

**MINUTES OF THE GENERAL COUNCIL MEETING  
HELD AT ADMINISTRATION CENTRE  
245 STURT ROAD, STURT  
ON TUESDAY 10 NOVEMBER 2015**



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**PRESENT**

His Worship the Mayor Kris Hanna

**Councillors**

**Coastal Ward**

Ian Crossland  
Tim Gard

**Mullawirra Ward**

Jerome Appleby  
Jason Veliskou

**Southern Hills**

Nick Westwood  
Janet Byram

**Warracowie Ward**

Bruce Hull  
Nathan Prior

**Warriparinga Ward**

Luke Hutchinson

**Woodlands Ward**

Tim Pfeiffer  
Nick Kerry

**In Attendance**

Mr Adrian Skull  
Ms Abby Dickson  
Mr Vincent Mifsud  
Ms Kate McKenzie  
Ms Deborah Horton

Chief Executive Officer  
Acting General Manager City Development  
General Manager Corporate Services  
Manager Corporate Governance  
Acting Unit Manager Council Support

**COMMENCEMENT**

The meeting commenced at 7.00pm.

**KAURNA ACKNOWLEDGEMENT**

We acknowledge the Kurna 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.

**MEMBERS DECLARATION OF INTEREST**

The Chair asked if any Member wished to disclose an interest in relation to any item being considered at the meeting and the following declarations were made:

- Councillor Prior wished to declare a conflict of interest in the item 'Former Hallett Cove Library and Youth Services Building (GC101115F01)'.

- Councillors Appleby, Kerry and Westwood wished to declare a conflict of interest in the item 'Telecommunication Tower Kellett Reserve' (GC101115R09).
- Councillor Veliskou sought and was granted leave to formally acknowledge his involvement in the Telecommunication Tower Kellett Reserve decision in the course of undertaking his duties as an Elected Member. As the report (GC101115R09) seeks Council's instruction regarding the management of a Section 270 review process, Council Veliskou accepted the advice of the Governance Manager that there is no conflict of interest at this point in time.
- Councillors Byram and Crossland wished to declared an interest in the 'Section 270 – Reserve Street Reserve Dog Park (GC101115R10) Report' and 'Code of Conduct' (GC101115F03) Report.
- Councillor Kerry wished to declare a conflict of interest for the 'Code of Conduct' (GC101115F02).

## **CONFIRMATION OF MINUTES**

**7.04pm General Council meeting held on 27 October 2015**

**Moved Councillor Prior, Seconded Councillor Pfeiffer** that the minutes of the General Council meeting held on 27 October 2015 be taken as read and confirmed.

**Carried Unanimously**

## **ADJOURNED ITEMS**

**7.06pm Elected Member Code of Conduct Procedure for Investigating Complaints**  
**Report Reference: GC271015R13**

**Moved Councillor Hull, Seconded Councillor Pfeiffer** that Council adopt the Elected Member Code of Conduct Procedure as attached in Appendix 1 to this Report.

**Carried Unanimously**

## **YOUTH ADVISORY COMMITTEE (YAC) UPDATE**

Nil

## **DEPUTATIONS**

Nil

## **PETITIONS**

Nil

## **COMMITTEE RECOMMENDATIONS**

Nil

## **CORPORATE REPORTS FOR DECISION**

### **7.14pm Main South Road / Darlington Area Development Plan Amendment by the Minister Report Reference: GC101115R02**

**Moved Councillor Hutchinson, Seconded Councillor Crossland** that Council:

1. Endorse the correspondence generally supporting the proposed policy intentions and seeking a briefing from DPTI as contained in Appendix II to be signed by Mayor Hanna.

**Carried Unanimously**

### **7.23pm Planning, Development and Infrastructure Bill 2015 Report Reference: GC101115R03**

**Moved Councillor Crossland, Seconded Councillor Byram** that Council:

1. Approves the submission on the Planning, Development and Infrastructure Bill 2015 and forwards the submission to the Minister for Planning, the Shadow Minister for Planning and other Members of Parliament as determined by Council.

**Carried Unanimously**

### **7.24pm Dogs By-Law Amendment Report Reference: GC101115R04**

**Moved Councillor Hutchinson, Seconded Councillor Crossland** that:

1. Council endorses Option 2 “Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash).”
2. Council endorse the allocation of up to \$31,250 to fund the implementation of Option 2.
3. Funding options be identified and brought back to Council within three months.
4. That Council reconsider this regime in twelve months time.

**Carried**

### **7.42pm Annual Review of the Schedule of Delegations Reference No:GC101115R05**

**Moved Councillor Bryam, Seconded Councillor Westwood** that Council:

That having conducted its annual review of the Council’s Delegations Register in accordance with Section 44(6) of the Local Government Act 1999, the Council:

## **1. Revocations**

- 1.1 Hereby revokes its previous delegations to the Chief Executive Officer of those powers and functions under the following:
  - 1.1.1 Development Regulations 2008
  - 1.1.2 Local Government Act 1999
  - 1.1.3 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
  - 1.1.4 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013
  - 1.1.5 Supported Residential Facilities Act 1992
  - 1.1.6 Real Property Act 1886

## **2. Delegations made under Local Government Act 1999**

- 2.1 In exercise of the power contained in Section 44 of the Local Government Act 1999 the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Appendices 1-6 (each of which is individually identified as indicated below) are hereby delegated this 10<sup>th</sup> day of November 2015 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.
  - 2.1.1 Local Government Act 1999 (Appendix 1)
  - 2.1.2 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013 (Appendix 2)
  - 2.1.3 Real Property Act 1886 (Appendix 3)
  - 2.1.4 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999 (Appendix 4)
- 2.2 Such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the Local Government Act 1999 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.

## **3. Authorisations and Subdelegation under the Road Traffic Act 1961**

- 3.1 In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the 'Instrument') the Council authorises the following person(s) pursuant to Clause A.7 of

the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such person(s) shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements:

Clause A.1 – Unit Manager Engineering Services;

Clause B.1 – Unit Manager Civil Services;

Clause C.1 – Unit Manager Civil Services;

Clause D.1 – Unit Manager Engineering Services;

Clause E.1 – Unit Manager Civil Services;

- 3.2 In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following person(s) is/are experienced traffic engineering practitioner(s) for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument:

Unit Manager Engineering Services

- 3.3 In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in Section 33(1) of the Road Traffic Act 1961 and delegated to the Council pursuant to Clause G of the Instrument and contained in the proposed Instrument of Subdelegation (Appendix 4) is hereby sub-delegated this 10<sup>th</sup> day of November 2015 to the person occupying the office of Chief Executive Officer of the Council subject to:

- (i) the conditions contained in the Instrument; and
- (ii) any conditions contained in this Resolution or in the Instrument of Subdelegation.; and
- (iii) the creation of a separate instrument in writing reflecting such subdelegation under the Instrument and this Resolution.

- 3.4 In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following person(s) has (have) an appropriate level of knowledge and expertise in the preparation of traffic management Plans:

Unit Manager Engineering Services

#### **4. Delegations made under Development Act 1993**

- 4.1 In exercise of the powers contained in Section 20 and 34(23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (Appendix 5) are hereby delegated this 10<sup>th</sup> day of November 2015 to the person occupying the office of Chief Executive Officer subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.
- 4.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.
- 4.3 In exercise of the powers contained in Section 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (Appendix 5) and which are specified below are hereby delegated to the Council's Development Assessment Panel, subject to any conditions specified herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.

Ref DA/DAP – 119 (Sections a – f)

#### **5. Delegations under Supported Residential Facilities Act 1992**

- 5.1 In exercise of the power contained in Section 9 of the Supported Residential Facilities Act 1992, the powers and functions under the Supported Residential Facilities Act 1992 contained in the proposed Instrument of Delegation (Appendix 6) are hereby delegated this 10<sup>th</sup> day of November 2015 to the person occupying the office of Chief Executive Officer subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 5.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.

**Carried Unanimously**

#### **7.48 pm Appointment of Date, Time and Place of Council Meetings Report Reference: GC101115R06**

**Moved Councillor Hutchinson, Seconded Councillor Gard** that Council:

1. Adopt the following meeting cycle to facilitate open, responsive and accountable government as well as the timely conduct of Council's business:
  - i. General Council Meeting to be held on Tuesday, 19 January 2016;

- ii. General Council meetings to be held on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of the months in February, April, June, August October 2016:
  - iii. General Council meeting to be held the 4<sup>th</sup> Tuesday of the month in March, May, July, September and November 2016
  - iv. General Council meeting to be held on Tuesday, 13<sup>th</sup> December 2016.
  - v. General Council meetings will be held in the Chamber, at the City of Marion Administration Centre, 245 Sturt Road, Sturt commencing at 6.30pm.
2. Adopts the schedule of meeting dates for 2016 provided at Appendix A to the report.
  3. Publish the schedule of meetings for 2016 in the Guardian Messenger the week commencing Monday 30 November 2015.

**Moved Councillor Crossland, Seconded Councillor Westwood** that the motion be put.

**Carried**  
The motion was immediately put and **Carried**

**7.48pm Code of Practice, Procedures at Meetings 2015**  
**Report Reference: GC101115R07**

**Moved Councillor Veliskou Seconded Councillor Westwood** that the meeting procedures be suspended for a period sufficient to facilitate informal discussion in relation to the Code of Practice, Meeting Procedures at Meetings.

**Carried**

7:53pm Meeting procedures suspended.

**Moved Councillor Veliskou, Seconded Councillor Pfeiffer** that formal meeting procedures be resumed.

8:09pm Meeting procedures resumed.

**Moved Councillor Veliskou, Seconded Councillor Byram** that Council adopts the 'Code of Practice – Procedures at Council Meetings 2015' provided at Appendix 1 to this report, subject to the inclusion of identified changes;

- a. That each Elected Member has the right to speak for up to three minutes in the second meeting of Council during the months of February, April, June, August, October and the single December meeting.
- b. That the closing time of each Council meeting be 9:30pm.

**Carried**

**8.12pm 2014 Elections Review - Submission**

**Report Reference: GC101115R08**

**Moved Councillor Veliskou, Seconded Councillor Gard** that Council endorse the submission provided in Appendix 2 'City of Marion submission regarding 2014 Elections Review' and forward to the Local Government Association and Office of Local Government.

**AMENDMENT**

**Moved Councillor Hull, Seconded Councillor Hutchinson** that Council endorse the submission provided in Appendix 2 'City of Marion submission regarding 2014 Elections Review' and forward to the Local Government Association and Office of Local Government, subject to the following amendments:

- a) Under Voter Participation, paragraph two, be replaced with;  
'The City of Marion supports compulsory voting in Local Government Elections.'

That the amendment became the motion **Carried**  
The motion was put and was **Carried**

**8.26pm Section 270 Review – Telecommunication Tower Kellett Reserve**  
**Report Reference: GC101115R09**

8:26pm Councillor Appleby, Councillor Kerry and Councillor Westwood declared a conflict of interest in the item 'Telecommunication Tower Kellett Reserve (GC101115R09)' due to their positions on the Development Assessment Panel and left the meeting.

8:27pm Councillor Hutchinson and Councillor Crossland declared a conflict of interest in the item 'Telecommunication Tower Kellett Reserve (GC101115R09)' due to their upcoming positions on the Development Assessment Panel and left the meeting.

**Moved Councillor Hull, Seconded Councillor Gard** that Council:

1. Notes the process regarding the Section 270 review for the Council decision regarding the telecommunications tower at Kellett Reserve.
2. Authorises the CEO to appoint an independent person to undertake the Section 270 Review for the location of the Telecommunication Tower on Kellett Reserve.

**Carried Unanimously**

8:40pm Councillor Appleby, Councillor Kerry, Councillor Hutchinson and Councillor Westwood returned to the meeting.



8:41pm Councillor Byram and Crossland declared a potential conflict of interest due to their involvement in the Reserve Street, Dog Park in the course of undertaking their duties as an Elected Member and left the meeting.

8:42pm Councillor Prior left the meeting.

**8.42pm Section 270 Review – Reserve Street, Dog Park**  
**Report Reference: GC101115R10**

**Moved Councillor Hull , Seconded Councillor Pfeiffer** that Council:

1. Notes the process regarding the Section 270 review for the Council decision regarding the Reserve Street, Dog Park.
2. Authorises the CEO to appoint an independent person to undertake the Section 270 Review for the Reserve Street, Dog Park.

**Carried Unanimously**

8:43pm Councillor Prior returned to the meeting.

8:51pm Councillor Bryam and Crossland returned to the meeting.

**12. CORPORATE REPORTS FOR INFORMATION/NOTING**

Nil

**MATTERS RAISED BY MEMBERS**

**13. Questions with Notice**

Nil

**14. Motions with Notice**

**8.51pm Legal Fees**  
**Reference No: GC101115M01**

**Moved Councillor Appleby, Seconded Councillor Hull** that administration provide a report on the engagement of lawyers and their fees and include:

- Which law firms/ lawyers are used for different issues? Eg. planning, employment etc.
- What is the hourly rate or retainer in each case?
- How were the lawyers chosen? To what extent are lawyers selected on the basis of who staff feel comfortable consulting?
- What is the breakdown of lawyers selected from the panel relative to those who are not?
- Is there a database in any sense of legal advice received?

- Are there budgets ever imposed for legal matters? Is there a threshold legal expenditure figure at which matters are referred to the elected body?
- Evaluation of the practicality and value of sharing legal opinions (or extracts) with other councils on common issues, including at least the G6.
- Evaluation of the value of employing one or more lawyers, not necessarily fulltime.

**Carried Unanimously**

**8.52pm Oaklands Estate Reserve Toilet Block**  
**Reference No: GC10115M02**

**Moved Councillor Hull, Seconded Councillor Prior** that Council:

1. That the old brick toilet block in the grounds of the Oaklands Estate Reserve be condemned and closed immediately, that the Asset Sustainability Reserve be used to fund temporary toilets being made available for the visiting public until such time as a more suitable permanent toilet block is built on the site.

The motion was **Withdrawn**

**15. Questions without Notice**

Nil

**16. Motions without Notice**

**17. CONFIDENTIAL ITEMS**

9:14pm Councillor Prior declared a conflict of interest in the item 'Former Hallett Cove Library and Youth Services Building (GC101115F01)' due to a personal relationship and left the meeting.

9:14pm Councillor Veliskou left the meeting.

**9.14pm Former Hallett Cove Library and Youth Services Building**  
**Reference No: GC101115F01**

**Moved Councillor Crossland, Seconded Councillor Pfeiffer** that Council:

1. That pursuant to Section 90(2) and (3)(b) and (d) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Adrian Skull Chief Executive Officer, Vincent Mifsud General Manager Corporate Services, Abby Dickson Acting General Manager City Development, Kate McKenzie Manager Corporate Governance, John Valentine Manager Strategic Projects, Craig Clarke Unit Manager Communications and Deborah Horton Acting Unit Manager Council Support, be excluded from the meeting as the Council receives and considers information relating to the disposal of the former Hallett Cove Library (and Youth Services) building, and the appointment of commercial agent, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given

the information relates to a matter that could confer a commercial advantage to a third party and is of a commercial nature.

**Carried Unanimously**

9:15pm the meeting went into confidence.  
9:16pm Councillor Veliskou returned to the meeting.  
9:16pm Councillor Pfeiffer left the meeting.  
9:17pm Councillor Kerry left the meeting.  
9:20pm Councillor Kerry returned to the meeting.  
9:22pm Councillor Pfeiffer returned to the meeting.

**Moved Councillor Hutchinson, Seconded Councillor Appleby** that the item be adjourned to the next meeting of Council.

**Carried**

9:27pm the meeting came out of confidence.

**9.28pm Code of Conduct**  
**Reference No: GC101115F02**

9:28pm Councillor Hutchinson left the meeting.  
9:28pm Councillor Hutchinson and Councillor Prior returned to the meeting.

**Moved Councillor Westwood, Seconded Councillor Veliskou** that Council:

1. Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following [Adrian Skull, Chief Executive Officer; Vincent Mifsud General Manager Corporate Services; Abby Dickson Acting General Manager City Development; Kate McKenzie, Manager Governance; Craig Clark, Unit Manager Communications; and Deborah Horton, Acting Unit Manager Council Support], be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider information pertaining to Code of Conduct for Council Members issues.

**Carried**

9:30pm the meeting went into confidence.

9:31pm Councillor Kerry sought and was granted leave of the meeting to make a personal explanation in relation to this item.

9:32 pm Councillor Kerry declared a conflict in the matter and left the meeting.

**Moved Councillor Westwood, Seconded Councillor Gard** that Councillor Kerry be requested to offer an apology in writing for any offence caused to Ms Newman and Mr Smith (with a copy of such letters to be sent to the Mayor).

The motion was **Tied**  
The Mayor with casting vote, voted in the **Negative**  
The motion was **lost**

### **EXTENSION OF TIME**

**Moved Councillor Pfeiffer, Seconded Councillor Prior** that the meeting be extended to enable the current report and remaining confidential items on the Council agenda to be considered.

**Carried Unanimously**

**Moved Councillor Hull, Seconded Councillor Crossland** that:

1. Councillor Kerry be censured by the Mayor in writing for the specific allegation number six (an improper comment made to another member of the Development Assessment Panel).
2. Councillor Kerry be required to offer an apology in writing for any offence caused to Ms Newman and Mr Smith (with a copy of such letters to be sent to the Mayor).

**Carried**

10:15pm the meeting came out of confidence.

10:16pm Councillor Kerry returned to the meeting.

### **10.16pm Code of Conduct**

**Reference No: GC101115F03**

**Moved Councillor Pfeiffer, Seconded Councillor Hutchinson** that Council:

1. Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following [Adrian Skull, Chief Executive Officer; Vincent Mifsud General Manager Corporate Services; Abby Dickson Acting General Manager City Development; Kate McKenzie, Manager Corporate Governance; Craig Clark, Unit Manager Communications; and Deborah Horton, Acting Unit Manager Council Support], be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider information pertaining to Code of Conduct for Council Members issues.

**Carried Unanimously**

10.17pm the meeting went into confidence.

10:17pm Councillor Byram and Councillor Crossland declared a conflict of interest and left the meeting.

**Moved Councillor Gard , Seconded Councillor Westwood** that Council:

1. Informs Ms Dyer and Mr Cutting that Council deeply regrets in particular the misunderstanding which arose from Councillor Byram's text message in July regarding the design of the reserve street dog park.
2. Recognises the disappointment of the complainants as to Council's decision on the location of the dog park.
3. Resolves to take no further action with regard to the code of conduct complaints against Councillor Byram and Councillor Crossland.

4. Notes that a section 270 review of Council's decision regarding the reserve street dog park will be undertaken and trusts that this will address the broader concerns of the complainants.

**Carried**

10:34 pm the meeting came out of confidence.

**19. LATE ITEMS**

NIL

**20. MEETING CLOSURE**

**CLOSURE** - Meeting Declared Closed at 10.35pm

**CONFIRMED THIS 10 NOVEMBER 2015**

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**CHAIRPERSON**