

His Worship the Mayor
Councillors
CITY OF MARION

NOTICE OF SPECIAL GENERAL COUNCIL MEETING

Council Chamber, Council Administration Centre
245 Sturt Road, Sturt

Thursday, 25 February 2021 at 06:30 PM

The CEO hereby gives Notice pursuant to the provisions under Section 83 of the Local Government Act 1999 that a Special General Council meeting will be held.

A copy of the Agenda for this meeting is attached in accordance with Section 83 of the Act.

Meetings of the Council are open to the public and interested members of this community are welcome to attend. Access to the Council Chamber is via the main entrance to the Administration Centre on Sturt Road, Sturt.



Adrian Skull
Chief Executive Officer





TABLE OF CONTENTS

OPEN MEETING3

KAURNA ACKNOWLEDGEMENT3

DISCLOSURE3

ELECTED MEMBERS DECLARATION OF INTEREST (if any)3

MOTIONS WITHOUT NOTICE3

 BMX Facility Toilets for Public Use3

QUESTIONS WITHOUT NOTICE6

OTHER BUSINESS6

MEETING CLOSURE6

OPEN MEETING

KAURNA ACKNOWLEDGEMENT

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

DISCLOSURE

All persons in attendance are advised that the audio of this General Council meeting will be recorded and will be made available on the City of Marion website.

ELECTED MEMBER'S DECLARATION OF INTEREST (if any)

MOTIONS WITHOUT NOTICE

BMX Facility Toilets for Public Use

Elected Member Councillor Matthew Shilling

Report Reference: SGC210225M01

Motion:

That Council:

1. **Accepts the Department for Environment and Waters (DEW) request for toilets to be open to the public.**
2. **Note that DEW are providing the land rent free, where a substantial rent could be charged, but are waiving the fee due to supporting the community.**
3. **Propose a third share of the maintenance costs between DEW, Marion and Onkaparinga.**
4. **Seek a third funding from Onkaparinga as this is a joint venture supporting one of their clubs (Happy Valley BMX)**
5. **Staff report back to Council on the negotiations between Onkaparinga and if a further decision for Marion to fund two thirds is required.**
6. **Note that DEW will not be required to fund more than one third share.**
7. **Staff put our offer before DEW and if accepted, construction can begin on time.**
8. **Staff report back to Council by April 2021 with a fully costed plan to install and maintain an Exeloo on site that would be for Public use and separate from the club rooms.**

Supporting Information:



Council have been asked to fund the maintenance costs of the toilets at the BMX Facility for public use. The ground-breaking cannot take place until this matter is resolved and the Minister signs the lease for the land. Council has spent nearly five years developing this site and disagreement between the Minister and Council should not be the reason our community suffers.

This facility will be a great thing for our Council and State. Access to toilets is a basic right. These toilets although based on Crown Land, are within a Council facility and should be partly funded by the Department and Council.

Having spoken with many representatives in the last 48 hours, I believe the above motion would be acceptable to the Department and allow us to move forward with this project

Our community should not miss out.

Response Received From: Carla Zub - Project Manager Strategic Projects

Corporate Manager Manager City Activation - Greg Salmon

General Manager General Manager City Development - Iliia Houridis

Staff Comments:

The motion was received from Councillor Shilling on Wednesday 24 February 2021. This item will be considered as a Motion without Notice as it was received outside of the time frames for a Motion with Notice in accordance with Councils *Code of Practice - Procedures at Council Meetings (Section 7, Regulation 12)*:

7.2 The notice of motion must be given to the chief executive officer at least five clear days before the date of the meeting at which the motion is to be moved.

Public access to toilets

The City of Marion has awarded Partek Construction to deliver the new SWBMX project on Majors Road, O'Halloran Hill with commencement of works scheduled for 1 March 2021. Any delays to the commencement of works may result in daily delay charges of \$1,465 per day and extensions of time. These costs would be directly borne by Council.

Over the past 18 months, the City of Marion has been negotiating with the Department for Environment and Water (the Department) for a Licence to Construct and long term lease arrangement (40 year lease), with terms agreed that institute a shared operations structure with the City of Onkaparinga (CoO) for the operation of the venue (CoO has resolved to provide 50% annual contribution towards SWBMX facility maintenance costs).

In January 2021, through communications with the Minister for Environment and Water and the Department of Environment and Water (DEW) a series of new operational conditions were sought to be explored, which carry cost implications for operation of the venue above the current agreed operational budgets of the City of Marion and City of Onkaparinga. The conditions include providing general public access to the BMX clubhouse amenities.

The amenities can be publicly accessible 7 days outside of the BMX clubs operating hours. The Capital and Operating impact to the budget:

- **\$20,000 Capital** for vandalism proofing walls and tapware, changes to fencing and DDA accessible ramp. This would be a variation to the project and can funded through the project contingency.
- **\$30,804.65 (GST excl) Operating Costs** - based on opening (6:30am) and closing of the amenities (8pm) and includes cleaning, consumables and security, but does not consider annual maintenance costs.



The cost of cleaning and maintaining the public amenities across Council sites are a Council responsibility, not the lessee's. The lease agreement between the Clubs and Council for the new facility will need to exclude the times during which public access to the toilets is required. This would result in Council paying 100% of the estimated \$30,804 (GST excl) per annum. Whilst Administration will seek contributions from the CoO, it is expected that the CoO may not deem it reasonable to provide an annual contribution for public amenities outside of their jurisdiction.

DEW had previously advised that it is not supportive in providing any contribution as the land for the new facility is being leased to Council at no annual rental charge.

Administration advise that if a resolution can not be negotiated at this late stage it will likely result in significant delays to commencement of construction resulting in delay costs to Council and to the program, pushing the earthworks into wetter months and potentially causing further delays. There are also reputational risks in delaying the projects.

Provision of an Exeloo

An Exeloo or similar could be installed at the SWBMX site within the area designated close to the pump track. The capital cost of the Exeloo would be \$180,000 for one or \$300,000 for two toilets including supply, installation and connection to services. These capital costs are too large to be funded by the project contingency budget. The annual operating and maintenance costs are approximately \$10,920 per annum per Exeloo.

For this reason, it is not recommended to proceed with an Exeloo as publicly accessible toilets can be provided through the club house.

Staff recommend the following alternate resolution:

That Council:

- 1. Notes that this request from the Department for Environment and Water (DEW) is now holding up commencement of the BMX and Soccer projects. Any delays to the start date of the 1 March 2021 will result in a daily delay rate of \$1,465 and potential extension of time to be borne by Council.**
- 2. Notes that DEW are providing the land rent free, where a substantial rent could be charged, but are waiving the fee due to supporting the community.**
- 3. Accepts the DEW request for toilets to be open to the public and for Council to fund the ongoing operating costs estimated to be \$30,000 (GST exclusive) per annum.**
- 4. Administration to advise DEW of Council's resolution.**



QUESTIONS WITHOUT NOTICE

OTHER BUSINESS

MEETING CLOSURE

Council shall conclude on or before 9.30pm unless there is a specific motion adopted at the meeting to continue beyond that time.