

## NOTICE OF MEETING

Notice is hereby given to His Worship the Mayor and Councillors  
that the next meeting of Council will be held in the  
Alexandrina Council Community Chambers "*Wal Yuntu Warrin*"  
11 Cadell Street, Goolwa  
on Monday 21 January 2019  
commencing at 5:00 pm

Your attendance is requested.

- 4:00 pm - Address by retiring Chair of Alexandrina Council Audit  
Committee, Mr John Comrie
- 4:30 pm - Afternoon tea

Glenn Rappensberg  
Chief Executive Officer

16 January 2018

**ALEXANDRINA COUNCIL**

**AGENDA FOR THE COUNCIL MEETING  
TO BE HELD ON MONDAY 21 JANUARY 2019 COMMENCING AT 5.00PM  
IN THE COUNCIL COMMUNITY CHAMBERS "WAL YUNTU WARRIN" GOOLWA**

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**REPORT AND AGENDA  
FOR THE COUNCIL MEETING TO BE HELD ON  
MONDAY 21 JANUARY 2019  
IN THE ALEXANDRINA COUNCIL COMMUNITY CHAMBERS  
"WAL YUNTU WARRIN", 11 CADELL STREET, GOOLWA,  
COMMENCING AT 5:00 PM**

An audio recording of this meeting is being made for minute-taking purposes and will last the length of the open meeting. The audio file will be available on the Council website after the draft Minutes have been circulated

**PRESENT**

**APOLOGIES**

**IN ATTENDANCE**

**GALLERY**

**LOCAL GOVERNMENT PRAYER**

**Almighty God, we humbly beseech thee to grant thy blessing upon the works of this Council, guide us in our deliberations for the advancement and the true welfare of the people of the district.**

**ACKNOWLEDGMENT OF TRADITIONAL OWNERS**

**The Alexandrina Council and its communities acknowledge the Ngarrindjeri people as the traditional custodians of the lands and waters of our Council district.**

**CONFLICT OF INTEREST**

Elected Members are reminded of the requirements for disclosure by Members of any conflict of interest in items listed for consideration on the Agenda.

Section 74 of the Local Government Act 1999 requires that Elected Members declare any interest and provide full and accurate details of the relevant interest to the Council prior to consideration of that item on the Agenda.

Each Member of a Council has a duty to vote at all meetings unless excepted by legislation.

The major exception being where a Member has a conflict of interest.

**1. CONFIRMATION OF MINUTES**

Minutes of the Alexandrina Council meeting held on Monday 17 December 2018.

**Recommendation**

**That the Minutes of the Alexandrina Council meeting held on Monday 17 December 2018, as circulated to members, be received as a true and correct record.**

**2. ADJOURNED DEBATE**

Nil

**3. QUESTIONS WITHOUT NOTICE**

**4. QUESTIONS WITH NOTICE**

**4.1 Cr Farrier - Questions with Notice - Expenditure Spent on Consultants**

**File Ref: 9.24.003**

**Questions**

- 1. How much has the Alexandrina Council spent on consultants (which should include Legal, Technical/Engineering, Financial, Corporate/Recruitment, Media and Advertising advisers) in the last four finance years?**
- 2. How does our expenditure compare to the figure quoted in the Advertiser 25/12/18 of 21 Million dollars as a ratio of rateable revenue/income for both Councils?**

## Background

A few weeks ago, a councillor for the Adelaide Council asked a question of the executive. "How much has the Adelaide city Council spent on consultants in the past four financial years"? (It was 21 Million Dollars).

## Officer Comment

Alexandrina Council has spent an average of \$1.37 million per annum on consultants over the past 4 financial years, at a total cost of \$5.5 million. Over the last two financial years the average has decreased to \$1.34 million per annum.

As a percentage of total income, this spend equates to an average of 3.24% over the last 4 years, decreasing to an average of 3% over the last two financial years.

	2017-18	2016-17	2015-16	2014-15	4 Year Total
Consultant Spend	\$1,452,854	\$1,232,796	\$1,248,343	\$1,573,527	\$5,507,520
% Total Income	3.17%	2.81%	3.09%	3.87%	

In making a comparison to Adelaide City Council (using the limited information available in 'The Advertiser' article of 26 December 2018), it appears Adelaide City Council have spent an average of 3.25% per annum on consultants over the last two financial years.

## 5. NOTICES OF MOTION

- 5.1 **File Ref:** 9.24.003  
**Officer Resp. for Report:** Glenn Rappensberg (Chief Executive Officer)  
**From:** Cr Farrier

**Moved by Cr Farrier:**

**That from this meeting and forward, all questions asked and raised by Elected Members are minuted and a brief description of the response be also minuted.**

### Reason

In the past there used to be a written record of questions asked by Elected Members in the minutes of Meeting. Over the years this has now been condensed into a generic term "Multiple Questions were asked", and hence no detail in the minutes are recorded, this, however, does not provide a clear or transparent record of what has transpired or has been communicated in the chamber. We need to be clear and concise in our communication with the ratepayers, and the minutes provide the primary record of what is communicated and recorded in the chamber. I therefore urge all elected members to support this motion in the spirit of clear and open transparency.

### Officer Comment

Alexandrina Council's Code of Practice for Meeting Procedures only allows for recording of responses to questions without notice in the minutes if a specific motion is moved by the Councillor posing the question and carried by the Chamber.

Statutory requirements are that at least eight elected members need to vote in support of the motion to alter the Code.

*'Local Government (Procedures at Meetings) Regulations 2013  
(3) A council may at any time, by resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, alter a code of practice, or substitute or revoke a code of practice.'*

The Code is due for review each financial year, noting this will include within twelve months of a newly elected Council.

With respect to the practices of neighbouring Councils, research has found that Councils generally name the member, the topic, and whether there was a response or taken on notice in the minutes but not a precis of the response.

## 6. PETITIONS

Nil

## 7. DEPUTATIONS/REPRESENTATIONS

Nil

## 8. ENVIRONMENT - REPORTS FOR COUNCIL DECISION

### 8.1 SA Water Pump Station - Liverpool Road Goolwa

**File Ref:** 9.24.003

**Responsible Officer:** Simon Grenfell (General Manager Environment)

**Report Author:** Simon Grenfell (General Manager Environment)

#### Community Strategic Plan Impact:

<b>ACTIVATE</b>	<b>Creates a welcoming, accessible public space around natural and built environment.</b>
<b>PARTICIPATE</b>	<b>Better utilizes existing public facilities for public open space.</b>

<b>THRIVE</b>	<b>The project will improve the local natural environs, flora, fauna and ecosystems within the area.</b>
<b>INNOVATE</b>	<b>Attracts external infrastructure investment and development.</b>

### **Report Objective**

To seek Council's endorsement to purchase the SA Water Pump Station on Liverpool Road Goolwa.

### **Executive Summary**

Council has the opportunity to partner with SA Water to convert the old SA Water Pump Station on Liverpool Road Goolwa into community open space.

### **Recommendation**

- 1. That Council endorse the purchase of the decommissioned and landscaped SA Water Pump Station located on Liverpool Road Goolwa, Section 2202 Part Lot A, Certificate of Title Volume 5665 Folio 582 Hundred of Goolwa from the South Australian Water Corporation at a cost of \$63,500.**
- 2. That the Mayor and Chief Executive Officer be endorsed to sign and seal all relevant documentation.**

### **Context**

Commonly referred to as the 'Old SA Water Pump Station', the land parcel adjacent Lot 5 Liverpool Road is owned outright by the South Australian Water Corporation.

The Pump Station has previously pumped water from the Murray River for the town water supply. These operations ceased some time ago and the site has been inactive since. The 1200m<sup>2</sup> site is fully fenced, contains two outbuildings and a submerged holding tank. A 55m long 1.7m high stone retaining wall and a concrete staircase contain the site on the river edge. Some of the infrastructure is damaged and in a state of disrepair. The site is industrial in nature and is not in keeping with the environment or surroundings.

At the 16 October 2017 Council meeting, the Council considered report "**8.1 SA Water Pump Station - Liverpool Road Goolwa**" regarding the decommissioning and acquisition of the SA Water Pump Station on Liverpool Road. Council subsequently resolved:

ACM17426      *Moved Cr Brazzalotto seconded Cr Stewart:*

1. *That Council accepts the 'gift' of the SA Water Pump Station located on Liverpool Road Goolwa, Section 2202 Part Lot A, Certificate of Title Volume 5665 Folio 582 Hundred of Goolwa from the South Australian Water Corporation.*
2. *That Council amends its Annual Business Plan and Budget 2017-18 to include capital expenditure of \$63,500 to undertake Stage 1 works on the site as identified within this report.*
3. *That Council does not accept a \$10,000 contribution from adjoining residents.*
4. *That Council includes an annual allocation of \$3,500 in its Long Term Financial Plan from 2018-19 for the ongoing maintenance of the reserve.*
5. *That the Mayor and Chief Executive Officer be authorised to sign and seal all documentation required in order to facilitate the land transfer agreement.*

CARRIED

**REFER ATTACHMENT 8.1(a) (page 2)**

Between October 2017 and May 2018, SA Water and Council staff worked collaboratively through the details of the project. During this period, SA Water staff advised that due to State Government Policy they needed to sell the parcel of land in question to Council rather than gift the land; and that they would decommission the site and undertake all of the required landscaping as part of the sale of the property.

SA Water valued the land at \$80,000.

At the 21 May 2018 Council meeting, the Council considered report **“8.1 SA Water Pump Station - Liverpool Road Goolwa”** regarding the SA Water Pump Station on Liverpool Road and SA Water’s request that Council purchase the fully decommissioned and landscaped property for \$80,000. Council subsequently resolved:

ACM18184 *Moved Cr Featherston seconded Cr Scott:*

*That Council does not purchase the decommissioned and landscaped SA Water Pump Station land located on Liverpool Road Goolwa, Section 2202 Part Lot A, Certificate of Title Volume 5665 Folio 582 Hundred of Goolwa from the South Australian Water Corporation for \$80,000.*

CARRIED

**REFER ATTACHMENT 8.1(b) (page 14)**

### **General Analysis**

Since the May 2018 Council meeting, Administration has discussed and negotiated the responsibilities related to the project; in particular the landscaping, fencing and irrigation aspects of the project.

The final outcomes of the negotiations are that SA Water will be responsible for:

- Decommissioning and rehabilitation of the site including removal of all structures, not including the fence along the shoreline.
- Landscaping the site including the importing of sandy loam and laying of turf.
- Planting of a simple indigenous bush tucker garden (potentially with some interpretive signage).
- Installing irrigation to Council specification.

Alexandrina Council will be responsible for:

- Connecting the new irrigation to the adjacent water supply and installing a control system.
- Erecting new fencing along the shore line.
- Maintaining the reserve and associated infrastructure.

The original landscape designs included the installation of a 55m pool type fence along the shore line to protect the public from falling down the 1.7m high stone retaining wall. It is estimated that the fence will cost \$3,500 and the irrigation connection \$4,000.

In late December after the previous Council briefing, SA Water provided an updated landscape plan detailing how they would like to landscape the site with indigenous plantings. The landscape will enhance the area while maintaining the same character as adjoining reserves.

### **REFER ATTACHMENT 8.1(c) (page 18)**

The funds for the fencing and irrigation connection will be derived from existing budgets.

A range of community engagement activities were undertaken at the time of the original Council report in 2017. No community engagement has been undertaken since this time.

### **Comparative Analysis**

Alexandrina Council has previously undertaken land purchases for the benefit of the community. This land has been used for a variety of purposes including car parking, development of wetlands and open space, and waste water activities.

### **Financial and Economic Implications**

There are no financial implications as a result of this report for all expenditure is within the adopted budget.

The economic implications of this project are that it will improve the value of the open space assets along Liverpool Road and further enhance the visitor experience for tourists visiting the area. It may also increase the value of some properties along Liverpool Road.

### **Risk Management**

When referencing the Alexandrina Council's Risk Management Matrix and Policy, the risk rating associated with the adoption of the recommendation contained in this report is considered to be low as all statutory requirements have been met.

## **9. GROWTH - REPORTS FOR COUNCIL DECISION**

### **9.1 Heritage Advisory Committee - Minutes 27 September 2018**

**File Ref:** 9.24.003 3.14.002  
**General Manager Resp. for Report:** Mark van der Pennen (General Manager Growth)

**Report Author:** Matt Atkinson (Coordinator Planning Assessment)

**Elected Member Reps:** Councillors Gardner and Maidment

#### **Purpose**

To receive the minutes of the Heritage Advisory Committee meeting held on 27 September 2018.

The key points from the meeting were:

- Initial discussions on the 2019 Heritage Awards to be held at Mount Compass with Keith Conlon confirmed as the guest speaker; and
- Anthony Presgrave tabled the work that he has undertaken towards the nominations for State Heritage listing of the red gum water troughs at Sandergrove and the Soldiers Memorial Gardens at Goolwa.

The red gum water troughs and wells are located within a Council reserve and were a watering point for stock and the water source for the former Sandergrove village.

The Soldiers Memorial Gardens were designed by Mr Charles S Reade who was South Australia's first town planner, to commemorate those who fought in World War 1.

Although the Soldiers Memorial Gardens are within the Goolwa State Heritage Area, it was felt that they should have an individual listing to ensure that the integrity of the garden design was maintained. Further information on the two listings is attached with the minutes.

**REFER ATTACHMENT 9.1(a) (page 19)**

Council is therefore being asked to endorse the minutes of the Heritage Advisory Committee and in particular support the submissions for State Heritage listing of the red gum water troughs at Sandergrove and the Goolwa Soldiers Memorial Gardens.

**REFER ATTACHMENT 9.1(b) (page 22) and (c) (page 27)**

**Recommendation**

- 1. That the minutes of the Heritage Advisory Committee meeting held on 27 September 2018 be received.**
- 2. That Council supports the submission of the nominations for State Heritage listing of the red gum water troughs at Sandergrove and the Goolwa Soldiers Memorial Gardens.**

**9.2 Alexandrina Arts & Cultural Advisory Committee - Minutes 6 December 2018**

**File Ref:** 9.24.003  
**Officer Resp. for Report:** Mark van der Pennen (General Manager Growth)

**Elected Member Reps:** Councillors Stewart and Lewis

**Purpose**

To receive the Minutes of the Alexandrina Arts and Cultural Advisory Committee meeting held on 6 December 2018.

**REFER ATTACHMENT 9.2(a) (page 31)**

Tourism Coordinator Update of the Alexandrina Arts and Cultural Advisory Committee meeting held on 6 December 2018.

**REFER ATTACHMENT 9.2(b) (page 34)**

Just Add Water Performing Arts Progress Report for the reporting period August to December 2018.

**REFER ATTACHMENT 9.2(c) (page 36)**

Highlights of the meeting include:

- The Committee discussed silo art in surrounding towns and how their success forms part of an art trail. It was agreed that further investigations be conducted to ascertain processes including sponsorship and indicative costings.
- The Committee received an update on the Visual Arts program and various exhibitions throughout September to November 2018.
- Local artist Brenda Holden held a major exhibition of native flora and fauna which opened on 24 September. Her work was accompanied with some sculptures from David Hamilton. There was a great response to the exhibition with 112 people attending the launch day celebrations. An overall visitation of 2,599 was recorded and sales across the exhibition totalled approximately \$45,000.
- The Chillingham voices Community Choir from NSW played a free community concert in Signal Point Gallery on 30 October to a very appreciative crowd of 131 people.
- Local band The Lost Chord played to two full houses on November 23 and 24 with their Salute to Cohen music and poetry performance. They will play once more over the Fringe Festival in Goolwa on Saturday 9 March 2019.
- The Sandwriters launched their anthology, *Thin Air* at Signal Point Gallery on Sunday 25 November. A huge crowd of approximately 150 people came along to hear a 45 minute performance by Peter Goers before he officially launched the book.
- The Committee received a progress report on the Just Add Water (JAW) performances from August to December 2018.
- Council allocated \$4,327 to purchase Christmas decorations across the Alexandrina Council region which was deemed a significant success.
- A local community member, with the support of the Connecting Community Program at the Community Hub, drove the project to decorate Goolwa for Christmas. They formed a group of people who knit, sew and crochet and made a total of 79 bollard covers to display around Goolwa.
- The Kenny Blake Festival of Motorcycling held on 27 and 28 October 2018 at Strathalbyn was a great success that attracted a huge crowd of motorcycling enthusiasts. The Kenny Blake memorial was unveiled by The Governor of South Australia His Excellency Hieu Van Le AC. A special mention and congratulations made to the sculptor James Stewart on his outstanding achievement to recognise Kenny Blake.

### **Recommendation**

**That the minutes of the Alexandrina Arts & Cultural Advisory Committee meeting held on 6 December 2018 be received.**

9.3 Planning Delegations

File Ref: 9.24.003 3.87.001

Responsible Officer: Mark van der Pennen (General Manager Growth)

Report Author: Matt Atkinson (Coordinator Planning Assessment)

Strategic Plan Impact:

**ACTIVATE** Ensuring high quality built environments and streetscape character within townships, through a more timely Development Approval process.

**PARTICIPATE** Livability of townships and rural areas – facilitating high quality development outcomes to improve the quality of life for our residents.

**THRIVE** The proposed delegations will reduce the number of Development Applications that are determined by the Council Assessment Panel, which will significantly reduce the size of printed Agendas and assist in Council's transition to an electronic system.

**INNOVATE** Removing 'red-tape' to facilitate more timely Development Approvals; to enable business to establish and adapt as necessary.

**Report Objective**

Council is not currently meeting its statutory obligations in relation to processing times for non-complying Development Applications. As part of a range of process improvements being implemented by Council's Assessment Manager to improve application timeframes, some minor changes are proposed to Planning delegations to ensure that all applications are processed within said timeframes and to facilitate the transition to the PDI Act 2016.

**Executive Summary**

Council's Planning staff have reviewed a range of internal processes with a view to providing more timely Development Application decisions.

One of the key areas identified, which would result in a significant improvement in Development Application processing times, is the current need for relatively minor

forms of development to be presented to the Council Assessment Panel (CAP) for determination (twice in some instances).

The CAP only meet once per month and there is generally a three-week lead-in time to enable detailed reports to be prepared and edited; agendas to be prepared and distributed; and to enable Panel members sufficient time to consider the reports prior to the meeting. This process generally means that Development Applications which need to be presented to the CAP can take up to seven (7) additional weeks to determine.

In some instances (i.e. non-complying development), Development Applications are also required to be presented to the Panel to determine whether there is sufficient merit to proceed to a full assessment of the application. This results in the need for these applications to be presented to the Panel twice, in addition to the statutory requirement for non-complying applications to gain the concurrence of the State Commission Assessment Panel (SCAP) before Development Approval can be granted. This can add up to six months to the assessment process.

In many instances, the proposed non-complying developments are relatively minor (such as private jetties and work undertaken to repair or maintain a river bank). As such, Council staff are seeking variations to the current CAP delegations in order to significantly reduce the time required to complete an assessment of these relatively minor Development Applications.

Council staff have also experienced issues with discrepancies between Council's Development Plan provisions and the State Government's 'Residential Code' criteria. The discrepancies are most relevant to the current delegations relating to minimum allotment sizes.

Under the State Government's 'Residential Code' (i.e. complying development as identified within Schedule 4 of the *Development Regulations 2008*), private certifiers are able to approve developments despite there being what they consider 'minor variations' to relevant criteria (including minimum site areas). As such, we now have an anomaly where a private certifier can approve an application that is 'Residential Code' by identifying minor variances, when Council staff would have to prepare a report for the CAP.

As such, to enable Council staff to have the same level of authority as private certifiers, staff are seeking the ability to determine applications that are a minor variation from the minimum allotment areas and frontage widths (up to a maximum variance of 10%).

Council is being asked to consider these amendments which will result in the CAP Terms of Reference being amended.

**Recommendation**

- 1. That Council amends and adopts the Council Assessment Panel Terms of Reference to reflect the following changes in relation to the type of applications that will be determined by the Panel:**
  - 1.1 Non-complying applications (other than Category 1 minor non-complying developments) where the decision has previously been made by Council staff to proceed with an assessment of the application (the Panel will decide to refuse the application or seek the concurrence of the State Commission Assessment Panel to approve the application).**
  - 1.2 Any 'merit' application that has undergone Category 2 or Category 3 public notification where representations have indicated that they oppose the development.**
  - 1.3 Any application in relation to a Local Heritage Place, a State Heritage Place, or a Historic Conservation Area where the Council's Heritage Advisor or the State Government Department responsible for State Heritage have recommended that approval should not be granted, other than where State Heritage direct that the application be refused.**
  - 1.4 Any application for land division that proposes the creation of allotments where one or more of the proposed allotments is more than 10% below the minimum allotment size recommended by the relevant Zone/Policy Area of the Development Plan and where the variance is considered minor by both the Coordinator Planning Assessment and the Manager Planning and Development.**
  - 1.5 Any application involving development by the Council where the Minister has declined a request by the Council that the State Commission Assessment Panel be appointed as the relevant authority.**
  - 1.6 Any application where an appeal has been made to the Environment, Resources and Development Court in relation to a matter determined by the Council Assessment Panel and a compromise is proposed by the appellant.**
  - 1.7 Any application where the Coordinator Planning Assessment or Manager Planning & Development has determined that the application warrants assessment by the Panel due to its significant, unusual or controversial nature.**

## Context

The Council Assessment Panel delegations were last reviewed by Council in September 2015 (for the previous Development Assessment Panel). At that time, the following types of Development Applications were delegated to the Panel for determination:

- Non-complying applications: the Panel will decide whether or not the Administration will proceed with an assessment of the application.
- Non-complying applications where the decision has previously been made to proceed with an assessment of the application (the Panel will decide to refuse the application or seek the concurrence of the Development Assessment Commission to approve the application).
- Any 'merit' application that has undergone Category 2 or Category 3 public notification where representations have been made against the application.
- Any application in relation to a Local Heritage Place, a State Heritage Place, or a Historic Conservation Zone where the Council's Heritage Advisor or the State Government Department responsible for State Heritage have recommended that approval should not be granted.
- Any application for land division that proposes the creation of allotments where one or more of the proposed allotments is below the minimum allotment size recommended by the relevant Zone/Policy Area of the Development Plan.
- Any application involving development by the Council where the Minister has declined a request by the Council that the Development Assessment Commission be appointed as the relevant authority.
- Any application where an appeal has been made to the Environment, Resources and Development Court in relation to a matter determined by the Council Development Assessment Panel and a compromise is proposed by the appellant.
- Any application where the Manager Planning & Development has determined that the application warrants assessment by the Panel due to its significant, contentious, unusual or controversial nature.

Council's Planning staff are undertaking a review of internal procedures in an effort to improve efficiencies and to provide a higher level of service to our customers.

Council's Planning staff have found it increasingly difficult to assess relatively minor development applications within statutory timeframes, in instances where they need to be presented to the CAP for a decision. Under the *Development Act 1993*, merit based Planning assessments are required to be undertaken within 40 business days.

This report seeks the necessary delegations to enable the timely processing of relatively minor Development Applications, while ensuring that the more complex applications are continued to be assessed by the Council Assessment Panel.

### General Analysis

Since the previous review of Council Assessment Panel and staff delegations in September 2015, the CAP has considered an average of 44 development applications per year.

A summary of the Development Applications assessed by the Panel between 2016 and 2018 is provided in the table below.

DA type	2016	2017	2018
All applications	44	49	39
Non-complying (resolve to proceed)	15	23	17
Non-complying (determine)	16	11	15
Category 2 or 3 with reps opposing	12	10	6
Heritage advice recommends refusal	0	0	1
Land Division creating lots that are less than the minimum area prescribed in the Zone	5	3	0
Council development where the Minister declined to appoint State Commission Assessment Panel	0	0	0
Environment, Resources and Development Court compromise where the Council Assessment Panel was the authority	0	2	0
Manager determines that Council Assessment Panel should be the authority	0	0	0
Decisions made by the Council Assessment Panel that were not in accordance with the staff recommendation	3	3	1

**Table 1: CAP decisions 2016-2018**

Of the 132 Development Applications determined by the CAP over the past three (3) years, 55 determinations were to resolve to proceed with an assessment of a non-complying development, which equates to 42% of all applications determined by the Panel.

Ultimately, these applications were required to be presented to the Panel a second time for determination, which is reflected by the 42 non-complying applications that were presented to the Panel for a decision during the same period.

Importantly, during 2018, only one (1) decision of the Panel differed from the staff recommendation and this related to a final decision, not to the recommendation of whether to proceed to a full assessment. All 17 'resolve to proceed' reports were determined in accordance with the staff recommendation.

*Recommended delegations*

The current Council Assessment Panel delegations are set out below, with an analysis of the relevance of the delegation and recommendations for removal, retention or amendment.

1. *The DAP will undertake the role of the relevant authority in relation to the following types of Development Applications:*

1.1 *Non-complying applications; the Panel will decide whether or not Administration will proceed with an assessment of the application.*

This delegation creates a significant amount of double-handling and is considered to be the most time-consuming process undertaken by Council's Planning staff, which has resulted in every non-complying application received in the last 12 months exceeding the relevant statutory timeframe.

Essentially, all non-complying applications (including minor non-complying applications) are currently required to be presented to the Council Assessment Panel twice. The first time is to determine whether the proposal has sufficient merit to proceed to an assessment and the second time is to determine the proposal.

Given the lead-in times required to present a Development Application to the Panel, Applicants need to wait more than two (2) months to see whether the Council will even assess their proposal.

This initial 'assessment' is essentially an administrative task to determine whether the proposal displays any merit, despite it being categorised as a non-complying development within the Zone. This initial assessment can easily be undertaken by Council's professional staff, rather than the Council Assessment Panel.

To provide the relevant check and balance, it is recommended that Council staff undertake this initial assessment and that the decision to proceed with an assessment of a non-complying development be delegated to the Assessment Manager or the Manager Planning and Development.

If the Assessment Manager or the Manager Planning and Development are of the view that the application should not proceed to an assessment, then a report recommending refusal would be presented to the Council Assessment Panel for their decision.

This will provide Applicants with a second opinion, which is considered important given that the Applicant does not have appeal rights for non-complying development.

By taking this approach, all Category 3 non-complying development applications will ultimately be presented to the Council Assessment Panel for determination (but without the need for the Panel to determine the proposal twice).

As such, it is recommended that item 1.1 be deleted from the Council Assessment Panel's Terms of Reference.

*1.2 Non-complying applications where the decision has previously been made to proceed with an assessment of the application (the Panel will decide to refuse the application or seek the concurrence of the Development Assessment Commission to approve the application).*

Given the recommendation provided above to enable staff to determine to proceed with an assessment of a non-complying development, it is recommended that the wording of item 1.2 be amended to:

*Non-complying applications (other than Category 1 minor non-complying developments) where the decision has previously been made by Council staff to proceed with an assessment of the application (the Panel will decide to refuse the application or seek the concurrence of the State Commission Assessment Panel to approve the application).*

*1.3 Any 'merit' application that has undergone Category 2 or Category 3 public notification where representations have been made against the application.*

This clause seeks to ensure that representors that oppose a development have the opportunity to be heard by the Panel in support of their representation. The CAP is presently the only forum that enables representors to be heard.

Where representors that oppose a development do not wish to be heard, the CAP would remain the relevant authority, which would enable the additional scrutiny of the Panel.

As such, this delegation is not proposed to be changed.

*1.4 Any application in relation to a Local Heritage Place, a State Heritage Place, or a Historic Conservation Zone where the Council's Heritage Advisor or the State Government Department responsible for State Heritage have recommended that approval should not be granted.*

This delegation is a useful tool for the Development Assessment Planners to use to encourage Applicants to comply with advice from the State Heritage Branch or Council's Heritage Advisor. As such, it is recommended that item 1.4 be retained in-principle.

However, State Heritage referrals can result in a direction to refuse a development. In such circumstances, Council must refuse the application and, as such, there is no need to present the application to the Council Assessment Panel.

Therefore, it is recommended that item 1.4 be amended to include 'other than where the State Heritage Branch direct that the application be refused'. The proposed delegation would read:

*Any application in relation to a Local Heritage Place, a State Heritage Place, or a Historic Conservation Zone where the Council's Heritage Advisor or the State Government Department responsible for State Heritage have recommended that approval should not be granted, other than where the State Heritage Branch direct that the application be refused.*

1.5 *Any application for land division that proposes the creation of allotments where one or more of the proposed allotments is below the minimum allotment size recommended by relevant Zone/Policy Area of the Development Plan.*

Since this delegation has been in place, there have been two (2) significant changes to legislation that are relevant to how this delegation is applied – Residential Code development and the creation of the Environment and Food Production Areas (EFPA) under the *Planning Development and Infrastructure (PDI) Act 2016*.

Schedule 4 of the *Development Regulations 2008* prescribes complying forms of development. This includes criteria for detached and semi-detached dwellings, which is commonly referred to as 'Residential Code' development. If a development meets all of the 'Residential Code' criteria contained in Schedule 4 of the *Development Regulations 2008*, then Development Plan Consent must be granted pursuant to Section 35 (1) of the *Development Act 1993*.

Private Certifiers are able to assess and determine complying forms of development, including 'Residential Code' development. For these purposes, a Private Certifier is considered to be the 'relevant authority' for the development.

Section 35 (1b) of the Development Act 1993 states:

*A development that is assessed by a relevant authority as being a minor variation from complying development may be determined by the relevant authority to be complying development (and that determination will then have effect for the purposes of this Act).*

Private Certifiers have recently started using this subsection to enable them to determine Development Applications for dwellings and subsequent land divisions, by determining that Residential Code development remains complying, even when there is a 'minor' variation to the minimum allotment size prescribed in the relevant Development Plan.

As such, we now have a situation that a private certifier can determine Development Applications that would have previously required a Council Assessment Panel decision due to the size of the proposed allotment. As a result, a private certifier could approve a dwelling and corresponding land division in one or two days, when it will take Council a minimum of two (2) months and, more

realistically, three (3) months to determine the same application as it would need to be presented to the Council Assessment Panel.

To combat this, staff propose that the above delegation be amended to include the ability for staff to determine a minor variation to the minimum site area, provided that the variation does not exceed 10% and that the Coordinator Planning Assessment and Manager Planning and Development concur that the variation is minor.

As such, it is proposed that item 1.5 be amended to:

*Any application for land division that proposes the creation of allotments where one or more of the proposed allotments is more than 10% below the minimum allotment size recommended by the relevant Zone/Policy Area of the Development Plan and where the variance is considered minor by both the Coordinator Planning Assessment and the Manager Planning and Development.*

Importantly, the above delegation would not apply to rural areas as the introduction of the Environment and Food Production Areas (EFPA) via the *Planning Development and Infrastructure Act 2016* requires that no additional rural land can be divided for residential purposes.

*1.6 Any application involving development by the Council where the Minister has declined a request by the Council that the Development Assessment Commission be appointed as the relevant authority.*

In instances where the Council has written to the Minister to request that SCAP be declared the relevant authority and the Minister has declined the request, it is considered important to maintain some impartiality in the decision making process. As such, it is recommended that item 1.6 be retained with the name of the State Commission Assessment Panel replacing the now defunct Development Assessment Commission.

*1.7 Any application where an appeal has been made to the Environment, Resources and Development Court in relation to a matter determined by the Council Development Assessment Panel and a compromise is proposed by the appellant.*

It is important that amendments proposed to Panel decisions be considered by the Panel. As such, the intent of this delegation is proposed to be retained. The only amendment proposed is to update the name of the Panel to Council Assessment Panel.

*1.8 Any application where the Manager Planning Services & Development Compliance has determined that the application warrants assessment by the Panel due to its significant, contentious, unusual or controversial nature.*

There are times where Development Applications should be presented to the Council Assessment Panel despite meeting the delegation criteria proposed (a staff

conflict of interest is one example). There may also be other extenuating circumstances that warrant the scrutiny of the Council Assessment Panel. As such, it is recommended that item 1.8 be retained, albeit with a minor amendment to update the Manager's title to reflect the current organisational structure.

Following the consideration by Council of the proposed amendments the Terms of Reference will be updated to reflect the outcomes.

### Comparative Analysis

In 2016, Council engaged Planning Aspects Pty Ltd to undertake a Planning and Development Department Service Review. In their final report, which was issued in October 2016, Planning Aspects provided a comparative analysis of the delegations at four (4) Councils (Alexandrina, Adelaide Hills, Murray Bridge and Onkaparinga).

The following table provides a comparison of the relevant Council Assessment Panel and staff delegations provided in the Planning Aspects report.

Delegation	Alexandrina	Adelaide Hills	Murray Bridge	Onkaparinga	Alexandrina (proposed)
Non-complying (resolve to proceed)	CAP	Staff	Staff	Staff	Staff
Non-complying (to determine the DA)	CAP	CAP (if representors wish to be heard)	CAP (other than minor non-complying)	CAP (if representors wish to be heard)	CAP (other than minor non-complying)
Land Divisions creating allotment/s that are less than the minimum site areas for the Zone	CAP	Staff	Staff	Staff	CAP (unless a minor variation)
Cat 2 or 3 DAs with opposing representations	CAP	CAP	CAP	CAP (if representors wish to be heard)	CAP
Heritage related DAs where Council's Heritage Advisor or State Heritage do not support the proposal	CAP	Staff	Staff	Staff	CAP
Council development where the Minister has declined to appoint the SCAP as the relevant authority	CAP	CAP	CAP	CAP	CAP
ERD Court compromise proposals where the CAP was the relevant authority	CAP	CAP	CAP	CAP	CAP
Administration determines that circumstances warrant CAP determination	CAP	CAP	CAP	CAP	CAP

Table 2: Council Assessment Panel and Staff delegations by Council

The recommended changes to CAP delegations are relatively consistent with the delegations of other nearby Councils. In some instances, the recommended delegations introduce a further check and balance of obtaining consent of the Coordinator Planning Assessment or the Manager Planning and Development to execute a delegation at staff level.

### **Financial and Economic Implications**

There are no direct financial implications associated with the adoption of this recommendation.

There would be some flow-on financial benefits in reducing the number of applications that are required to be presented to the CAP in the form of time and resources.

### **Risk Management**

In accordance with the Alexandrina Risk Management Policy and Matrix, the risk of adopting this recommendation is considered low.

## **10. WELLBEING - REPORTS FOR COUNCIL DECISION**

Nil

## **11. RESOURCES - REPORTS FOR COUNCIL DECISION**

Nil

## **12. OFFICE OF THE CHIEF EXECUTIVE OFFICER - REPORTS FOR COUNCIL DECISION**

### **12.1 Australian Coastal Councils Association - Election of SA Representative to Committee**

**File Ref:** 18.14.002  
**General Manager Resp. for Report:** Anne Liddell (Group Manager Leadership)  
**Report Author:** Anne Liddell (Group Manager Leadership)

#### **Purpose**

To seek Council endorsement of a South Australian candidate for the Australian Coastal Councils Association (ACCA) Committee.

The Australian Coastal Councils Association was initially established as the National Sea Change Taskforce, which focused on the challenge of rapid growth in coastal areas. In 2015 the name of the organisation was changed to the Australian Coastal Councils Association Inc, to reflect its role in addressing a broader range of coastal issues.

The Executive Officer of the ACCA advises of two nominations to the position of SA representative on their Committee and is seeking the vote of SA member councils.

Candidate information – Councillor Nicholas (Nick) Hayles

*As a Councillor for the City of Victor Harbor since 2014 I have developed a great interest in the work of the Australian Coastal Councils Association. Being 25yo and living in a coastal region the importance of the preservation of the coast for not only our own lifetime but for future generations is of vital importance to me.*

*I have actively advocated for the objectives of my own council and the association with our federal member, Rebekah Sharkie MP, and have more recently had discussion with her and local young people about what they can do in the form of community coastal management.*

*I am currently a university student working my way through a double degree in Business (International Business) and Public Administration (Public Policy). Outside of this I work with local young people through the NDIS providing support work and mentoring activities.*

*I have nominated for the casual vacancy because I can see the vitally important work that the association does on our behalf. I also believe I can offer some new approaches to how we target our message and how we can leverage the power of our communities in doing this.*

*Feel free to contact me at [nick.hayles@victor.sa.gov.au](mailto:nick.hayles@victor.sa.gov.au)*

Candidate information - Cr William (Bill) Jamieson: Australian Fire Service Medal, Order of Australia Medal

- *First elected to the City of Onkaparinga in 1997.*
- *Married with two adult children and one grand Child all residents of the City of Onkaparinga.*
- *Initially worked as Marine Engineer before returning to Adelaide with a young family and settled in Christies Beach in 1976.*
- *Joined the Fire service in 1977 and retired 41 years later as Commander South. Including 22years as a trustee of the SAMFS Superannuation Fund and life membership of the Fire Service Fund and United Firefighters Union.*
- *Surf Life Saving (SLS): I have served as Club and State President and Director of SLS Australia. I am a life member of SLS at Club, State and National level.*
- *I have been a member of the Metropolitan Seaside Councils Committee for most of my time as a Councillor. In the last term I served as deputy*

*and for a short time as Acting Chairperson. This Committee has representatives from the 7 councils and Adelaide Shores and covers the Adelaide Metropolitan coastal area.*

- *I am well aware of the issues besetting Coastal Councils and believe my experiences would enable me to make a positive contribution to the ACCA Committee.*

#### **Recommendation**

1. **That Council vote for Cr Nicholas Hayles of City of Victor Harbor for a position on the Australian Coastal Councils Association Committee;**

or

2. **That Council vote for Cr William Jamieson of City of Onkaparinga for a position on the Australian Coastal Councils Association Committee.**

#### **12.2 Elected Member Representatives on External Bodies**

**File Ref:** 18.14.002  
**General Manager Resp. for Report:** Anne Liddell (Group Manager Leadership)

**Report Author:** Anne Liddell (Group Manager Leadership)

#### **Report Objective**

To seek nominations and endorsement for Council representation on external bodies as requested.

#### **REFER ATTACHMENT 12.2 (page 172)**

#### **Executive Summary**

Bodies seeking Alexandrina Council representation have written to Council over recent months seeking either a Council appointed representative or a specific Councillor.

Traditionally, roles on community groups are taken by relevant Ward Councillor/s. Cr Bradford has been requested by Milang and District Community Association and Crs Stewart and Carter have been requested for Goolwa Recreation Ground Committee.

Participation on external bodies is an opportunity to promote Council activities, obtain valuable information and advocate for the community's interests.

### Recommendation

1. That Council endorse Cr \_\_\_\_\_ as its representative on the Clayton Bay Community Association.
2. That Council endorse Cr \_\_\_\_\_ as its representative on the Long Nosed Fur Seal Working Group of the Department for Environment and Water.
3. That Council endorse Cr \_\_\_\_\_ as an additional representative to the Mayor on the Coorong, Lower Lakes and Murray Mouth Community Advisory Panel of the Department for Environment and Water.
4. That Council endorse Cr \_\_\_\_\_ as its representative on the Milang and District Community Association.
5. That Council endorse Cr \_\_\_\_\_ and Cr \_\_\_\_\_ as its representatives on the Goolwa Recreation Ground Committee.

### Context

The Long Nosed Fur Seal (LNFS) Working Group consists of representatives from relevant State Government agencies and local councils as well as peak scientific, conservation and industry organisations. The working group was established in 2015 to investigate issues relating to the management of LNFS in the Coorong and Lower Lakes area and identifies and monitors implementation of short term and long term actions. The Working Group only met twice in 2018 but is expected to meet between 4-6 times in 2019. Meetings are held at the Department for Environment and Water on Waymouth Street, Adelaide. Alexandrina Council's previous representative on the Working Group was former councillor Barry Featherston.

The Coorong, Lower Lakes and Murray Mouth Community Advisory Panel (CLLMM CAP) has 16 members and was established in 2011 to promote two-way information sharing between the Coorong and Lower Lakes community and government regarding management of this internationally important wetland. CLLMM CAP members receive the latest information from scientist and researchers about the region's ecological and social systems and provide advice on environmental and water resource planning and operations. The CLLMM CAP meets bi-monthly for a full day meeting at the Langhorne Creek Hub.

### Financial and Economic Implications

There are no financial implications associated with this report outside of the existing budget.

## **Risk Management**

In accordance with the Alexandrina Risk Management Policy and Matrix, the risk of adopting this recommendation is considered low.

### **12.3 Tree Management Policy and Procedure**

**File Ref:** 16.20.019

**Responsible Executive Officer:** Anne Liddell (Group Manager Leadership)

**Relevant Author:** Shen Mann (Senior Governance and Strategy Officer)

#### **Strategic Plan Impact:**

<b>ACTIVATE</b>	<b>Liveability of townships and rural areas</b>
<b>PARTICIPATE</b>	<b>Protects and promotes public health and wellbeing</b>
<b>THRIVE</b>	<b>Enhanced biodiversity and progressive approaches to climate change</b>
<b>INNOVATE</b>	<b>Productive community assets for economic, community and environmental benefit</b>

#### **Report Objective**

To seek Council's endorsement of the Tree Management Policy and Procedure following public consultation undertaken in September and October 2018.

#### **Executive Summary**

Council's Tree Management Policy and Procedure provide a guiding framework for the planting, maintenance, conservation and removal of trees on Council land and empowers delegated staff to make routine management decisions. The Policy and Procedure are reviewed on a biennial basis.

On 6 August 2018 Council endorsed the revised draft Policy and Procedure for public consultation. Public Consultation was carried out over a four week period from 6 September to 5 October 2018.

All submissions received were broadly supportive of the draft Policy and Procedure, welcoming Council's recognition of the economic, social, cultural and environmental benefits of trees and the provision of resources to support their management.

A number of minor amendments have been made to the draft Policy and Procedure as a result of feedback received during public consultation. These amendments emphasise the importance of greening our townships and introduce a greater level of community transparency with respect to tree removal decisions made by Council. *(Refer to attachments: Tree Management Policy, Tree Management Procedure and copy of submissions received)*

**REFER ATTACHMENT 12.3 (a) (page 43)**

**REFER ATTACHMENT 12.3 (b) (page 56)**

**REFER ATTACHMENT 12.3 (c) (page 60)**

### **Recommendation**

**That Council endorse the revised Tree Management Policy and Procedure as advised in attachments 12.3 (a), 12.3 (b) and 12.3 (c).**

### **Background**

Alexandrina Council is responsible for the care, control and management of all trees growing on land owned or under the care and control of Council. This includes township parks & gardens, rural reserves, urban streets and rural roads.

Council's current Tree Management Policy was adopted on 21 December 2015 and fell due for regular review in December 2017. Prior to this - on 3 October 2017 - when deciding on a disputed tree removal matter, Council resolved that the Tree Management Policy should be reviewed. A second disputed tree removal matter was considered by Council in March 2018. These events triggered a comprehensive internal review process.

Revised drafts of the Tree Management Policy and Procedure were presented to Council briefings in May and July 2018 and on 6 August 2018 Council endorsed the draft documents proceeding to public consultation. The public consultation drafts were largely a continuation of Council's existing policy framework with minor editorial and emphasis changes. The one major change was the introduction of a revised fee structure for tree removals.

Tree removal fees are only charged in circumstances where a tree on Council land is being removed to facilitate access to private property. Tree removal requests which meet other removal criteria (i.e public safety) do not attract such charges.

The fee structure in the 2018 public consultation drafts empowers staff to approve a tree removal request in circumstances where a reasonable alternative to removal is available but the proponent still wishes to proceed with removal. This is done via the imposition of a Tree Valuation Fee which reflects the amenity value of the particular tree to be removed. In contrast, the 2015 policy requires disputed tree removal matters to come before the chamber for decision.

The revised fee structure which went to consultation thus included three elements:

1. Tree Removal Fee – charged on a cost recovery basis if removed by Council or at the applicant's cost if they arrange removal themselves with Council approval.
2. Tree Replacement Fee – in 2018-19 this fee is \$535 inc GST. This fee subsidises Council's planting and maintenance of replacement trees as part of our annual tree planting program
3. Tree Valuation Fee – only charged where there is a reasonable alternative to tree removal (such as the relocation of services or access points, redesign of the proposal, use of an established cross-over if available and/or pruning rather than removal). The consultation drafts set this fee at 20% of the lost amenity value, with such valuation based on a method developed by the City of Melbourne.

The purpose of using a tree valuation method is to find a compromise between facilitating development and the retention of valuable trees. Trees that are large, well formed, part of a larger planting, appropriate to the landscape and well positioned are of more value than trees which are small, not aesthetically pleasing, unhealthy or poorly located. The Tree Valuation Fee sends a price signal to community that Council is less supportive of the removal of its most valuable trees. It should also mean there is little to no need for disputed tree matters to be brought before the chamber for decision

### **General Analysis**

Public consultation occurred over a two-week period from 6 September 2018 to Friday 5 October 2018. A total of 9 submissions were received from a mix of individual community members and community associations.

The key themes contained in the public consultation feedback were as follows:

1. Council should put more emphasis on the re-greening of the District, limit tree removal to rare circumstances and retain non-indigenous trees where possible i.e. where they are consistent with the landscape character and not an environmental weed.
2. Council should provide an increased level of transparency regarding tree decisions including via the publication of species planting lists, consulting with local residents in relation to plantings where possible and the publication of a Tree Removals Register.
3. Community interests should take precedence over developer interests, who should be asked to work with and around trees with tree removal seen as a last resort.
4. Where trees are to be removed to facilitate private development (despite the option of a reasonable alternative to removal) applicants should be required to pay more than the proposed 20% of the lost amenity value.

5. The Policy should use stronger language with respect to non-compliance.
6. Offset plantings should be in the general location from where trees were originally removed.

A number of minor amendments have been to the Policy and Procedure as a result of feedback received during public consultation. These amendments emphasise the importance of greening our townships and introduce a greater level of community transparency with respect to tree removal decisions including via the publication of a Tree Removal Register on the Council website. Council administration also recommends that the quantum of the Tree Valuation Fee be set at 25% of amenity value, rather than 20% as contained in the consultation drafts.

### **Statutory Responsibilities**

Council is required to have regard to a range of legislative provisions with respect to the care, control and management of trees on Council land. A full list of applicable legislation is listed in the Policy itself.

Relevant legislation includes:

- Local Government Act 1999 - makes the planting or removal of trees or other vegetation on a public road an offence if done without authorisation from council.
- Native Vegetation Act 1999 - regulates the clearance of native vegetation, including trees on roadsides.
- National Parks & Wildlife Act 1972 - governs permits for collection of native plants/seeds.
- Alexandrina Council By-Law No. 2 - governs the interaction of members of the community and trees on Council land.

### **Comparative Analysis**

The majority of Councils have tree management policies that recognise the positive benefits of trees on Council land and prohibit tree removal except in exceptional circumstances, mandate that all removed trees must be replaced, and require that trees being removed to facilitate private development are replaced at the expense of the proponent requesting the tree removal.

Many councils also use a tree valuation method as part of the decision making process for tree removal. There is no Australian standard method for tree valuation and a variety of methods are used throughout the local government sector. Alexandrina has adopted a tree valuation method developed by the City of Melbourne.

A benchmarking analysis of tree removal fees charged by other South Australian councils was undertaken to help determine the quantum and structure of Alexandrina's tree removal fees.

### **Financial and Economic Implications**

Once endorsed, Council's schedule of Fees & Charges will be updated to reflect the revised structure for tree removal fees.

The small administrative impost associated with the creation, maintenance and publication of a Tree Removal Register will be accommodated within existing budgets.

The imposition of a Lost Amenity Fee provides an economic disincentive against tree removal in circumstances where a reasonable alternative exists for facilitating access to private development.

### **Risk Management**

Based on Alexandrina Council's Risk Management Policy & Matrix, the risk of adopting this recommendation is considered to be low.

## **12.4 Ombudsman SA Report into the Goolwa Wharf Recreational Boating Facility**

**File Ref:** 9.24.003

**Responsible Officer:** Glenn Rappensberg (CEO)

**Report Author:** Anne Liddell (Group Manager Leadership)

### **Strategic Plan Impact:**

**ACTIVATE** The Goolwa Wharf Recreational Boating Facility was intended to improve the amenity of the Goolwa Wharf area at a time where the impacts of the Millennium Drought were prominent.

**PARTICIPATE** A successful operation of the Goolwa Wharf Recreational Boating Facility would see increased social activity at the Goolwa Wharf.

**THRIVE** A component of the Goolwa Wharf Recreational Boating Facility included a construction supported by SA Water re the unloading of waste.

**INNOVATE** A successful operation of the Goolwa Wharf Recreational Boating Facility would see

**increased economic activity at the Goolwa Wharf.**

**Report Objective**

To formally advise Council of the release of a redacted report by the Ombudsman SA into an investigation of the Goolwa Wharf Recreational Boating Facility (Goolwa Pontoons) on 9 January 2019, the associated findings and implementation response.

**Executive Summary**

In its redacted report, the Ombudsman SA finds that:

1. Mr Neville Styan (former Alexandrina Council Executive member and project manager for the Goolwa Wharf Recreational Boating Facility) committed maladministration in public administration by failing to obtain full development approval prior to construction of the Goolwa Pontoons;
2. Alexandrina Council undertook a practice which resulted in maladministration when it failed to ensure all planning approvals had been granted prior to construction of the Goolwa Pontoons;
3. Alexandrina Council has breached Section 32 of the Development Act in proceeding with a development that did not have appropriate consents and therefore acted contrary to the law under the Ombudsman Act; and
4. Redacted finding.

The Ombudsman SA made no formal recommendations in his report in part because of the response of the current administration and that the persons involved were no longer with Alexandrina Council.

The administration has developed a comprehensive implementation response which also notes improvements over the course of time since the development in 2010-11.

**REFER ATTACHMENT Item 12.4 (a) (page 71)**

### **Recommendation**

- 1. That Council note the publication of the report by the Ombudsman SA into the Goolwa Wharf Recreational Boating Facility.**
- 2. That Council note and support the implementation response prepared by the Administration.**
- 3. That Council acknowledges the concern that this matter has caused the Alexandrina community since 2010/11.**

### **Context**

In early 2010, Alexandrina Council commenced planning for construction of pontoons at Goolwa Wharf Precinct to widen an existing boardwalk known as Hectors Jetty and associated infrastructure including floating pontoons. It was a joint project with the then State Department for Water, led by Mr Neville Styan for Alexandrina Council. At the time, the impacts of drought were prevalent and an upcoming major event in the locality included the 2011 SA Wooden Boat Festival. The Goolwa Wharf Recreational Boating Facility was constructed and installed between December 2010 and February 2011. Deterioration of the pontoons became apparent soon after due to structural problems. In 2014, the pontoons were removed and litigation followed by Alexandrina Council.

In the Ombudsman SA report, it is noted that ICAC referred a complaint into the Goolwa Recreational Boating Facility to the Ombudsman SA on 23 January 2017.

During 2017 and 2018, select officers of the Alexandrina Council participated in responses to the investigation under the confidentiality provisions of the ICAC Act 2012.

On 9 January 2019, the Ombudsman publicly released a redacted report.

### **General Analysis**

The Ombudsman SA investigated four issues with respect to the Goolwa Recreational Boating Facility. In its redacted report, the Ombudsman SA finds that:

1. Mr Neville Styan (former Executive member and project manager for the Goolwa Wharf Recreational Boating Facility) committed maladministration in public administration by failing to obtain full development approval prior to construction of the Goolwa Pontoons;
2. Alexandrina Council undertook a practice which resulted in maladministration when it failed to ensure all planning approvals had been granted prior to construction of the Goolwa Pontoons;
3. Alexandrina Council has breached Section 32 of the Development Act in proceeding with a development that did not have appropriate consents and therefore acted contrary to the law under the Ombudsman Act; and
4. Redacted finding.

The Ombudsman SA made no formal recommendations in his report in part because of the response of the current administration and that the persons involved were no longer with Alexandrina Council. This may, in some part, demonstrate the confidence of the Ombudsman SA in Council's handling of the matter and subsequent learnings.

The administration has developed a comprehensive implementation response which also notes improvements over the course of time since the development in 2010-11.

*Implementation Response*

In summary, the Alexandrina Council leadership will respond as follows:

1. Council – demonstrated continuing scrutiny of requests to approve major project expenditure and related development approvals;
2. CEO – has since arriving in May 2017, implemented an organization restructure, greater scrutiny of procurement practices and ongoing reporting of major projects to Council;
3. Executive – will exercise peer review to ensure a comprehensive approach to due process; and
4. Senior Leadership Team (Executive & Managers) – will appropriately advise Council through preparation of thorough reports regarding Council-run major projects and implement actions of proposed response.

The implementation response includes:

- Peer review of major projects at the Executive level;
- Project methodology and governance improvements;
- Technical peer review advice to the CEO; and
- Confirmation by relevant Managers of the enactment of policy, procedure and training/awareness of officer to ensure Development Act requirements are met.

*Community concern*

Since the failure of the 'pontoon' portion of the Goolwa Wharf Recreational Boating Facility, Council has been aware of community concern, which has included correspondence from concerned citizens, community groups and past Councillors.

It is also recognised that a finding of maladministration may affect the future confidence of, and trust by, the community in Alexandrina Council, however Council spokespeople have sought to allay this concern through public comment on the matter.

**REFER ATTACHMENT 12.4 (b) (page 86)**

### **Comparative Analysis**

Ombudsman SA reports into maladministration in the SA local government sector can occur from time to time.

### **Financial and Economic Implications**

Council expended \$847,000 on the Goolwa Recreational Boating Facility (including \$190,000 on the Goolwa River Vessel Waste Disposal Station) and \$364,000 on subsequent legal action as at 16 January 2019. An amount of \$428,000 was received from other parties with respect to contributing to the overall project construction.

The administration of Alexandrina Council recognises community concern with respect to this loss and the Ombudsman finding that is consistent with 'substantial mismanagement of public resources' and will take its provision of advice to Council on further expenditure with respect to legal redress very seriously.

### **Risk Management**

In accordance with the Alexandrina Risk Management Policy and Matrix, the risk of adopting the recommendations proposed in this report is considered Moderate as the recommendations seek to manage High risks from the publication of the Ombudsman Report such as public reputation and service delivery.

The administration has also advised the retiring Independent Chair and incoming Independent Chair of the Alexandria Council Audit Committee and offered a briefing on the matter.

## **13. MAYOR'S REPORT**

Nil

14. **ELECTED MEMBERS' REPORTS (INCLUDING VERBAL UPDATES)**

**File Ref:** 9.24.003  
**Responsible Officer:** Margaret Terrell (Executive Assistant)

**Report Author:** Margaret Terrell (Executive Assistant)

**Community Strategic Plan:**

**ACTIVATE** Liveability of townships and rural areas

**PARTICIPATE** Collaborative ventures

**THRIVE** Enhanced biodiversity

**INNOVATE** Proactive Leadership and accountability

**Report Objective**

To provide information regarding the activities of Elected Members to the community. The following reports are presented for November and December 2018.

**Recommendation**

**That the November and December 2018 Report from Councillors be received.**

**Councillor Craig Maidment**

**November - December 2018**

<b>November</b>		
17	Briefing	Preview first Council meeting
19	Council meeting	Induction and first Council Meeting
21	Meeting	Meals on Wheels presentations
26	Briefing	Induction session 2
28	Attended	White Ribbon Day @ Goolwa
29	Briefing	IT Induction @ Strathalbyn
<b>December</b>		
3	Briefing	Induction session 3
5	Attended	Ag Boom Presentations @ EFS Strathalbyn
6	Briefing	Woodshed Briefing @ Strathalbyn
10	Briefing	Upcoming Council meeting
13	Staff meeting	@ Centenary hall Goolwa
13	Briefing	Governance Essentials Briefing
17	Apology	Council meeting – in Hospital
21	Attended	Strathalbyn Street Party

Councillor Margaret Gardner

November 2018 - January 2019

<b>November</b>		
17	Meeting	Induction Session / Preparation for Declaration meeting
18	Attended	Signal Point Gallery volunteering
19	Meeting	Council Declaration Meeting
20	Meeting	Goolwa Boat Haven owners
21	Meeting	Mayor, CEO Council staff and Goolwa Boat Haven owners
21	Meeting	Residents in Bricknell Road, Goolwa
23	Meeting	Device training with Council member
26	Meeting	Workshop Public Integrity Issues
28	Attended	White Ribbon Day Lunch Council Courtyard
28	Meeting	Bricknell Road resident with information
<b>December</b>		
3	Meeting	Council Workshop
6	Meeting	Council staff re Goolwa Boat Haven
7	Meeting	Goolwa Boat Haven owners
10	Meeting	Group Manager - Leadership
11	Meeting	Fleurieu Regional Community Services Advisory Committee with CEO
13	Meeting	Workshop Essentials for Local Government
14	Attended	Just Add Water 2019 Program launch, Signal Point
15	Attended	Christmas Pageant and Festival
17	Meeting	Council Meeting
18	Attended	Alexandrina Photo competition presentation
19	Meeting	Friends of the Goolwa Library Committee
20	Attended	Art Gallery Volunteer Christmas function
<b>January</b>		
8	Meeting	Resident re development

15. CONFIDENTIAL REPORTS

15.1 Appointment Of Independent Members To The Council Assessment Panel (CAP) - 2019

That pursuant to Sections 90 (2) and (3) (a) of the *Local Government Act 1999*, the Council orders that the public be excluded from the meeting with the exception of the Chief Executive Officer, General Managers, Minute Taker and the officer responsible for the report, on the basis that the Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider information by way of a report and associated documents in relation to agenda item 16.1 Appointment of Independent Members to the Council Assessment Panel (CAP) – 2019 and the Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving, considering and discussing the report and associated documentation contains/involves:

- (3) (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);

**Substantiation:**

The report includes personal (in confidence) information of the applicants in the form of expressions of interest and Curriculum Vitae's.

**Recommendation**

1. That pursuant to Sections 91(7) and (9) of the Local Government Act 1999 (SA) (Act), the Council orders that the report, minutes, attachments and associated documents of the Council meeting held on 21 January 2019 in relation to confidential item number 16.1 and titled Appointment of Independent Members to the Council Assessment Panel (CAP) – 2019, having been considered and dealt with by the Council on a confidential basis under Part 3 of the Act, are to be kept confidential and not available to the public for a period of twelve months from the date of this confidentiality order, or unless revoked earlier by the Chief Executive Officer in accordance with paragraph 2 of this resolution, on the basis that they contain the following information or matter:
  - 1.1 Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).
2. That pursuant to section 91(9)(c) of the Act the Council delegates to the Chief Executive Officer the power to revoke the order made in paragraph 1 of this resolution at any time.

16. CLOSURE