

**MINUTES OF THE GENERAL COUNCIL MEETING
HELD AT ADMINISTRATION CENTRE
245 STURT ROAD, STURT
ON TUESDAY 14 FEBRUARY 2017**



PRESENT

His Worship the Mayor Kris Hanna

Councillors

Coastal Ward

Ian Crossland
Tim Gard

Mullawirra Ward

Jason Veliskou
Jerome Appleby

Southern Hills

Janet Byram
Nick Westwood

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 Tony Lines
Ms Jaimie Thwaites
Ms Sherie Walczak
Ms Victoria Moritz

Chief Executive Officer
General Manager City Development
General Manager Operations
Acting Manager Corporate Governance
Acting Unit Manager Governance & Records
Governance Officer

COMMENCEMENT

The meeting commenced at 6.31pm.

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.

ELECTED MEMBER'S DECLARATION OF INTEREST

The Chair asked if any Member wished to disclose an interest in relation to any item being considered at the meeting.

- No interests were declared

CONFIRMATION OF MINUTES

6.32pm Moved Councillor Hutchinson, Seconded Councillor Pfeiffer that the minutes of the General Council Meeting held on 24 January 2017 be taken as read and confirmed.

Carried Unanimously

DEPUTATIONS

Nil

PETITIONS

6.32pm Petition – McConnell Reserve Courts
Reference No: GC140217P01

Moved Councillor Crossland, Seconded Councillor Gard that Council:

1. Notes the petition and comments provided by Administration.
2. Requests the head petitioner be advised that Council has noted the petition.
3. Notes that McConnell Reserve Courts will be considered by Council as part of the Tennis and Netball review at the 28 February 2017 General Council meeting.

Carried Unanimously

6.32pm Petition – Resolute Crescent Reserve
Reference No: GC140217P02

Moved Councillor Crossland, Seconded Councillor Gard that Council:

1. Notes the petition and comments provided by Administration.
2. Requests the head petitioner be advised that Council has noted the petition.
3. Notes that a report on the removal of the playground at Resolute Crescent Reserve, Hallett Cove will be prepared for Council consideration at the conclusion on the Section 270 review.

Carried Unanimously

COMMITTEE RECOMMENDATIONS

Nil

WORKSHOP / PRESENTATION ITEMS

Nil

CORPORATE REPORTS FOR DECISION

6.33pm Section 270 Review – Removal of Playspace (Resolute Crescent, Hallett Cove) Report Reference: GC140217R01

Moved Councillor Crossland, Seconded Councillor Westwood that Council:

1. Note this update report.
2. A preliminary report entitled “*Section 270 Review – Removal of Playspace (Resolute Crescent, Hallett Cove)*” be presented to Council on 14 March 2017.

Carried Unanimously

6.35pm Update to the Schedule of Delegations – Local Nuisance and Litter Control Act 2016 Reference No: GC140217R02

Moved Councillor Veliskou, Seconded Councillor Westwood that Council:

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 Appendix 1 are hereby delegated this 14th day of February 2017 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.
 - i. Local Nuisance and Litter Control Act 2016 (Appendix 1).
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.

Carried Unanimously

6.36pm Constitution (Council Member Contesting Election) Amendment Bill 2016
Report Reference: GC140217R03

Moved Councillor Veliskou, Seconded Councillor Byram that Council:

1. Advise the Local Government Association that the City of Marion is supportive of the draft *Constitution (Council Member Contesting Election) Amendment Bill 2016* proposed by Hon Tung Ngo MLC.

Amendment

Councillor Veliskou with the consent of Councillor Byram sought and was granted leave of the meeting to vary the motion as follows:

1. Advise the Local Government Association and the Hon Tung Ngo MLC that the City of Marion is supportive of the draft *Constitution (Council Member Contesting Election) Amendment Bill 2016* proposed by Hon Tung Ngo MLC.

Carried

6.48pm 2nd Budget Review 2016/17
Report Reference: GC140217R04

6.49pm Councillor Kerry left the meeting

Moved Councillor Crossland, Seconded Councillor Gard that Council:

1. Adopt, as presented in Appendix 1, the revised budgeted statements including the Income Statement, Balance Sheet, Statement of Changes in Equity and Statement of Cash Flows.
2. Approves the transfer of the net proceeds from the sale of the Hallett Cove Library (\$1.560m) to the Asset Sustainability Reserve and the funds be quarantined to assist Council fund its long term Asset Management objectives.

Carried Unanimously

**6.53pm Corporate Performance Report (Organisational Key Performance Indicators 2016/17) –
2nd Quarter 2016-17 YTD**
Report Reference: GC140217R05

6.55pm Councillor Kerry re-entered the meeting

Moved Councillor Veliskou, Seconded Councillor Crossland that Council:

1. Note the Corporate Performance Report (Organisational Key Performance Indicators 2016/17) – 2nd Quarter 2016-17 YTD and Appendix 1.

Carried Unanimously

CORPORATE REPORTS FOR INFORMATION/NOTING

Nil

MATTERS RAISED BY MEMBERS

Motions with Notice

Opportunity to Email Rates Notices to Ratepayers Ref No: GC140217M01

This item was not considered

6.57pm Travers Reserve Land Ref No: GC140217M02

Moved Councillor Hutchinson, Seconded Councillor Crossland that Council:

1. Defers a decision on Travers Reserve sale until further information is gathered.
2. As the owner of the land seek a report from a qualified Landscape Architect on the amenity value of the tree and thereafter lodge a new application with this report being furnished with the application.

7.02pm Councillor Hull left the meeting and did not return

7.11pm Councillor Westwood left the meeting

Carried

7.13pm Hallett Cove Foreshore Ref No: GC140217M03

7.14pm Councillor Westwood re-entered the meeting

Moved Councillor Crossland, Seconded Councillor Gard that Council amends the endorsed concept plan and subsequent detailed design documentation by making provisions for the following scope of works;

- Additional 1000m² of turf and shrub plantings to the stepper batters which supports practical maintenance
- Turf areas located to continue the amphitheatres functional space further south
- Shrub planting to provide screening and amenity to the periphery of the turf area and to buffer surrounding residents
- Shrub planting to control pedestrian movement towards the pathways minimising goats track formation

for an increased Cost of:

- Capital: \$102,650
- Increased Operating and Maintenance: \$4,762 per annum

Carried Unanimously

Questions with Notice

7.23pm Art of Respect

Reference No: GC140217Q01

QUESTION: How much money has been spent on the Art of Respect since 2009/2010 FY (broken down by FY) including:

1. How much CoM has spent for launches, purchasing and installation;
2. What external funding was provided from grants during each of the FY's?
3. How much staff time has gone into this program each FY?

COMMENTS: Councillor Luke Hutchinson

Nil

COMMENTS: Liz Byrne, Manager Community and Cultural Services

The Art of Respect program provides aerosol art workshops run by professional and peer trained artists, culminating in an opportunity to exhibit participants work either in a gallery setting or as a public mural. The program aims to foster respect between the community and young artists, develop their artistic skills, recognise aerosol art as a valid artistic medium and provide a positive platform for the young people to express themselves.

1. The Art of Respect program is in its twelfth year and the total expenditure/budget since 2009/2010 is as follows:

Table 1

2009/10	\$ 9,506
2010/11	\$ 4,779
2011/12	\$ 5,437
2012/13	\$ 2,694
2013/14	\$ 8,774
2014/15	\$ 7,272
2015/16	\$ 5,229

Expenditure includes workshop materials (canvases, paints), artist fees, catering, advertising and costs for launches.

Expenditure for Launches, including Hire of Gallery M, invitation printing, catering and installation materials each year (included in the totals in Table 1) is as follows:

Table 2

Year	Amount	Notes
2009/10	\$1687	Reconciliation Exhibition at Gallery M and Launch at Hallett Cove shopping Centre
2010/11	\$121	Outdoor exhibition associated with Tram Stop 6 mural
2011/12	\$602	Exhibition at Living Kaurna Cultural Centre
2012/13	No launch	Mural project on toilets
2013/14	\$712	Expressway bridge mural
2014/15	\$870	10 th Anniversary Exhibition in Gallery M
2015/16	\$140	Exhibition in Chambers Gallery

NB: when the launches are held in Gallery M, in-kind support is received from Patritti Wines towards catering as per usual Gallery M arrangements.

2. External funding for additional mural programs utilising the same Art of Respect model was sought and received during this time period as follows:

Table 3

Year	Amount	Funds received from	Project
2010/2011	\$10,850	Attorney General's Department	Tram Stop 6 mural
2013/2014	\$11,831 (spent \$9,522)	Attorney General's Department	TAKE PART Community mural project at Trott Park Neighbourhood Centre

These amount are over and above the figures in Table 1

3. The program is a collaboration between the Community Health and Safety Team's Graffiti Program and the Arts and Cultural Development Team's Community Arts program. Staff spend approximately 230 hours per year and this includes program planning, artist contract management and project management, facilitation of workshops, marketing, organisation of launches and on-going communication with the participating youth and artists.

7.23pm Street Trees Forming a Partial or Full Canopy Reference No: GC240117Q02

QUESTION: By percentage how many of the Cities street trees have any realistic prospect of forming (1) a partial street canopy and (2) a complete street canopy?

COMMENTS: Councillor Bruce Hull

Nil

COMMENTS: David Sheldrick, Coordinator Arboriculture

The following table (Appendix 1 to report GC140217Q02) lists the street tree species planted throughout the City of Marion and the amount and percentages each contributes to the street tree population. The fourth and fifth columns consider each species ability to achieve a full or partial street canopy.

A full street canopy exists when the crowns of two street trees meet in the centre of the road, a partial canopy exists when two crowns do not meet at maturity. Such a measurement considers size of tree species at maturity (within a street environment), average local road width and the typical Local Government street tree maintenance requirements over the life of a tree.

The City of Marion has approximately 28,500 trees. Of these, approximately 64% could achieve at least a partial street canopy, and 27% could achieve a full street canopy.

Ann Gibbons, Environmental Sustainability Manager

An analysis of urban thermal imagery¹ completed by consultants, ArborCarbon, for the Resilient South Program in 2016 showed that the suburbs of Ascot Park, Clovelly Park, Mitchell Park and O'Halloran Hill had the hottest mean surface temperatures in the City of Marion.

One of the best ways to reduce the urban heat island effect is by increasing the amount of vegetation in a city. Public parks, remnant vegetation, residential gardens, nature strips, street trees, green roofs, green walls, and rain gardens all play a part in keeping the temperatures of a city down and improving its liveability.

A study² by Institute for Sustainable Futures (UTS) in 2014 showed that South Australia's metropolitan areas are marked by relatively low levels of tree canopy when compared to other Australian capitals. Of the assessed LGAs, tree canopy ranges from 44% in the Adelaide Hills to 12% in Port Adelaide Enfield; the City of Marion had 15% tree canopy cover.

Further analysis will be required to more accurately determine the precise relationships between vegetation cover types (i.e. canopy versus non-canopy) and surface temperature; this information could then be used to develop KPIs for vegetation/canopy cover in different land use zones, including streets, across the city.

1 ArborCarbon Pty Ltd 'Urban Thermal Imagery and Analysis 2016' prepared for Resilient South, May 2016 (http://www.onkaparingacity.com/onka/living_here/sustainable_onkaparinga/climate_change/resilient_south/project_outputs.jsp - accessed 8 Feb 2017)

2 Jacobs, B., Mikhailovich, N., and Delaney, C. (2014) Benchmarking Australia's Urban Tree Canopy: An i-Tree Assessment, prepared for Horticulture Australia Limited by the Institute for Sustainable Futures, University of Technology Sydney. (http://202020vision.com.au/media/7141/benchmarking_australias_urban_tree_canopy.pdf - accessed 8 Feb 2017)

Questions without Notice

Nil

Motions without Notice

Nil

CONFIDENTIAL ITEMS

7.23pm Subject: Code of Conduct Complaint Ref No: GC140217F01

Moved Councillor Westwood, Seconded Councillor Pfeiffer that:

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; Abby Dickson, General Manager City Development; Jaimie Thwaites, Acting Manager Corporate Governance; Robert Tokely, Team Leader - Planning], 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

7.25pm the meeting went into confidence.

Councillors Hutchinson and Kerry sought and were granted leave of the meeting to give individual personal explanations regarding the item.

Councillor Hutchinson gave a personal explanation in relation to the item *claiming*:

- Take the report as read.
- Councillor Kerry sought retribution against him for reasons originally unknown but later assumed to be in response to his previous public censure.
- Councillor Kerry belittles his contribution to DAP.
- Was approached by Councillor Kerry in the car park after the meeting on 21 December stating "You will be getting a letter from my lawyer" which was interpreted as threatening behaviour.
- Believes Councillor Kerry's behaviour is unprofessional, bullying and undermines the public value and integrity of the DAP.
- Contends that he has been very inclusive of all Councillors (including Councillor Kerry) on different matters.

Councillor Kerry gave a personal explanation in relation to the item *claiming*:

- He received a phone call from the Mayor last night and thought the issue was going to be resolved. He was willing to be conciliatory.
- The issue originates back to Councillor Hutchinson putting Councillors Westwood and Kerry in a difficult position regard a telecommunications tower application going to DAP.

- He has raised the telecommunications tower issue with the Ombudsman.
- Councillor Hutchinson has waged a vindictive campaign against him (asking questions about alias's and use of Elected Member room technology).
- Does not have an interest or business relationship with any developers.
- The Chief Executive Officer has better things to do than looking into frivolous and vexatious matters
- Energy should be spent on solar panels and other energy generation technology not Elected Member Codes of Conduct
- Councillor Hutchinson's allegations against him are untrue and trivial

Councillors Hutchinson and Kerry declared a conflict of interest in matter on the basis that the report related to Code of Conduct complaints made about their behaviour and they left the meeting.

7.44pm Councillors Hutchinson and Kerry left the meeting

Moved Councillor Pfeiffer, Seconded Councillor Veliskou that the meeting procedures be suspended.

Carried Unanimously

8.36pm formal meeting procedures suspended.

8.49pm formal meeting procedures resumed.

Moved Councillor Crossland, Seconded Councillor Prior that:

1. Both Elected Members be recommended to attend independent mediation (separately and together) in an attempt to reconcile their differences. Costs associated with the mediation will be paid by Council.
2. A summary of the mediation outcome is referred back to Council for further consideration.
3. Council determines that Councillor Kerry has breached the following Section of the Code of Conduct for Council members:

2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.

Amendment:

Moved Councillor Westwood, Seconded Councillor Gard that:

1. Both Elected Members be recommended to attend independent mediation (separately and together) in an attempt to reconcile their differences. Costs associated with the mediation will be paid by Council.
2. A summary of the mediation outcome is referred back to Council for further consideration.
3. Council determines that Councillor Kerry and Councillor Hutchinson have breached the following Section of the Code of Conduct for Council members:

2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.

The amendment was **Lost**
The Original motion was **Tied**
The Mayor gave his casting vote and voted for of the motion
Carried

Letter Tabled

At the request of Councillor Kerry, the Chief Executive Officer tabled Councillor Kerry's written resignation (received on 14 February 2017) from the Development Assessment Panel. A copy of the letter is attached as appendix 1 to these minutes (confidential).

Moved Councillor Crossland, Seconded Councillor Prior that:

1. Council accepted Councillor Kerry's resignation from the Development Assessment Panel and takes no further action (other than mediation) in relation to the breach
2. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that appendix 1 to the minutes arising from the report "Code of Conduct Complaint" having been considered in confidence under Section 90(2) and (3)(a) of the Act be kept confidential and not available for public inspection for the current term of the Council. This confidentiality order will be reviewed as required by the Act with the first such review to occur at the General Council Meeting in December 2017.

Carried

9.10pm the meeting came out of confidence

9.11pm Councillors Hutchinson and Kerry re-entered the meeting

OTHER BUSINESS

Mr Adrian Skull gave a verbal update regarding the Development Assessment Panel – Vacancy for independent members

CLOSURE - Meeting Declared Closed at 9.13pm.

CONFIRMED THIS 28 FEBRUARY 2017

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CHAIRPERSON

Appendix 1 – Correspondence (confidential)