



Brighton Council

**MINUTES OF THE ORDINARY COUNCIL MEETING
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.30 P.M. ON TUESDAY,
19th JANUARY 2016**

PRESENT: Cr Curran (Acting Mayor); Cr Garlick; Cr Geard; Cr Jeffries; Cr Owen and Cr Williams.

IN ATTENDANCE: Mr G Davoren (Acting General Manager); Mrs J Banks (Governance Manager) and Mr J Dryburgh (Manager Development Services)

1. CONFIRMATION OF MINUTES:

1.1 CONFIRMATION OF MINUTES OF THE ANNUAL GENERAL MEETING OF 15TH DECEMBER 2015.

Cr Geard moved, Cr Garlick seconded that the Minutes of the Annual General Meeting of 15th December 2016 be confirmed.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

1.2 CONFIRMATION OF MINUTES OF THE ORDINARY COUNCIL MEETING OF 15TH DECEMBER 2015.

Cr Owen moved, Cr Jeffries seconded that the Minutes of the Ordinary Council Meeting of 15th December 2016 be confirmed.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

2. APPLICATIONS FOR LEAVE OF ABSENCE:

Mayor Cr Tony Foster had requested leave of absence as he was interstate.

Cr Owen moved, Cr Garlick seconded that Cr Foster, Cr Gray and Cr Taylor be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

3. PUBLIC QUESTION TIME AND DEPUTATIONS:

- Mr Turner addressed Council in relation to Item 11.4
- Mr Jarvis addressed Council in relation to Item 11.4

4. DECLARATION OF INTEREST:

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 2015*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

Accordingly, Councillors are requested to advise of any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the *Local Government (Meeting Procedures) Regulations 2015*.

There were no declarations of interest.

5. REPORTS FROM COUNCILLORS:

5.1 ACTING MAYOR'S COMMUNICATIONS:

FILE REFERENCE: 0205-6

AUTHOR: Acting Mayor
(Cr B Curran)

The Acting Mayor reported directly to the meeting.

RECOMMENDATION:

That the Acting Mayor's communications be received.

DECISION:

Cr Owen moved, Cr Jeffries seconded that the report be received.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

5.2 REPORTS FROM COUNCIL REPRESENTATIVES WITH OTHER ORGANISATIONS:

FILE REFERENCE: 0205-6

Southern Waste Strategy Board Joint Authority – Cr Gray representative.

DECISION:

Cr Geard advised that he, Anna Wilson and TFS have been working together on a planned community meeting scheduled in February for residents in Dromedary on fire management.

Cr Garlick moved, Cr Owen seconded that the report be received.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

5.3 CORRESPONDENCE FROM SOUTHERN TASMANIAN COUNCILS ASSOCIATION (STCA), LGAT, TASWATER AND JOINT AUTHORITIES:

Correspondence and reports from the STCA, LGAT, TasWater and Joint Authorities e.g. Southern Waste Authority are received periodically by Council.

If any Councillor wishes to view documents received contact should either be made with the Governance Manager or General Manager.

6. NOTIFICATION OF COUNCIL WORKSHOPS:

In accordance with the requirements of the Local Government (Meeting Procedures) Regulations 2015, it was reported that there were no workshops held since the last Ordinary Council Meeting.

7. NOTICE OF MOTION:

There were no notices of motion.

8. CONSIDERATION OF SUPPLEMENTARY ITEMS TO THE AGENDA:

In accordance with the requirements of Part 2 Regulation 8(6) of the Local Government (Meeting Procedures) Regulations 2015, the Council, by absolute majority may approve the consideration of a matter not appearing on the agenda, where the General Manager has reported:

- (a) the reason it was not possible to include the matter on the agenda, and
- (b) that the matter is urgent, and
- (c) that advice has been provided under Section 65 of the *Local Government Act 1993*.

RECOMMENDATION:

That the Council resolve by absolute majority to deal with any supplementary items not appearing on the agenda, as reported by the General Manager in accordance with the provisions of the Local Government (Meeting Procedures) Regulations 2015.

DECISION:

The Acting General Manager advised that there were no supplementary agenda items.

9. REPORTS FROM COMMITTEES:

There were no Committee meetings held in January.

10. COUNCIL ACTING AS PLANNING AUTHORITY:

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a Planning Authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 10 on this agenda, inclusive of any supplementary items.

10.1 POTENTIAL PLANNING SCHEME AMENDMENT – ROWE STREET & LACHLAN COURT, BRIGHTON:

FILE REFERENCE:

AUTHOR: Manager Development Services
(Mr J Dryburgh)

Background:

As part of the public exhibition of the Interim Planning Scheme 2015, Council received representations suggesting that the minimum lot size in Rowe Street and Lachlan Court, Brighton be reduced from 2 hectares to either 1 hectare or 0.5 hectare.

This land was previously part of the Horse Racing Overlay, which is where the 2 hectare limit was set. The Horse Racing Overlay was removed in the Interim Scheme, but the lot size had to be kept in order to minimize active changes under the Interim process.

During Council discussions of the submissions and at the public meetings arranged by the Tasmanian Planning Commission, Council decided to write to each of the residents of the area and those in properties adjoining the area, asking them if they would prefer: the minimum lot size to be reduced to 1 hectare; or if they want the status quo to remain.

All the adjoining Rural Living land in the Glen Lea area has a minimum lot size of 0.5 hectares. However, it is considered this would be too high a density for the subject area given existing development and its proximity to rural and agricultural land. A 1 hectare minimum has sound planning merit, providing a modest increase in density, greater consistency with adjoining Rural Living land and maintaining a transition to the agricultural land to the west.

A mail out was conducted in September 2015. This was repeated in late October, after a large number of residents did not respond. The second mail out included an option of "Don't Mind" as some phone discussions revealed that several people who had not responded did so because they didn't mind either way. This is probably a reasonable assumption to make for the majority of the other non-respondents.

The following questions were sent out for completion and return:

- 1. Do you support a minimum lot size reduction from 2 hectares to 1 hectare in the Rural Living Zone for lots in Rowe Street and Lachlan Court (shown highlighted on the plan below)?

(Please circle Yes or No or Don't Mind)

YES

NO

DON'T MIND

- 2. Please provide any further comments you may wish to make:

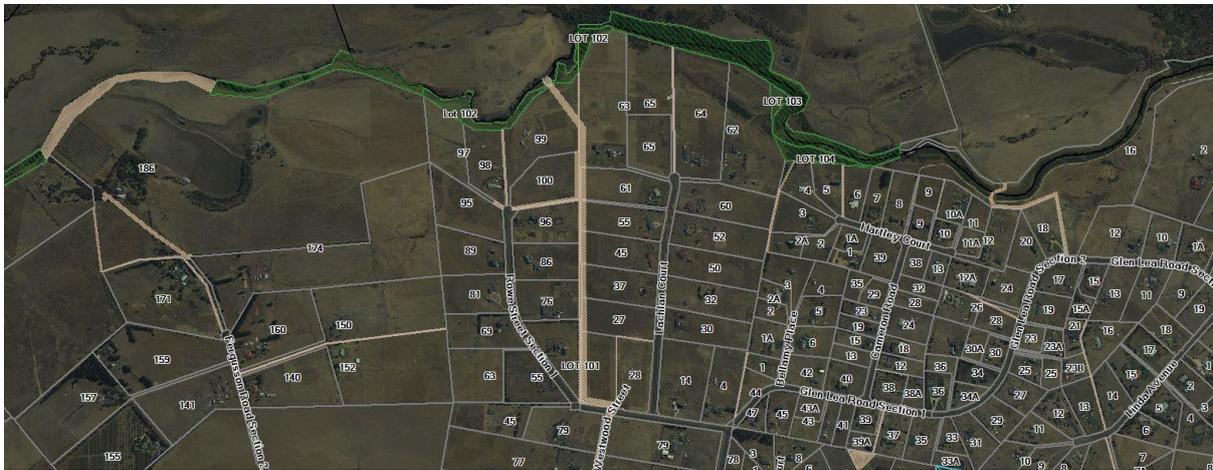


Image 1: Aerial view

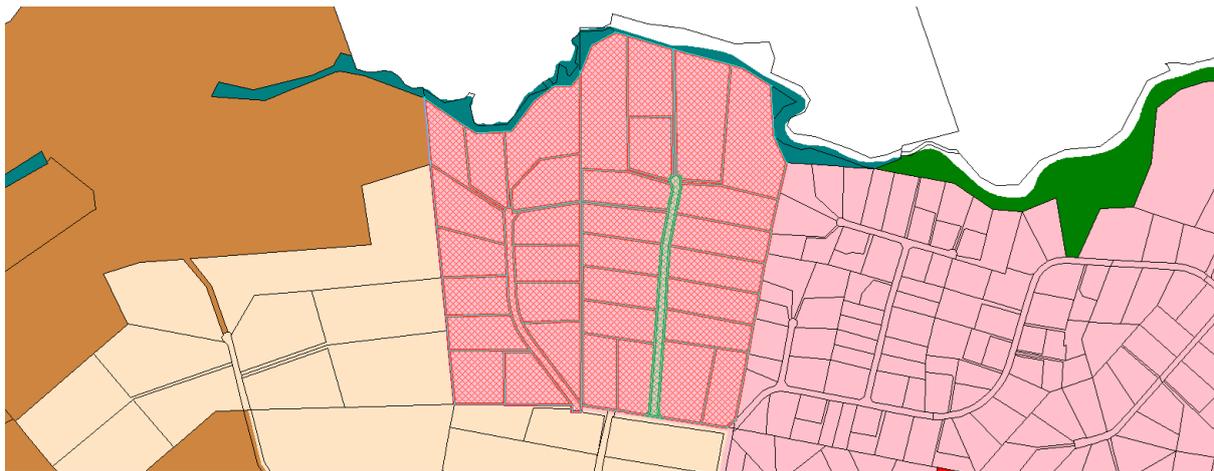


Image 2: Zoning in the area

The results:

Of 40 questionnaires sent to relevant land owners, 25 responses were received.

Yes	No	Don't Mind	Didn't Respond
16	8	1	15

If one assumes that 'don't mind' and non-response equate to not being opposed to the proposed amendment, then 80% are not opposed to the amendment.

Otherwise, it can be said that 40% support the amendment, 20% oppose it and 40% are 'undecided'. Or, 60% responded and two thirds support the amendment.

Comments and responses:

Comment	Response
Risk of more non-residential uses.	The permissible uses in the zone will not change.
Live in the area because it is low density.	
Will harm racing industry.	The area is no longer part of the Horse Racing Overlay, but regardless, horse racing related activities could still occur and would require the same assessment.
"Bought the land for a hobby farm not for subdividing."	
Soil erosion may become worse with smaller lots.	Opinion has been expressed both ways on this issue, some saying smaller lots will improve the erosion issue, others arguing it will make it worse In theory, the erosion issue is more about site management than lot size.

Support the change because the lots are too small for agricultural use and trying to control soil erosion due to inappropriate uses is costly.	
Support the change because the area is close to town and it would be more consistent with other Rural Living land in the area.	
Smaller lots would be more manageable and sandy soil is unsuitable for horses anyway.	Opinion has been expressed both ways on this issue, some saying smaller lots will improve the erosion issue, others arguing it will make it worse In theory, the erosion issue is more about site management than lot size.

The proposed amendment is of sound planning merit and is consistent with council strategies and the Regional Strategy in that it will better utilise existing Rural Living land.

The question for council is whether or not they would like to initiate an amendment based on the above survey or leave the status quo in-tact.

It is recommended that Council initiate an amendment to reduce the minimum lot size from 2 hectares to 1 hectare. Those opposed to the amendment will be able to make the objections known within the formal process and to be heard at the hearings conducted by the Tasmanian Planning Commission.

Consultation:

Consultation has occurred between Council’s planning and engineering staff.

Risk Implications:

There are no risk implications.

Financial Implications:

Planning scheme amendments are quite resource hungry and as such the process will take significant investment of time from council planning staff. If the amendment were successful, it could result in approximately an additional 15-30 rateable lots.

Conclusion:

It is recommended that Council initiate an amendment to reduce the minimum lot size from 2 hectares to 1 hectare. Those oppose to the amendment will be able to make the objections known within the formal process and to be heard at the hearings conducted by the Tasmanian Planning Commission.

Options:

1. As per the recommendation.
2. Council does not adopt the recommendation.

RECOMMENDATION:

That Council's Manager Development Services prepare the relevant planning scheme amendment documentation to reduce the minimum lot size in Rowe Street and Lachlan Court, Brighton from 2 hectares to 1 hectare for Council consideration.

DECISION:

Cr Geard moved, Cr Garlick seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

11. REPORTS FROM OFFICERS:

11.1 COMMON SERVICES JOINT VENTURE MONTHLY REPORTS:

AUTHOR: Manager Professional Services
(Mr G Boyd)

Background:

When the Common Services Joint Venture was formalised there was an undertaking that monthly reports would be provided to member councils. There are seven councils that have joined to date.

One report is for the overall performance of the joint venture which is provided to all member councils. The other report is council specific for each member council that is provided only to that council. The second attachment is for Brighton Council's performance for the month.

Consultation:

General Manager

Risk Implications:

Nil

Financial Implications:

Reports for financial information about the Common Services Joint Venture and Brighton Council were tabled.

Other Issues:

These reports provide detailed information to assist in dealing with the amalgamation program and the financial sustainability of the joint venture and individual councils.

Assessment:

The reports provide updates of proposed actions and collaborations which will build the overall capability and outputs of the group.

Options:

1. Adopt the recommendation.
 2. Do nothing.
-

RECOMMENDATION:

That the reports be received.

DECISION:

Cr Owen moved, Cr Jeffries seconded that the reports be received

CARRIED

11.2 BRIGHTON TOMORROW REPORT:

AUTHOR: Manager Development Services
(Mr J Dryburgh)

Background:

After coming before Council in September and subsequently getting some minor amendments, the Draft Brighton Tomorrow report has been on public exhibition and is available for public view ongoing. Some feedback has been received, all of which was positive. None of the feedback has required additional changes to the report, but has helped to provide additional information for Council to utilize in potential implementation of some of the Brighton Tomorrow proposals.

It is important for both Monash and UTAS that there is some formal recognition of the work. This does not need to be an endorsement of the content of the report by Council, but rather the formal receipt of the Report.

Work is currently underway to gather more detailed design information and costings on several of the conceptual proposals put forward in the report. This information will be presented to Council once it is available, enabling Council to consider whether or not to pursue some of the ideas.

It is also hoped that the relationship with the two universities can be fostered and that further collaboration on a range of projects may occur in future.

What the report is:

Councillors should be clear that this is a conceptual report, full of ideas and opportunities that serve to broaden council and community thinking about the future of the Brighton area.

What the report is not:

The report does not require Council to commit to any project or to any expenditure. The report is not a 'strategy' or 'plan' the Council need follow or abide by – it is effectively an informative and imaginative document that Council can use and build upon to inform its decision-making and future plans and strategies.

Consultation:

Consultation has occurred between Council's Manager Development Services, UTAS, Monash and Council's GM.

Risk Implications:

There are no risk implications.

Financial Implications:

There will be no financial implications.

Options:

1. As per the recommendation.
2. Council does not adopt the recommendation.

RECOMMENDATION:

That Council receive the Brighton Tomorrow Report.

DECISION:

Cr Jeffries moved, Cr Garlick seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

11.3 MONTHLY PLANNING UPDATE:

AUTHORS: Manager Development Services
(Mr J Dryburgh)

Background:

This report is intended to provide a monthly summary of planning matters for Council.

Discussion:

Brighton Industrial and Housing Corporation (BIHC):

- Nothing new.

Purchase and Receipt of land:

Nothing to report.

Projects:

- **5+5+5 project:** Hoping to start again in February.
- **Brighton Tomorrow:** The Brighton Tomorrow report is being tidied up for Council to receive. Some more detailed design work and basic costing are underway to present to council pre budget.
- **Old hospital building:** Costing estimates for various options being prepared.
- **Bridgewater South Master Plan:** Plan endorsed for public exhibition, pending approval from Boral.

Development Applications and leases on Council-owned land:

Uniting Care Tasmania have gained Council's permission to develop community gardens at 84 Jetty Road, Old Beach and off Tottenham Road, Gagebrook and an MOU has been signed.

Council Land Subdivisions and Sales:

Nothing new.

Other Strategic Matters:

- **Brighton Draft Interim Planning Scheme:** Some progress on Urgent Amendments: Dromedary quarry, Highway services precinct, HT land in Bridgewater (to be updated verbally in the meeting).
- **Potential HT Land Master plan:** A consultant team has been engaged by Centacare, who under their agreement with Housing Tasmania need to complete a master plan within the next 12 months or so. The consultant team met with council planning, engineering, community and management staff in late August. We have requested an update on progress.
- **Age friendly communities:** (Verbal discussion)
- **Disability housing:** (Verbal update)

Planning Professional Services:

Professional services hours for planning continue to increase (more than double what they were 3 years ago).

Other matters: None

Statutory update (December 2015):

For the past month (See Attachment).

Enforcements:

Some minor enforcements in process.

Consultation:

All council departments.

Risk Implications:

N/A.

Financial Implications:

N/A.

Options:

1. As per the recommendation.
2. Council does not adopt the recommendation.

RECOMMENDATION:

That Council receive the report.

DECISION:

Cr Owen moved, Cr Geard seconded that the report be received.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

11.4 NUISANCE – PIGEONS – MADDELENA COURT, OLD BEACH:

AUTHOR: Environmental Health Officer
(Mr B Basstian)

Background:

In 2013 Council received complaints from no. 10 Maddelena Court (“Complainant”) against the neighbouring property at 11 Maddelena Court (“Offender”) about the large number of animals (50-150 pigeons dependent upon breeding season) that they have on site.

These complaints originally were for the offensive smell being caused by the accumulation of bird faeces, Council investigated and confirmed an offensive smell was being created from the animal waste that was not being regularly removed. The resident was required to implement a regular cleaning program to eliminate the nuisance and to relocate one of the bird aviaries off the fence line as it was a legal requirement of the *Environmental Health By-Law* not to use a boundary fence as part of any animal enclosure. The Offender had complied with these requirements when a reinspection was done and no further complaints were received to Council.

In August 2015 Council were advised by the Complainant that large numbers of pigeons from the neighbouring property were entering into his property and creating a nuisance. A considerable amount of video footage has been supplied to date (please see video 1 & 2), and it has been observed multiple times first hand by Councils Environmental Health Officers.

Consultation:

Complainant, owner of pigeons, Abetz Curtis, General Manager, Governance Manager, Environmental Health Officer, Senior Environmental Health Officer

Risk Implications:

Financial Implications:

Nil

Other Issues:

On the video footage it can be clearly shown that large numbers of birds are entering into the complainants property, these animals are flying very low (within one to two meters) of the roof. It is a regular occurrence for stray animals to hit into the windows and roof of his home creating a loud noise, these birds when ‘stunned’ then walk around his garden until such time they are able to fly off.

The low level flying of the birds is such that the complainant is unable to use his garden during the ‘flying period’ of the birds, this occurs daily and can be hours at a time.

Entertaining of friends in their garden is also not possible as it is not known when the birds are going to be released, the large number of birds also defecate onto his property, so much that he has had to relocate his clothes line to the far side of his property. Birds flying this low are disconcerting when experiencing it firsthand. The complainants in this instance are in their 70's, retired and spend the majority of their time at home, so the restricted use of their garden is also quite distressing for them.

It has been observed in the past that pigeons generally do not enter into neighbouring properties to this degree and are able to be released without distance and intrusion issues being a problem, although the defecating from such animals onto neighbouring properties including homes, cars and in particular washing on clothes lines has always proven to be an issue.

In this particular instance however the location of the two neighbouring dwellings and nearby gum trees seem to direct the animals over the complainants home to a severe degree. Certainly the animals are entering into the complainant's property and creating a nuisance, which is an offence under section 24 of the *Environmental Health By-Law 2015*.

Assessment:

The Offender was advised during a meeting with Council's Environmental Health Officer Emma Gardner (24/08/2015) of these concerns and agreed to only 'fly' the birds between 4-5pm. From discussions with the Complainant it was agreed to try and mediate the situation so he could plan his movements around the bird's activity and he was hoping to try and 'live with the issue the best he could'.

On 26th October 2015 the complainant advised Council the birds were continuing to be let out at all times and that he could no longer cope with the nuisance as it was having a substantial impact on his home life and lifestyle.

The Offender was advised in correspondence dated 20th November 2015 that his animals were continuing to creating a nuisance and that he must take the necessary action to ensure they are confined to his property boundaries. He contacted Council after receipt of this correspondence and stated that "I will have to get rid of my pigeons because they can't be confined to my property"" He was advised he was not being directly told to do this only that he was required to confine his animals to his property, they could not create a nuisance and he was to take whatever action is necessary to achieve this. If however the animals could not be confined within his property boundary, ultimately he may have to get rid of them. A period of 28 days was given for this to be done and to date no action has been taken and the nuisance is still occurring.

Although generally pigeons do not create an intrusion issue, in this instance the keeping of such animals in this fashion is not suitable in this residential area as their invasion of the personal space of the Complainants property is proving to be unavoidable, and to resolve the issue the Offender will need to permanently remove them.

It is also not possible to order the limiting of the bird numbers as the legislative requirement indicates this is an 'is' or 'is not' issue of which case it clearly 'is' occurring and an offence, the enforcement of the *Environmental Health By-Law* by Council is therefore necessary.

Options:

1. As per the recommendation.
2. That the recommendation not be adopted.

RECOMMENDATION:

That the offender be served with an Infringement Notice for failing to comply with Council's letter of the 20th November 2015, and the *Environmental Health By-Law*; in the event the nuisance is still occurring over the coming weeks Council pursue prosecution in a Magistrates Court and seek the maximum penalty of \$1848.

DECISION:

Cr Owen moved, Cr Garlick seconded that the item be held over until the February Council meeting pending further information i.e. legal advice.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

11.5 MONTHLY FINANCE REPORT AS AT 31 DECEMBER 2015:

FILE REFERENCE: 0103
AUTHOR: Deputy General Manager
(Mr G Davoren)

Background:

The finance reports were submitted for consideration.

They comprised the summarised financial position and revenue and expenses of the Council for the first six months of the 2015/16 financial year.

Consultation:

Nil

Risk Implications:

Nil

Financial Implications:

Not Applicable

Other Issues:

Nil

Assessment:

Nil

Options:

1. As per the recommendation.
2. Not receive the reports.

RECOMMENDATION:

That the reports be received.

DECISION:

Cr Geard moved, Cr Williams seconded that the report be received.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Jeffries	
Cr Owen	
Cr Williams	

12. QUESTIONS ON NOTICE:

There were no questions on notice.

Meeting closed at 6.35 pm

Confirmed:

(Mayor)

Date:

16th February 2016