

**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 11 SEPTEMBER 2018
36 NAIRNE ROAD WOODSIDE**

In Attendance

Presiding Member: Mayor Bill Spragg

Members:

Councillor	Ward
Councillor Ron Nelson Councillor Jan-Claire Wisdom	Manoah
Councillor Ian Bailey Councillor Jan Loveday	Marble Hill
Councillor Nathan Daniell Councillor John Kemp	Mt Lofty
Councillor Lynton Vonow	Onkaparinga Valley
Councillor Linda Green Councillor Malcolm Herrmann	Torrens Valley

In Attendance:

Andrew Aitken	Chief Executive Officer
Terry Crackett	Director Corporate Services
Peter Bice	Director Infrastructure & Operations
Marc Salver	Director Development & Regulatory Services
David Waters	Director Community Capacity
Lachlan Miller	Executive Manager Governance & Performance / Minute Secretary
John McArthur	Manager Waste & Emergency Management
Natalie Westover	Manager Property Services
Sharon Leith	Strategic and Sustainability Officer
Steven Watson	Governance and Risk Coordinator

1. COMMENCEMENT

The special council meeting commenced at 6.32pm

2. OPENING STATEMENT

“Council acknowledges that we meet on the traditional lands of the Peramangk and Kaurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children’s ability to live on this land”.

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3. APOLOGIES/LEAVE OF ABSENCE

3.1 Apology

Councillor Kirrilee Boyd
Councillor Andrew Stratford

3.2 Leave of Absence

Nil

3.3 Absent

Nil

4. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

4.1 Nil

5. PUBLIC FORUM

Heath Sandiland – Pomona Road Bike Track
Elaine Anderson - Pomona Road Bike Track

6. BUSINESS OF THE MEETING

6.1 Pomona Road Bike Track Trial

Moved Cr Ian Bailey
S/- Cr Nathan Daniell

That:

1. The report be received and noted.
2. Council support a trial of a BMX facility in Stirling, within the Service Women's War Memorial Reserve (adjacent Pomona Road)
3. A report is prepared to Council by 26 November 2019 on completion of the trial.

Variation

With consent from the mover and seconder leave of the meeting was granted to vary the motion as follows:

4. Other sites for BMX Tracks be explored in the Adelaide Hills Council area and be included in the report to Council by 26 November 2019.

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Variation

With consent from the mover and seconder leave of the meeting was granted to vary the motion as follows:

5. The CEO continues conversations with the RSL to agree on ways to further acknowledge and appreciate the Service Women's War Memorial.

Motion as varied

**Moved Cr Ian Bailey
S/- Cr Nathan Daniell**

223/18

That:

1. **The report be received and noted.**
2. **Council support a trial of a BMX facility in Stirling, within the Service Women's War Memorial Reserve (adjacent Pomona Road)**
3. **A report is prepared to Council by 26 November 2019 on completion of the trial.**
4. **Other sites for BMX Tracks be explored in the Adelaide Hills Council area and be included in the report to Council by 26 November 2019.**
5. **The CEO continues conversations with the RSL to agree on ways to further acknowledge and appreciate the Service Women's War Memorial.**

Carried Unanimously

Leave of the meeting granted to bring Item 6.5 forward in the agenda.

6.5 Draft Gumeracha Main Street Masterplan

**Moved Cr Malcolm Herrmann
S/- Cr Linda Green**

224/18

That:

1. **The report be received and noted.**
2. **Council endorses a broader community engagement process from 11 October to 2 November 2018 to enable the local community to provide feedback on the outcomes within the draft Masterplan.**
3. **The Chief Executive Officer be authorised to consider and respond to minor changes to the draft Masterplan and to timing, advertisements and extent of the broader community engagement process.**
4. **A report is provided back to Council by January 2019.**

Carried Unanimously

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Leave of the meeting granted to bring Item 6.7 forward in the agenda.

6.7 Draft Gumeracha Precinct Federation Park and Oval Masterplan

Moved Cr Malcolm Herrmann

S/- Cr Linda Green

225/18

That:

1. The report be received and noted.
2. Council endorse a broader community engagement process from 11 October to 2 November 2018 to enable the local community to provide feedback on the outcomes within the draft Masterplan.
3. The Chief Executive Officer be authorised to consider and respond to minor changes to the draft Masterplan and to the timing, advertisements and extent of the broader community engagement process.
4. A report is provided back to Council by January 2019.

Carried Unanimously

6.2 Parliamentary Inquiry into the Heritage System regarding Places or Objects

Moved Cr Linda Green

S/- Cr John Kemp

226/18

Council resolves:

1. That the report be received and noted
2. To approve the submission on the South Australian Environment, Resources and Development Committee Inquiry into the Heritage System as detailed in Appendix 2 of the report subject to the inclusion of the following words:
 - a. That the submission be amended to include the following words to be inserted in the first line of point b. under Inquiry Point 2, to read as follows:

“Council considers that anyone seeking heritage listing of a place should have the right to be heard in support of their submission. In addition if a landowner is not a party to the nomination than they too should have the right to be heard in support of their position.”

- b. That the submission be amended to include the following words to be inserted after the first paragraph under Inquiry Point 4:

“It is noted that there is a perception that heritage listing is an impediment for owners to maintain or repair their heritage places. This perception has led in some cases to unexpected consequences whereby owners of buildings nominated for heritage listing have declared that if their building was to be approved for listing, they would not continue to look after the building and they

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would let it decay or fall in to a state of disrepair. This is clearly not the intent of heritage listing, and it is therefore suggested that the Inquiry look at ways to educate owners of heritage buildings, as a way to break down any misconceptions that owners may have toward Heritage protection and also to promote Heritage listing as an inherently positive outcome for the owner and the community for any building deemed worthy of protection.”

Carried Unanimously

6.3 AHBTC Divestment Update

Moved Cr Ian Bailey
S/- Cr Nathan Daniell

227/18

That the report be received and noted.

Carried Unanimously

6.4 2017-18 Preliminary End of Year Financial Results and Carry Forwards

Moved Cr John Kemp
S/- Cr Ron Nelson

228/18

That:

1. The report be received and noted.
2. The Preliminary End of Year Results for 2017-18 is noted.
3. Carry forward projects from 2017-18 totalling an amount of \$2.091m of expenditure and \$1.451m of income (Attachments 2 and 3 to this report) be approved.
4. The 2018-19 Proposed Budgeted Uniform Presentation of Finances reflecting a Budgeted Operating Surplus of \$302k before Capital Revenue and revised Net Borrowings of \$4.333m as summarised in Attachment 4 to this report be adopted.

Carried Unanimously

6.5 Item 6.5 was considered earlier in the meeting.

6.6 Road Exchange McBeath Drive, Skye Horsnell Gully

Moved Cr John Kemp
S/- Cr Lynton Vonow

229/18

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That:

1. The report be received and noted.
2. In accordance with sections 12 and 15 of the Roads (Opening and Closing) Act 1991, as regards the land within the Adelaide Hills Council area, enter into an Agreement for Exchange with Boral Resources (SA) Ltd and issue a Road Process Order to open as road portions of Section 906 Hundred of Adelaide numbered "1", "2" and "3" on Preliminary Plan No. 17/0066 (Appendix 1) and in exchange to close portions of McBeath Drive marked "A", "B", "C" and "D" on Preliminary Plan No. 17/0066, subject to the following:
 - a. Boral Resources (SA) Ltd agreeing to pay all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs;
 - b. Boral Resources (SA) Ltd agreeing to pay all costs associated with a Council boundary adjustment between Adelaide Hills Council and the City of Burnside to rectify the resulting Council boundary anomaly from the road exchange process
3. The closed road is excluded as Community Land pursuant to the *Local Government Act 1999*.
4. Council approves the sale of the differential between the total area of closed road and the total area of opened road of approximately 1,242m² to Boral Resources (SA) Ltd for the amount of \$6,210 as determined by an independent valuation.
5. Subject to the successful completion of the road exchange process, Council undertakes a process in conjunction with the City of Burnside to realign the local government boundary along the new location of McBeath Drive to the south side of pieces 42, 52 and 62 of the proposed residential allotments in accordance with the provisions of the *Local Government (Boundary Adjustment) Amendment Act 2017* (to commence on 1 January 2019) and/or Part 2 of Chapter 3 of the *Local Government Act 1999*.
6. The Mayor and Chief Executive Officer be authorised to sign all documents necessary, including affixation of the common seal, to give effect to this resolution. .

Carried Unanimously

6.7 Item 6.7 was considered earlier in the meeting.

6.8 Burials outside Cemeteries Policy

Moved Cr John Kemp
S/- Cr Ron Nelson

230/18

That:

1. The report be received and noted.

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2. The Burials outside Cemeteries Policy as provided as Appendix 1 is endorsed for community consultation.
3. That the CEO be authorised to consider and respond to minor changes to the draft Policy and to the timing, advertisements and extent of the broader consultation process.

Carried

6.9 Exclusion of Community Land – Crafers Retirement Village

Moved Cr John Kemp
S/- Cr Ian Bailey

231/18

That:

1. The report be received and noted.
2. To exclude the land identified as Allotment 121 on the plan attached as Appendix 1 as Community Land pursuant to the Local Government Act 1999 when the land is vested in the Adelaide Hills Council as a land grant from the Crown

Carried Unanimously

Cr Lynton Vonow left Chamber at 7.55pm

6.10 Revocation of Community Land – Bridgewater Retirement Village

Cr Lynton Vonow returned to the Chamber at 7.57pm

Moved Cr Ian Bailey
S/- Cr Lynton Vonow

232/18

That:

1. The report be received and noted.
2. To commence a process to revoke the Community Land classification of the land located on the corner of Mt Barker Road and Second Avenue Bridgewater known as 511 Mt Barker Road Bridgewater contained in Certificate of Title Volume 5488 Folio 788 (Land) on which a portion of the Bridgewater Retirement Village is located by:
 - a. Preparing a report as required under section 194(2)(a) of the Local Government Act 1999 and making it publicly available.
 - b. Undertaking consultation in accordance with its Public Consultation Policy as required under section 194(2)(b) of the Local Government Act 1999.
3. To commence a process to vary the charitable trust affecting the Land by investigating land parcels owned by the Adelaide Hills Council, including Carripook Park, Candlebark Reserve and Vincent Playground Reserve, that may be suitable for the development of a landscaped garden for the benefit of the community and for the construction of a memorial to the Ash Wednesday Bushfires of 1983 as

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contemplated by the charitable trust over the Land and invite community suggestions and feedback in relation to any appropriate land parcels.

4. To approve a budget allocation in the amount of \$10,000 for legal expenses for the preparation of an Application to the Supreme Court to vary the charitable trust.
5. That a further report be presented to Council for consideration after community consultation and further investigations have been completed

Carried Unanimously

6.11 Road Closure Glenside Lane, Crafers

Moved Cr John Kemp

S/- Cr Linda Green

233/18

That:

1. The report be received and noted.
2. Subject to there being no objections lodged during the public notification period, to make a Road Process Order pursuant to the Roads (Opening & Closing) Act 1991 in accordance with the Preliminary Plan attached to this report as Appendix 2 as follows:
 - a. to close and merge the piece of land identified as "A" in the Preliminary Plan with Allotment 105 in Deposited Plan No 42581 comprised in Certificate of Title Volume 5291 Folio 390;
 - b. to close and merge the pieces of land identified as "B" and "D" in the Preliminary Plan with Allotment 103 in Deposited Plan No 42581 comprised in Certificate of Title Volume 5291 Folio 388; and
 - c. to close and merge the pieces of land identified as "C" and "E" in the Preliminary Plan with Allotment comprising pieces 101 and 102 in Deposited Plan No 42581 comprised in Certificate of Title Volume 5281 Folio 387.
3. Subject to issue of a Road Process Order in accordance with the Preliminary Plan, that:
 - The closed road be excluded as Community Land pursuant to the Local Government Act 1999; and
 - The piece marked "A" be sold to Mr Ken Lehmann and Mrs Nydia Lehmann, the owners of Certificate of Title Volume 5291 Folio 390 for the amount of \$46,500 plus GST (if applicable) and all fees and charges associated with the road closure process.
 - The pieces marked "B", "C", "D" and "E" be sold to Mr Mark Edward Penfold Jolly, Mr Christopher Rawson Penfold Jolly and Mrs Angela Evelyn Penfold Foley, as Executors for the Estate of the Late Marjorie Anne Patterson Jolly, the owners of Certificates of Title Volume 5291 Folios 387 and 388 for the amount of \$45,500 plus GST (if applicable) and all fees and charges associated with the road closure process.

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4. Authorise the Chief Executive Officer to finalise and sign all necessary documentation to give effect to this resolution.

Carried Unanimously

6.12 Sale of closed unnamed road off Burton Road, Mt Torrens

Moved Cr Malcolm Herrmann
S/- Cr Ian Bailey

234/18

That:

1. The report be received and noted.
2. To sell the land comprised in Certificate of Title Volume 6191 Folio 688 known as Closed Road U in Road Plan No. 1793 and identified on the plan attached as Appendix 1 (Land) for the amount of \$9,500 (exclusive of GST) to the adjoining land owner R T & T L Gladigau.
3. To delegate to the Chief Executive Officer to sign all documentation necessary to effect the sale of the Land.

Carried Unanimously

6.13 Sale of closed unnamed road off McVitties Road, Birdwood

Moved Cr John Kemp
S/- Cr Linda Green

235/18

That:

1. The report be received and noted.
2. To sell the land comprised in Certificate of Title Volume 6193 Folio 468 known as Closed Road S in Road Plan No. 1793 and identified on the plan attached as Appendix 1 (Land) for the amount of \$8,500 (exclusive of GST) to the adjoining land owner Talunga Pty Ltd.
3. To delegate to the Chief Executive Officer to sign all documentation necessary to effect the sale of the Land.

Carried Unanimously

6.14 East Waste Kerbside Recycling Contract

Cr Ian Bailey left the Chamber at 8.09pm
Cr Ian Bailey returned to the Chamber at 8.11pm

Moved Cr Linda Green

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S/- Cr John Kemp

236/18

Council resolves:

1. That the report be received and noted.
2. To note the inclusion of Council's annual kerbside recycling tonnes in the forthcoming East Waste request for tender process for the receipt and processing of Member Councils' recycling material.

Carried Unanimously

Cr Jan-Claire Wisdom left the chamber 8.15pm

Cr Jan-Claire Wisdom returned to the chamber 8.16pm

7. Former Ashton Landfill

RELEASED 22 OCTOBER 2019

7.1.1 Ashton Landfill – Exclusion of the Public

Moved Cr Nathan Daniell

S/- Cr John Kemp

237/18

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Infrastructure & Operations, Peter Bice
- Director Development & Regulatory Services, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community Capacity, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Manager Waste and Emergency Management, John McArthur
- Governance and Risk Coordinator, Steven Watson
- Council's Legal Advisor, Stephen Williams (Norman Water House)

be excluded from attendance at the meeting for Agenda Item 7.1 (Ashton Landfill) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(i) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council, the

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disclosure of which could reasonably be expected to prejudice the commercial position of person/agency/business involved with any litigation that may be undertaken.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Carried Unanimously

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RELEASED 22 OCTOBER 2019

7.1.2 Ashton Landfill – Confidential Item

Moved Cr Jan Loveday
S/- Cr John Kemp

238/18

That:

- 1. The report be received and noted.**
- 2. Council takes all reasonable actions, including initiating legal proceedings to recover losses associated with an alleged breach of contract by Tonkin Consulting when designing and overseeing slip remediation works they undertook during 2013 and 2014 at the former Ashton Landfill allegedly leading to a further landfill cap slip in 2015.**
- 3. The Chief Executive Officer is delegated to undertake all necessary actions to affect this resolution.**

Carried Unanimously

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RELEASED 22 OCTOBER 2019

7.1.3 Ashton Landfill – Period of Confidentiality

Moved Cr Ian Bailey

S/- Cr Ron Nelson

239/18

That:

1. Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 7.1 in confidence under sections 90(2) and 90(3) (i) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until 10 September 2019.
2. Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.

Carried Unanimously

8. CLOSE SPECIAL COUNCIL MEETING

The meeting closed at 8.21pm.