deed, Land Management Agreement, funding documentation and any other documentation required to complete this process; and

12. When the formal arrangements are in place, authorises the completion of the works outlined as the 5 Shilling Estate Activation Proposal described herein.

13. That the five (5) builders be invited to commit to the 5 Shillings Estate activation proposal and their acceptance will be a condition precedent to the proposal proceeding with the Developer.

The Mayor called for the vote which was tied 5 FOR the motion and 5 AGAINST the motion.

The Mayor was required to use his casting vote, the Mayor voted for the motion which was then CARRIED.

15. CONFIDENTIAL ITEMS (Agenda report of 26 March 2019)

15.2 Five (5) Shillings Estate – Activation Proposal

Folder ID: 58298

Appendix: 15.2A Kidman Ridge Estate, Kapunda Draft MOU
(as per resolution of 26 March 2019 – Not for Release)

Author: Kieren Chappell, General Manager Economic Development

Report Presenter: Brian Carr, Chief Executive Officer

Executive Summary

Report highlights

- Council has agreed to proceed with an economic stimulus project associated with the Five Shillings Estate development in Kapunda, subject to a condition precedent which involves commitments from multiple builders to share the promotional opportunity associated with the Estate.
- Five (5) builders were approached to commit to entering into a Memorandum of Understanding (MOU) with the Five Shillings Estate Developer, Aqua Reef P/L, to develop Show/Display Homes and/or House and Land Packages across a total of eight (8) allotments in Stage 1C.
• Three (3) builders have committed to entering into MOU’s, a draft of which is attached as Appendix 15.2A to this report.

• Two (2) builders advised that their business model does not involve investment in Show/Display Homes and/or House and Land Packages, however they market their product using online ‘virtual’ display channels. These builders further advised that they are willing to promote Five Shillings Estate and their dwelling products via those online means in order to pick up future building contracts throughout the Estate’s development.

• A summary of the Five Shillings Estate activation proposal infrastructure investment and cost recovery model is tabulated below

<table>
<thead>
<tr>
<th>Council Infrastructure Stimulus / Investment</th>
<th>Cost Recovery Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kapunda St (south of Day St)</td>
<td>$628,300</td>
</tr>
<tr>
<td>Kapunda St (north of Day St)</td>
<td>$232,000</td>
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<td>$402,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$1,308,500</strong></td>
</tr>
</tbody>
</table>

• Feedback from five builders has revealed that three are interested in directly participating in the proposal involving eight (8) allotments for display homes and house and land packages, whilst the remaining two would like to promote the Estate via online marketing channels.

• This report seeks confirmation from Council that the condition precedent to the Five Shillings Estate activation proposal involving multiple builders’ commitment towards eight (8) allotments in Stage 1C, through a mix of Show/Display Homes and House and Land packages, is met once they enter into a Memorandum of Understanding with the Developer, Aqua Reef P/L.

• Once the condition precedent to the activation proposal is met, Council’s Management will finalise all legal documentation associated with the economic stimulus project and proceed with the infrastructure works and liaison with Builders and the Developer to promote the Estate as previously instructed.

**Budget Impact**

<table>
<thead>
<tr>
<th>Estimated Cost:</th>
<th>$1.31m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Revenue:</td>
<td>$1.41m</td>
</tr>
<tr>
<td>Is this budgeted?</td>
<td>☑ No</td>
</tr>
</tbody>
</table>

**Suggested Funding and Revenue Sources:**

Suggested funding for the infrastructure is via an extension to the Accelerated Infrastructure Upgrade Program and loan borrowings to cash flow the infrastructure works in advance of cost recovery through a percentage of land sales. Revenue, or cost recovery, is by way of receiving 60% of land sales associated with up to 43 subdivided lots in Stages 1B and 1C of Five Shillings Estate. The revenue will be secured via legal Deed and a Land Management Agreement over the land should the Developer seek to sell the land.

**Additional Comments (incl Labour Component if applicable):**

The $1.31m in infrastructure costs include $550k already committed by Council as part of the Accelerated Infrastructure Upgrade project. This activation proposal seeks to invest a further $760k in stimulus funds and recover the full $1.31m investment costs by way of taking a preferential interest in land sale revenue
for specified lots subdivided within the development. The alternative to the activation proposal, as in a ‘do nothing’ approach, will result in $550k in sunk infrastructure costs for existing lots fronting Kapunda Street on its eastern side and the strong potential for a negative and ad-hoc precinct development outcome involving ‘ribbon’ development along the western side of Kapunda Street.

**Recommendation**

That Council:

1. Receives the Five (5) Shillings Estate – Activation Proposal report to its 26 March 2019 ordinary meeting, including feedback from five (5) builders invited by Council to participate in the Activation Proposal; and

2. Confirms that Part 10 of its resolution relating to the Five (5) Shillings Estate – Activation Proposal, passed at its ordinary meeting on 26 February 2019, being “that the five (5) builders be invited to commit to the 5 Shillings Estate activation proposal and their acceptance will be a condition precedent to the proposal proceeding with the Developer” will be met when a minimum of three (3) separate building companies enter into a Memorandum of Understanding with Five (5) Shillings Estate developer Aqua Reef Pty Ltd to develop a minimum of eight (8) allotments within Stage 1C of the subdivision approved under Development Application 314/17/2008, also acknowledging that a further two builders intend to promote the Estate through their online marketing channels.

**Reasons for the decision**

To seek to facilitate sustainable development and the protection of the environment and to ensure a proper balance within its community between economic, social, environmental and cultural considerations.

**Detailed Report**

**Purpose**

To seek clarification of the condition precedent associated with Council’s Five Shillings Estate activation proposal, thereby enabling all legal agreements to be finalised and infrastructure works to commence.

**Background**

The lengthy background to this matter, as referenced in the History section of this report, may be summarised as follows:

- An approx. 55 hectare area on the north-western side of Kapunda was rezoned for new residential development in March 2008. This was augmented with rezoning of an additional (approx. 20 hectare) area on the north-eastern side of Kapunda for residential and retirement living development in April 2012;
• The 5 Shilling Estate was approved in July 2009 as a staged development. It involves a land division creating 330 new residential allotments as an addition to the north-west of the township together with the associated upgrade of Gundry’s Hill Reserve. This reserve incorporates a lookout with interpretive signage in an elevated position overlooking the township of Kapunda. The land division approval includes a Land Management Agreement (LMA) and Deed of Agreement – Offsite Works, Kidman Ridge Estate, Kapunda (Deed) outlining external works requirements necessary to support the development;

• The original LMA includes controls with respect to fencing, further land division, split-level dwellings/ excavation/ filling and retaining walls, driveway locations, cladding on outbuildings (sheds), restrictions on transportable dwellings and appropriate building materials;

• Per the abovementioned Deed, the 5 Shilling Estate Developer is responsible for constructing upgrades to external roads listed in its Annexure ‘B’, with timing required to align with the construction of the stage of the land division adjacent to the subject road. Kapunda Street is listed in this Annexure, as are Nash Street and Day Street (for a distance of 30 metres in each instance from their respective intersections with Kapunda Street);

• To date, only 10 allotments have been created and sold adjacent to Maxwell Street as ‘Stage 1A’. These have been supported by significant external Community Wastewater Management System (CWMS) upgrades and downstream stormwater augmentation works;

• In August 2012, Council agreed to the Developer’s proposal to amend Stage ‘1B’ to enable temporary vehicular access across the 1.0 metre reserve adjacent the Brumby Street cul-de-sac, effectively connecting Brumby Court and Kapunda Street. This agreement was documented in a subsequent Deed of Variation to Infrastructure Agreement (Variation Deed) on or around March 2013;

• Stage, ‘1B’, has recently been completed in October 2018;

• Following the construction of Stage 1C, the Developer is required to reinstate the cul-de-sac head and reserve buffer at its cost and to Council’s satisfaction;

• Since early 2017, Council has advanced its Accelerated Infrastructure Program (AIP). Using a $12M investment by the Council to leverage an additional $3M in funding through the State-Local Government Infrastructure Partnership, this program will see 72 township roads sealed across the Council district as well as footpaths and stormwater upgrades. Where possible work will also include street lighting and street trees;

• It has been noted that the abovementioned LMA did not link the Deed or the Variation Deed to the subject land;

• The AIP program has included roads in vicinity of the 5 Shilling Estate as well as Kapunda Street. There are strong community expectations for these improvements to be delivered in advance of the 5 Shilling Estate’s timing;
The Kapunda Street works involve reconstruction of a section of Kapunda Street between Maxwell Street and through to its intersections with Nash Street to Day Street, with a spray-seal treatment intended for the section of Kapunda Street heading west through to Moyle Road;

- Council’s management has reviewed this situation in consultation with the Developer, leading to an ‘activation’ proposal, guided by:
  - The prospect of adjacent AIP works proposed for Kapunda Street;
  - The desirability of a ‘compact’ configuration focussed upon the Maxwell Street/ Kapunda Street locality, rather than simply adding housing allotments in a ribbon form along an extended section of the western side of Kapunda Street;
  - “Tying-in” with the works completed to date for Brumby Court-Butler Crescent/ Stage 1B, thus improving its accessibility; and
  - Facilitating the subsequent development of new housing (through ‘display’ and ‘house and land’ arrangements) to activate/ re-energise the development.

The activation proposal involves Council delivering roadworks for the section of Kapunda Street (Maxwell Street through to Day Street) and the entrance (Sir Sidney Kidman) Boulevard to the development, on behalf of the Developer. These works would include service provision (water, sewer, street-lighting and conduit for later electricity and telecommunications to be provided by the Developer).

The particulars of the activation proposal are expressed in a draft Supplementary Deed that the Council received at its meeting on 26 February 2019. In this Deed, Council’s investment in the road construction would be secured as a mortgage against the balance of the land and repaid incrementally as land is sold from a new allotment release (revised Stage ‘1C’) and a previous release (Stage ‘1B’), through the Developer’s agreement to:

- Re-energise the development by setting aside certain Lots for ‘Display Homes’ and ‘House and Land’ developments at a reduced price to activate building activity, based upon:
  - Five (5)\(^1\) allotments (amended to (3) allotments) being made available along the Sir Sidney Kidman (entrance) Boulevard for purchase by Builders (only) as ‘Display Home’ lots - at a set price of $95,000 (+ GST) per allotment, with a $10K rebate and a deferred payment arrangement – initially due 6 months following Settlement (unless extended under certain circumstances - for a maximum of 2 years);
  - a further three (3) allotments (amended to 5 allotments) being made available for purchase by Builders (only) as ‘House and Land’ allotments - at a set-price of $95,000 (+ GST) with a deferred payment arrangement – due 6 months after Settlement (and secured by the Vendor as a caveat over the land);

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\(^1\) Note: Discussions with Builders has indicated that 3 Show/Display homes is sufficient for a development of this size without flooding the market competition, also noting the potential for these to be strategically released with the Roseworthy Township Expansion (RTE) project.
Figure 1 – Stage 1C of Five Shillings Estate highlighting lots to be made available for Display Homes (3) and House and Land Packages (5)

- Transfer certain requirements to Builders purchasing the nominated Lots on the abovementioned terms;
- sell the remaining lots as ‘Public Lots’ (for not less than $95,000 + GST per lot), with the marketing plan to be consulted/ approved by Council;
- Ongoing reporting from the Developer to Council on information related to the marketing and sale of the allotments, until Council’s investment (Contract Sum) is repaid (exceeded);
- Council receiving 60% of all sales proceeds from Lot sales in both Stages ‘1B’ and ‘1C’ (43 Lots in total) until the Council’s investment (Contract Sum) is repaid (exceeded);
- Provide ‘step-in’ rights to Council to sell any allotments if needed for Council to recoup its funding;
- Repay Council’s contribution in 2 years.

A summary of the stimulus investment and cost recovery sources from the activation proposal is provided in the table below.

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<td>60% of: 3 Display Homes @ $85,000ea $153,000</td>
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<tr>
<td>Kapunda St (north of Day St)</td>
<td></td>
</tr>
<tr>
<td>Brumby St / Butler Crescent</td>
<td>5 House and Land @ $95,000ea $285,000</td>
</tr>
<tr>
<td>Sir Sidney Kidman Boulevard</td>
<td>17 Public Lots @ 95,000ea $969,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>TOTAL $1,407,000</td>
</tr>
</tbody>
</table>

At its meeting held on 26 February 2019, Council resolved as follows:

Moved Cr Rohrlach
Seconded Cr Grain
That Council:
1) Receives this report and the updated activation proposal detailed therein; and

2) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to provide the Developer, Aqua Reef P/L, with the draft Supplementary Deed as prepared by Council’s Legal Advisers and to complete final negotiations and enable the draft Supplementary Deed to be refined and finalised as required, which may include (but is not necessarily limited to) the following:
   a. Completing the Schedules, including updating of the estimated costings – to be informed by/based upon receipt of engineering details, plans and drawings for the required works (reasonably expecting that these costs will not increase);
   b. Finalising particulars with respect to reasonable timeframes to allow to require new dwellings to be constructed on the designated Display Home and House and Land Lots, and for these sites to subsequently be landscaped (which may be informed by discreet enquiries to industry); and
   c. Finalising particulars with respect to reasonable timeframes to require that the display homes be open, noting that such related staff often work on commission and for practical reasons, this arrangement may need to be managed through local real estate agents (settlement of which may also be informed by discreet enquiries to industry).

3) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to make any discreet enquiries of industry as may be needed to inform and finalise the Supplementary Deed;

4) Subject to the cost estimate for the works not increasing, provides an authorisation and delegation to the Chief Executive Officer to consider and negotiate on any minor modifications or final details with respect to the draft Supplementary Deed, draft Land Management Agreement or borrowing arrangements that do not substantially alter the intended direction of the draft Supplementary Deed/5 Shilling Estate Proposal, if necessary to finalise this matter on behalf of Council;

5) Based upon the above, supports the delivery of the upgrade of Kapunda Street and new construction of Sir Sidney Kidman Boulevard and Butler Crescent (Brumby Court link) (5 Shilling Estate Activation Proposal);

6) Authorises the Chief Executive Officer, who may delegate to appropriate staff as necessary, to secure the funding required to deliver the 5 Shilling Estate Activation Proposal described herein;

7) Requires that the Deed of Agreement – Off-site Works, Kidman Ridge Estate, Kapunda (Deed) and Deed of Variation to Infrastructure Agreement (Variation Deed) be secured by a Land Management Agreement against the balance of the subject land for the 5 Shilling Estate;

8) Pursuant to Sections 38 and 44 of the Local Government Act 1999 authorises the Mayor and Chief Executive Officer to then sign and affix Council’s common seal to all related documentation including the final form of the draft Supplementary Deed, Land Management Agreement, funding documentation and any other documentation required to complete this process; and

9) When the formal arrangements are in place, authorises the completion of the works outlined as the 5 Shilling Estate Activation Proposal described herein.

10) That the five (5) builders be invited to commit to the 5 Shillings Estate activation proposal and their acceptance will be a condition precedent to the proposal proceeding with the Developer.

The Mayor called for the vote which was tied 5 FOR the motion and 5 AGAINST the motion. The Mayor was required to use his casting vote, the Mayor voted for the motion which was then CARRIED.

History
- 16 March 2010 – Item 10.5.2 – 2010/43 – Five Shillings Estate–Directional Street Signs


13 December 2011 – Item 10.3.3 – 2011/318 – Five Shillings Residential Estate

28 August 2012 – Item I&RS 9.3.3/2012 – 2012/202 – Five Shillings Residential Estate, Kapunda-Request by Aqua Reef Pty Ltd to Vary Stage 1B


24 March 2015 – Item EDP9.3.2/2015 – 2015/87 – Five Shillings Estate-Progress Update and Future Directions

28 July 2015 – Item 12.3.1 – 2015/241 – Five Shillings Estate-Advancement of Stage 1B Civil Works

20 August 2015 – Item EDP9.3.2/2015 – 2015/252 – Five Shillings Estate-Advancement of Stage 1B Civil Works

24 July 2018 – Item 15.3 - Five Shillings Estate – Activation Proposal

23 October 2018 – Item 15.1 - Five Shillings Estate – Activation Proposal

26 February 2019 – Item 15.1 – Five (5) Shilling Estate – Activation Proposal

**Discussion/Analysis**

In order to progress all actions associated with the 26 February 2019 Council resolution, the Council must first satisfy the condition precedent: "That the five (5) builders be invited to commit to the 5 Shillings Estate activation proposal and their acceptance will be a condition precedent to the proposal proceeding with the Developer."

The intent of the condition precedent is twofold:

1. To share the initial marketing and promotional risk of the development with reputable builders, and
2. To provide more certainty around the initial cost recovery for a reasonable proportion of the infrastructure investment.

The Chief Executive Officer, with the assistance of Council’s Economic Development Consultant Mr John Shane, has met and/or corresponded with each of the five builders, inviting them to confirm their commitment towards the activation proposal. The response and acceptance of a commitment towards the activation proposal is summarised as follows:

<table>
<thead>
<tr>
<th>Builder</th>
<th>Type of Commitment</th>
<th>Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hickinbotham Homes</td>
<td>Show/Display Home on site</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>Wahlstedt Quality Homes</td>
<td>Show/Display Home on site</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>Sterling</td>
<td>Show/Display Home on site</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>Distinctive Homes</td>
<td>Virtual Show/Display Home</td>
<td>N/A</td>
</tr>
<tr>
<td>Bishop Building</td>
<td>Virtual Show/Display Home</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Three (3) of the builders have committed to building Show/Display homes as per the activation proposal. The draft Memorandum of Understanding (MOU) attached as Appendix 15.1A documents the terms of their commitment with Developer Aqua Reef P/L, which in turn is associated with Council’s infrastructure cost recovery by way of the Supplementary Deed with Aqua Reef P/L.

Two (2) builders advised that they do not invest in Show/Display homes. These two builders (Distinctive Homes and Bishop Building) do not typically develop greenfields subdivisions and, as a further value-add,
sell product throughout the development – they usually market their dwelling products to new landowners. They advised that with the advent of modern technology, they largely promote their products using online ‘virtual’ display homes. These builders committed to promoting the Five Shillings Estate development through their online channels in order to secure building contracts with future landowners of the Estate.

Together with the commitment to market Five Shillings Estate via online channels attached to virtual display homes, the two (2) non-Display homes originally included in the Activation Proposal will be re-assigned and added to the three (3) House and Land packages to bring their total to five (5).

According to the investigations with Builders, the revised package involving three (3) Show/Display Homes, five (5) House and Land developments and two (2) online/virtual display home opportunities will provide substantial promotion of the Estate to stimulate interest and convert to sales. As such, this report calls for Council’s acceptance of the condition precedent should the three (3) builders enter into the MOU as appended to this report involving a total of eight (8) allotments in Stage 1C of the development. Should this be endorsed then it will trigger Council’s management to finalise all legal documentation and progress the infrastructure works.

**Conclusion**

Further investigations with Builders has occurred to share the promotion of the Five Shillings Estate development as per the Council’s activation proposal, resulting in the preparation of a draft Memorandum of Understanding (MOU) for Council’s acknowledgement as meeting the condition precedent to finalising all legal documentation and commencing infrastructure works associated with the proposal.

**References**

**Legislation**

Development Act, 1993  
Planning, Development and Infrastructure Act, 2016  
Local Government Act, 1999

**Council Policies**

Developer Engagement Statement of Business Ethics Policy

**Strategic Plan**

Priority Area 3 – Economic Wellbeing  
Goal 3.0 – Industry, Innovation and Infrastructure  
3.2 – Strengthen and diversify the regional economic base.  
3.3 – Advocate on behalf of regional opportunities.

15. **CONFIDENTIAL ITEMS** (Minutes of 26 March 2019)

15.2 Five (5) Shillings Estate – Activation Proposal

**Folder ID:** 58298

**Author:** Kieren Chappell, General Manager Economic Development

Moved Cr Rohrlach  
Seconded Cr Grain  
That Council:
1. Receives the Five (5) Shillings Estate – Activation Proposal report to its 26 March 2019 ordinary meeting, including feedback from five (5) builders invited by Council to participate in the Activation Proposal; and
2. Confirms that Part 10 of its resolution relating to the Five (5) Shillings Estate – Activation Proposal, passed at its ordinary meeting on 26 February 2019, being
   "that the five (5) builders be invited to commit to the 5 Shillings Estate activation proposal and their acceptance will be a condition precedent to the proposal proceeding with the Developer"

will be met when a minimum of three (3) separate building companies enter into a Memorandum of Understanding with Five (5) Shillings Estate developer Aqua Reef Pty Ltd to develop a minimum of eight (8) allotments within Stage 1C of the subdivision approved under Development Application 314/17/2008, also acknowledging that a further two builders intend to promote the Estate through their online marketing channels.

CARRIED

16. NEXT MEETING

The next ordinary meeting of Light Regional Council will be held on Tuesday, 23 April 2019, commencing at 5:00pm in the Council Chamber, 93 Main Street, Kapunda.

17. CLOSURE

The meeting was declared closed at 10:00pm

Minutes of meeting confirmed at a meeting of Council held on Tuesday, 23 April 2019.

MAYOR _________________________________