

MINUTES OF
CONFIDENTIAL ITEM

12.20pm Section 48 Prudential Report – BMX Confidential
Report Reference: FAC101017R8.14

Moved Ms Hinchey, Seconded Ms Presser that the Finance and Audit Committee pursuant to Section 90(2) and (3)(b)(i)(ii) of the *Local Government Act 1999*, the Finance and Audit Committee orders that all persons present, with the exception of the following persons: Councillor Janet Byram, Adrian Skull, Chief Executive Officer; Vincent Mifsud, General Manager Corporate Services; Abby Dickson, General Manager City Development, Mat Allen, Acting General Manager City Services, Kate McKenzie, Manager Corporate Governance; Greg Salmon, Manager City Activation, Ray Barnwell, Manager Finance and Contracts, Phil Freeman (Office of rec and sport) and Geoff Norris (Onkaparinga) be excluded from the meeting as the Council receives and considers information relating to Section 48 Prudential Report – BMX Confidential, upon the basis that the Finance and Audit Committee 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 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 would on balance, be contrary to the public interest.

Carried Unanimously

12.20 pm the Committee moved into confidence

The Committee noted the draft report and the potential for a funding shortfall of up to \$4.1m. This funding gap creates a significant budget risk to this project. It was noted that management are working to reduce the costs of the project but the major issues relate to:

- soil quality
- soil removal
- project scope, in particular the club room design.

The Committee noted:

- There is goodwill from all parties involved for a successful outcome
- The draft Section 48 Prudential Report highlights a number of on-going management issues
- Other sites/locations are being explored within the City of Onkaparinga.

The Committee queried as to who would be responsible for managing the facility if it were located in Onkaparinga? This was yet to be determined.

The report also looked at the capital investment and ongoing costs as the funding agreement clearly states that the contribution from each Council of \$750k plus \$2m (total \$3.5) from the State Government was to fund the build of the track. The funding agreement does not cover other capital investment which would enhance the use of the track.

The Committee noted the full cost of the project had been estimated at approximately \$7.65m and queried how the project had blown out so significantly. Advice was provided that the \$3.5m had been based on a similar track built in Bathurst. Council was under pressure to complete the funding agreement before the end of the financial year but had not completed site investigations, a prudential report or received any formal cost estimates for the project (which would be the usual process). Councillor Byram advised the Committee that a further \$1m contribution was potentially available from the Office of Recreation and Sport but had not yet been applied for.

12.31 pm CEO left the meeting and did not return

The Committee queried that if the funding shortfall cannot be addressed, what are the options for Council? Management confirmed that there is a clause within the funding agreement that provides Council with the option to exit the agreement. The Committee also suggested that there are some assumptions within the report that could lead to the potential for the risk to be higher.

The Committee queried what was going to happen with the current BMX tracks? Management advised that Council had not yet made a decision regarding this, but if it was to be decommissioned, these costs are not included within the prudential report.

The Committee advised that the current financial risks are too high and recommended that further review work take place on analysing the costs and the scope of works, keeping in mind the requirements/standards of the Union Cyclist Internationale (UCI) events. If the facilities are reduced to a substandard level, the likelihood of attracting these events would be significantly diminished.

The Committee noted that the Minister is aware of the funding shortfall and the Minister is also keen to see more events within South Australia. He is supportive of the model with two Councils working together, with two clubs working together and for the facility to be built on State Government land.

It was suggested that the two Council's may need to consider a higher financial contribution.

It was noted that further work is required as currently the required budget does not match with the project's intentions as more would be expected from a \$7.65 community project. The Committee also suggested pursuing a corporate sponsor.

Moved Ms Hinchey, Seconded Ms Presser that the Finance and Audit Committee:

1. Notes that a final Section 48 Prudential report with further detail and analysis will be presented to the Committee if the ongoing investigations lead to a viable proposal, anticipated to be put forward at the 12 December 2017 meeting. This would need to ensure that all risks are captured and accurately assessed, including reputational risks and building contingency.
2. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Committee orders that this report, Section 48 Prudential Report – BMX Confidential and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(i)(ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2017.

Carried Unanimously

12.44 pm the meeting came out of confidence

12.44 pm Moved Ms Presser, Seconded Councillor Kerry that the meeting be extended to 1pm.

Carried Unanimously

**12.44pm 73 Cove Road, Marino
Report Reference: FAC101017R8.15**

Moved Councillor Kerry, Seconded Ms Hinchey that the Finance and Audit Committee pursuant to Section 90(2) and 3(a) and (3)(h)(i) of the *Local Government Act 1999*, the Finance and Audit Committee orders that all persons present, with the exception of the following persons: Abby Dickson, General Manager City Development; Vincent Mifsud, General Manager Corporate Services, Mat Allen, Acting General Manager City Services, Kate McKenzie, Manager Corporate Governance, Sherie Walczak, Unit Manager Risk be excluded from the meeting as the Finance & Audit Committee receives and considers information relating to 73 Cove Road Marino, upon the basis that it 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 information the disclosure of which would involve the unreasonable disclosure of information concerning the person affairs of any person (living or dead); and information relating to actual litigation, or litigation that the Finance and Audit Committee believes on reasonable grounds will take place, involving the Council or an employee of the Council.

Carried Unanimously

12.45 pm The Committee moved into confidence

Management advised that this matter was being reported to the Committee due to the risks associated with the development at 73 Cove Road, Marino. It was noted that this planning matter first started in 2011. The development in question had been approved by Council's Development Assessment Panel (DAP) on three occasions and the neighbours had appealed the decisions through the Environment, Resources and Development (ERD) Court.

In January 2017, the ERD Court considered a previous consent issued by Council's DAP and determined it should not have been granted. The Court therefore quashed the consent and therefore issued a demolition order.

The Committee noted that this was an unusual ruling and Council had not experienced a decision like this before. The Committee noted that Council's legal fees on the matter were currently around \$120k. These costs were associated with the ERD appeal which are not able to be claimed back.

The Committee noted that any claim against Council from either party are insured and the Local Government Association Mutual Liability Scheme (LGA MLS) has been working with Council to ensure that the risk and cost exposures are limited as much as possible.

Management are working closely with the LGA MLS to seek a resolution to the matter.

Moved Councillor Kerry, Seconded Ms Hinchey, that the Finance and Audit Committee, in accordance with Section 91(7) and (9) of the Local Government Act 1999 the Committee orders that this report, 73 Cove Road Marino and the minutes arising

from this report having been considered in confidence under Section 90(2) and (3)(i)(ii) of the Act, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2017.

Carried Unanimously

1.00 pm the Committee came out of confidence

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