



MINUTES

Ordinary Council Meeting

(Subject to confirmation)

17 April 2024

(Meeting adjourned from 10 April 2024)

**MINUTES OF YORKE PENINSULA
COUNCIL MEETING**

**HELD AT THE COUNCIL CHAMBER, MINLATON TOWN HALL, 57 MAIN STREET, MINLATON
ON WEDNESDAY, 17 APRIL 2024 AT 5.30PM (MEETING ADJOURNED FROM 10 APRIL 2024)**

1 WELCOME AND ACKNOWLEDGEMENT OF COUNTRY BY MAYOR

Mayor Darren Braund welcomed everyone to the meeting and declared the meeting open.

2 OPENING PRAYER

3 PRESENT

Mayor Darren Braund, Cr Richard Carruthers, Cr Naomi Bittner, Cr Trevor Clerke, Cr Alan Headon, Cr Scott Hoyle, Cr Adam Meyer, Cr Michael O'Connell

In Attendance

Andrew Cameron (CEO), Andre Kompler (Director Assets & Infrastructure Services), Ben Thompson (Director Corporate & Community Services), Dustin Guthberg (Director Development Services), Natalie McDonald (Minute Secretary)

4 LEAVE OF ABSENCE

RESOLUTION

Moved: Cr Adam Meyer

Seconded: Cr Scott Hoyle

That Cr Kylie Gray be granted a leave of absence for the month of April 2024.

CARRIED 076/2024 (17/04/2024)

5 APOLOGIES

Cr Kristin Murdock; Cr Roger Johns; Cr Tania Stock

Mayor Darren Braund advised the meeting that in accordance with Regulation 7(2) of the Local Government (Procedures at Meetings) Regulations 2013, in circumstances where the number of apologies received (in advance of a meeting of the Council) indicates that a quorum will not be present at that meeting the CEO may adjourn the meeting to a specific day and time.

Under this regulation it is a matter for the CEO to determine the date and the time to which the meeting will be adjourned. It is noted that the meeting that occurs on the new date and time determined by the CEO is the commencement of the adjourned meeting of 10 April 2024, and not a new meeting. As such, the agenda for the adjourned meeting is the agenda which applied on the original meeting date.

We had the following six apologies received prior to commencement of the 10 April 2024 meeting:

Cr Kylie Gray, Cr Kristin Murdock, Cr Roger Johns, Cr Tania Stock, Cr Scott Hoyle and Cr Adam Meyer.

6 CONFLICT OF INTEREST

Mayor Darren Braund reminded all Elected Members of the requirement to disclose any conflict of interest in relation to any matters before Council.

Type of Conflict of Interest being declared:	Material Conflict of Interest
Elected Member Name:	Cr Naomi Bittner
Matter to be discussed (<i>Agenda Item #</i>):	25.4 – Permit to Use Public Road for Exclusive Use
Nature of the Interest being declared:	I do have a permit.
I intend to participate in the meeting in relation to this Material Conflict of Interest:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
The manner in which the majority of persons who were entitled to vote at the meeting voted on the matter	<p>RESOLUTION</p> <p>Moved: Cr Scott Hoyle Seconded: Cr Alan Headon</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Give permission to commence the community engagement process for Permits to use Public Road Reserves for exclusive use (cropping and grazing). 2. Endorse a permit period of five years to be included in the Community Engagement Report. 3. Endorse the Community Engagement Report attached, which constitutes the information that is required to be made available to the public as part of the community engagement phase in accordance with 223 (1)(c) of the Local Government Act 1999 and Section 25 (1) (a) of the Local Government Regulations 2013. <p style="text-align: right;">CARRIED 097/2024 (17/04/2024)</p>

Type of Conflict of Interest being declared:	Material Conflict of Interest
Elected Member Name:	Cr Alan Headon
Matter to be discussed (<i>Agenda Item #</i>):	27.1 – Section 270 Review – Port Clinton ANZAC Memorial
Nature of the Interest being declared:	I have been involved with this matter through the Progress Association and do not feel that I can be impartial.
I intend to participate in the meeting in relation to this Material Conflict of Interest:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
The manner in which the majority of persons who were entitled to vote at the meeting voted on the matter	<p>RESOLUTION</p> <p>Moved: Cr Naomi Bittner Seconded: Cr Richard Carruthers</p> <p>That Council receives and considers the request for an internal review of a Council decision, as provided in Attachment 3, dated Thursday, 22</p>

	<p>February 2024 and received via Australia Post on Friday 8 March 2024, seeking a review of the Council decision made at the general meeting of the Council held on 13 December 2023, resolution number 296/2023:</p> <p>“RESOLUTION</p> <p><i>Moved: Cr Tania Stock</i> <i>Seconded: Cr Scott Hoyle</i></p> <p><i>That Council does not support an ANZAC Memorial at the corner of Yoolamardy Terrace and Yelta Street, Port Clinton.</i></p> <p style="text-align: right;">Carried 296/2023 (13/12/2023)”</p> <p>(Original Decision).</p> <p style="text-align: right;">CARRIED 100/2024 (17/04/2024)</p>
	<p>RESOLUTION</p> <p>Moved: Cr Scott Hoyle Seconded: Cr Richard Carruthers</p> <p>That Council, in accordance with its Internal Review of a Council Decision Policy PO037, review the Original Decision in relation to the proposed ANZAC Memorial installation at the corner of Yoolamardy Terrace and Yelta Street, Port Clinton by also reconsidering the following information that had been considered by the Council at the time it made the Original Decision:</p> <ol style="list-style-type: none"> 1. Agenda Report “23.4 Council Consultation – Proposed ANZAC Memorial Port Clinton” considered by Council during the 13 December 2023 Council meeting; 2. Agenda Report “22.2 Consultation – Proposed ANZAC Memorial Port Clinton” considered by Council during the 11 October 2023 Council meeting. <p style="text-align: right;">CARRIED 101/2024 (17/04/2024)</p>
	<p>RESOLUTION</p> <p>Moved: Cr Adam Meyer Seconded: Cr Naomi Bittner</p> <p>That Council, having considered/reconsidered the information contained within Recommendations 1 and 2 above, resolve to uphold the Original Decision for the following reasons:</p> <ul style="list-style-type: none"> • The decision was within delegated authority; • All relevant matters were considered; • The decision was made based on good faith and for proper purposes; • The findings were based on evidence;

	<ul style="list-style-type: none"> • The decision was reasonable; • The person requesting the review was treated with fairness and in keeping with the principles of procedural fairness (also called natural justice); • That a discretionary power was not exercised at the direction of another; • Existing policies were adequately considered and applied; • Council made the best possible decision in the circumstances. <p><i>“The vote was tied at three all. Due to equality of votes the Mayor was required to use his casting vote and voted against the motion.”</i></p> <p style="text-align: right;">MOTION LOST</p> <p>Cr Adam Meyer called for a division.</p> <p>In Favour: Crs Naomi Bittner, Trevor Clerke and Adam Meyer</p> <p>Against: Mayor Darren Braund, Crs Richard Carruthers, Scott Hoyle and Michael O'Connell</p> <p style="text-align: right;">CARRIED 102/2024 (17/04/2024)</p>
	<p>RESOLUTION</p> <p>Moved: Cr Richard Carruthers Seconded: Cr Michael O'Connell</p> <p>That Council, having considered/reconsidered the information contained within Recommendations 1 and 2 above, determine that a different decision would be more appropriate, based on the evidence and resolve to rescind the Original Decision because a different decision would be more appropriate.</p> <p style="text-align: right;">CARRIED 103/2024 (17/04/2024)</p>
	<p>RESOLUTION</p> <p>Moved: Cr Naomi Bittner Seconded: Cr Scott Hoyle</p> <p>That Council, having considered/reconsidered the information contained within Recommendations 1, 2 and 3 above, resolve to support a permanent ANZAC Memorial installation at the corner of Yoolamardy Terrace and Yelta Street, Port Clinton, subject to the necessary consents being obtained.</p> <p style="text-align: right;">CARRIED 104/2024 (17/04/2024)</p>

7 MINUTES OF PREVIOUS MEETING – FOR CONFIRMATION**RESOLUTION**

Moved: Cr Richard Carruthers
Seconded: Cr Alan Headon

That the minutes of the Ordinary Council Meeting held on 13 March 2024 be confirmed.

CARRIED 077/2024 (17/04/2024)

RESOLUTION

Moved: Cr Adam Meyer
Seconded: Cr Michael O'Connell

That the minutes of the Confidential Council Meeting held on 13 March 2024 be confirmed.

- 27.1 – Questions no Notice Received from Cr Adam Meyer

CARRIED 078/2024 (17/04/2024)

8 MOTIONS ON NOTICE**8.1 NOTICE OF MOTION - COUNCILLOR NAOMI BITTNER - SUPPLEMENT 2023/2024 YORKE PENINSULA BUSINESS GRANTS PROGRAM****RESOLUTION**

Moved: Cr Naomi Bittner
Seconded: Cr Trevor Clerke

That Council supplement the 2023-2024 budget for the Yorke Peninsula Business Grants Program by an additional \$10,000.

CARRIED 079/2024 (17/04/2024)

9 QUESTIONS ON NOTICE**9.1 QUESTIONS ON NOTICE RECEIVED FROM CR TANIA STOCK**

The following question without notice in relation to Item 9.4 Questions on Notice received from Cr Tania Stock, was taken on notice at the 13 March 2024 Council Meeting.

Question

Cr Tania Stock sought clarification in relation to Question 5 and asked to provide the FAG funding each year to date from 2016/17, and the estimated loss in general purpose funding for each financial year due to the assessment of capacity to raise rate revenue. The response indicated that "other councils have had indexed increases in FA Grants, compared to the negative received by YP Council. Due to this feature, it is difficult to calculate/estimate the "actual loss" in FA Grants year-on-year over the period".

If the "actual loss" cannot be estimated, how has the figure of a \$300,000 loss year-on-year been arrived at? Is this figure correct or not? Why has the figure been adjusted to \$100,000 for the 23/24 financial year?

Response

Cr Stock has requested clarification regarding the reduction to Financial Assistance Grant (General Purpose Component) Funding [FAGS (General Purpose)] received by Council.

The slides to the presentation provided to Elected Members at the February 2024 Information and Briefing session, were made available to all Elected Members to access via SharePoint. The slides clearly state that, in relation to FAGS (General Purpose), "Council currently receives \$303,615 per annum less than it did in 2016/17". The reference to a "\$300,000 year-on-year loss" referred to by Cr Stock was not made in the presentation nor included in the presentation material.

Calculation of the \$303,615 difference in the level of FAGs (General Purpose) Funding received by Council in the present year to that received in 2016/2017 has been arrived at through a simple calculation.

Calculation Method: FAGS (General Purpose) amount received in 2016/2017 *less* FAGS (General Purpose) amount received in 2023/2024 *equals* Difference

Calculation: \$1,438,300 *less* \$1,134,685 *equals* \$303,615.

The difficulty in measuring the true loss in FAGs (General Purpose) funding to Council, referred to in answers to Cr Stock's Questions on Notice provided at the March 2024 Council Meeting, arise from the fact that most South Australian Councils saw an increase in FAGs (General Purpose) funding between 2016/2017 and 2023/2024. The median increase to annual FAGs (General Purpose) funding paid across all 68 South Australian Councils between 2016/2017 and 2023/2024 was 29.4%. During this period funding increased for 63 of 68 South Australian Councils. In contrast, Yorke Peninsula Council's funding decreased by 21.1% over the same period.

If Yorke Peninsula Council's FAGs (General Purpose) annual allocation had increased by 29.4% between 2016/2017 and 2023/2024 (which was the median increase across all 68 South Australian Council's during this period) then Yorke Peninsula Council's entitlement to annual FAGS (General Purpose) allocation for 2023/2024 could be calculated to be \$1,861,160 (which is some \$726,475 greater than the allocation for the current year). Under such a scenario the immediate and cumulative impact to Council of neglecting to address underlying rate inequity (i.e. – the current discounted rate in the dollar provided to the Primary Production land use category **which far exceeds the average discount** provided across the State) becomes most apparent and concerning.

In a conservative approach to budgeting a *further* decrease of approximately \$100,000 to the FAGs (General Purpose) component for year one of the plan (2024/2025) has been factored into the Long-Term Financial Plan 2025-2034 which is presently out for public consultation. The actual level of FAGs (General Purpose) funding payable to Council for 2024/2025 is ultimately determined by the Local Government Grants Commission.

RESOLUTION

Moved: Cr Alan Headon

Seconded: Cr Trevor Clerke

That the response to the question regarding the Questions on Notice from the 13 March 2024 Council Meeting received from Cr Tania Stock be received and noted.

CARRIED 080/2024 (17/04/2024)

9.2 QUESTIONS ON NOTICE RECEIVED FROM CR ADAM MEYER

The following question without notice in relation to Item 9.5 Questions on Notice received from Cr Adam Meyer, was taken on notice at the 13 March 2024 Council Meeting:

Question

Cr Adam Meyer sought clarification in relation to Question 1 and advised that the Mayor has ruled the question as irrelevant and that it not be answered. Councillors are here to review expenditure of Council. How is it irrelevant that Elected Members are wishing to understand how the CEO is spending the money that rate payers make to council?

Response

It is the role of each Council member to keep the Council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review. As such, questions about expenditure are encouraged. However, Question 1 of 13 March 2024 was ruled to be irrelevant because it was asked in the context of the total Fringe Benefits Tax amounts for the relevant years having already been provided in response to an earlier question, and the details of all benefits provided to the CEO (being the only employee whom the elected body manages) also having been provided in response to earlier questions.

Benefits for all employees are also described in general terms in the Council's Register of Remuneration, Salaries and Benefits. To then provide details of all transactions, which attract Fringe Benefits Tax, by way of response to a question asked in a Council meeting, would be a disclosure of personnel matters with respect to various Council employees (as well as potentially other types of personal affairs information) which would not appear to add in any meaningful way to a Council member's ability to discharge their role of keeping expenditure under review, noting that the CEO is solely responsible for determining the remuneration and conditions of service of employees, within the budgets approved by Council.

RESOLUTION

Moved: Cr Adam Meyer

Seconded: Cr Alan Headon

That the response to the question regarding the Questions on Notice from the 13 March 2024 Council Meeting received from Cr Adam Meyer be received and noted.

CARRIED 081/2024 (17/04/2024)

10 QUESTIONS WITHOUT NOTICE

Nil

11 PETITIONS

Nil

12 MAYOR**12.1 MAYOR'S MONTHLY REPORT MARCH 2024**

Mayor Darren Braund added to his report:

Congratulations to the Salt Water Classic on a great event.

The Lullably Project has had a book produced and a song has been chosen to be performed at Carnegie Hall in New York.

PURPOSE

To keep Elected Members updated on Mayoral activities during the month of March 2024.

RESOLUTION

Moved: Cr Naomi Bittner

Seconded: Cr Alan Headon

That the report be received.

CARRIED 082/2024 (17/04/2024)

13 COUNCILLORS' REPORT

Nil

INFORMATION AGENDA**14 ITEMS FOR EXCLUSION**

Nil

15-19 RECEIPT OF INFORMATION REPORTS**ADOPTION OF INFORMATION AGENDA****RESOLUTION**

Moved: Cr Adam Meyer

Seconded: Cr Michael O'Connell

That the information items contained within the Information Agenda be received.

CARRIED 083/2024 (17/04/2024)

20 VISITORS TO THE MEETING

Mayor Darren Braund requested leave of the meeting advising he had received late requests from two members of the public to address the meeting in relation to the Port Clinton ANZAC Memorial. Leave was granted.

5.40pm – 5.51pm - Dusty Millar addressed the meeting in relation to the proposed ANZAC Memorial at Port Clinton.

5.52pm – 6.01pm - Helen Goad addressed the meeting in relation to the proposed ANZAC Memorial at Port Clinton.

DEBATE AGENDA**21 MAYOR**

Nil

22 CHIEF EXECUTIVE OFFICER**22.1 LONG TERM FINANCIAL PLAN 2025-2034****PURPOSE**

To consider public submissions received and adoption of the Long Term Financial Plan (LTFP) 2025-2034.

RESOLUTION

Moved: Cr Michael O'Connell
Seconded: Cr Richard Carruthers

That Council receive and consider any public submissions and adopt the draft Long Term Financial Plan 2025-2034.

CARRIED 084/2024 (17/04/2024)

23 CORPORATE AND COMMUNITY SERVICES**23.1 FINANCIAL REPORT AS AT 31 MARCH 2024****PURPOSE**

For Council to consider the financial report and capital projects update report as at 31 March 2024.

RESOLUTION

Moved: Cr Alan Headon
Seconded: Cr Scott Hoyle

That Council receive the financial report and capital projects update report as at 31 March 2024.

CARRIED 085/2024 (17/04/2024)

23.2 COMMUNITY ENERGY UPGRADES FUND PROGRAM - SOLAR GRANT OPPORTUNITY**PURPOSE**

To seek Council endorsement to lift the matter – Community Energy Upgrade Fund Program – Solar Grant Opportunity from the table and resume proceedings at the point preceding the resolution from the 13 March 2024 Ordinary Council meeting. Further, for Council to consider a grant application to fund solar and battery systems on the Maitland Council Office.

RESOLUTION

Moved: Cr Scott Hoyle
Seconded: Cr Adam Meyer

That Council endorse to lift the matter Community Energy Upgrades Fund Program – Solar Grant Opportunity from the table for further consideration and resume the proceedings at the point preceding the following resolution:

Moved: Cr Adam Meyer

Seconded: Cr Alan Headon

That the matter be laid on the table and a report with further information be presented to the April 2024 Council Meeting.

CARRIED 059/2024 (13/03/2024)

CARRIED 086/2024 (17/04/2024)

RESOLUTION

Moved: Cr Scott Hoyle

Seconded: Cr Trevor Clerke

RECOMMENDATION

That Council endorse a grant application to fund a solar and battery system on the Maitland Council Office through the Community Energy Upgrades Fund Program.

CARRIED 087/2024 (17/04/2024)

23.3 RATE REBATE - ARTHURTON WAR MEMORIAL SPORTS CLUB INC

PURPOSE

For Council to consider a rate rebate application received from Arthurton War Memorial Sports Club Inc. for land leased from Council.

RESOLUTION

Moved: Cr Richard Carruthers

Seconded: Cr Naomi Bittner

That Council grant a 100% discretionary rebate of general rates only to the Arthurton War Memorial Sports Club Inc for the leased portion of the property located at 14A Main Street Arthurton (Assessment no. 437202) for 2023/2024 and future financial years, in accordance with Section 166 (1) (j) of the Local Government Act 1999.

CARRIED 088/2024 (17/04/2024)

23.4 RATE REBATE - ST VINCENT DE PAUL SOCIETY SA INC

PURPOSE

For Council to consider a rate rebate application received from St Vincent de Paul Society SA Inc.

RESOLUTION

Moved: Cr Alan Headon

Seconded: Cr Trevor Clerke

That Council grant a further 25% Community Services rebate of general rates only, in addition to the 75% mandatory Community Services rebate of general rates only (total 100% rebate), to the St Vincent de Paul Society SA Inc. for the property located at 12 Robert Street Maitland (Assessment

no. 422980) for 2024/2025 and future financial years, in accordance with Section 161(1) of the Local Government Act 1999.

CARRIED 089/2024 (17/04/2024)

23.5 WRITE OFF BAD DEBTS GREATER THAN \$1,000

PURPOSE

To seek approval to write off bad debts greater than \$1,000 in accordance with section 143 of the Local Government Act 1999 (Act) and Council Policy PO008 Bad Debts – Delegation of Authority.

RESOLUTION

Moved: Cr Michael O'Connell

Seconded: Cr Scott Hoyle

That debt totalling \$8,331.63 relating to outstanding amounts for rates assessments 117671 and 324749 and debtor 6810/91 as presented and attached be written off in 2023/2024 in accordance with section 143 of the Local Government Act 1999.

CARRIED 090/2024 (17/04/2024)

24 ASSETS AND INFRASTRUCTURE SERVICES

24.1 COMMUNITY WASTEWATER MANAGEMENT SCHEMES - DISPOSAL OF TREATED WATER

PURPOSE

For Council to consider a consistent approach towards facilitating the reuse and disposal of treated water from Community Wastewater Management Schemes (CWMS) on the Ardrossan, Maitland and Yorketown golf courses.

RESOLUTION

Moved: Cr Adam Meyer

Seconded: Cr Alan Headon

That Council:

1. Leave the current electrical pumping cost arrangement in place, with requests for financial assistance by the Maitland and Ardrossan Golf Clubs, if and when needed, dealt with by Council, on a case by case basis.
2. Give permission to make enquiry to the Department of Health, to seek approval of CWMS treated water reuse on road works and as a potential future supplement to CWMS treated water reuse.

CARRIED 091/2024 (17/04/2024)

24.2 STRATEGY RESPONSE TO NETWORK LEVEL HEAVY VEHICLE ROUTE ASSESSMENT AND RISK ANALYSIS

Director Asset and Infrastructure informed the meeting that due to the meeting being adjourned from 10 April 2024 to 17 April 2024 the dates on the public consultation document will be amended. The 'end date' for consultation will revert to 24/05/24.

PURPOSE

To seek Council endorsement to lift the matter – Strategy Response to Network Level Heavy Vehicle Route Assessment and Risk Analysis (Attachment 1) from the table and resume proceedings at the point preceding the resolution from the 13 September 2023 Ordinary Council meeting. Further, to obtain Council endorsement for the current draft Strategy to go to public consultation before Strategy adoption and implementation.

RESOLUTION

Moved: Cr Adam Meyer

Seconded: Cr Naomi Bittner

That Council endorse to lift the matter Strategy Response to Network Level Heavy Vehicle Route Assessment and Risk Analysis from the table and resume proceedings at the point preceding the following resolution:

Moved: Cr Naomi Bittner

Seconded: Cr Roger Johns

That the matter lie on the table.

CARRIED 208/2023 (13/09/2023)

CARRIED 092/2024 (17/04/2024)

RESOLUTION

Moved: Cr Naomi Bittner

Seconded: Cr Scott Hoyle

That Council:

1. Receive the Strategy for managing risk of B-Double+ access to Yorke Peninsula Council's road network post HDS 'commodity' route reviews - Version 2.3
2. Endorse the above Version 2.3 proceeding to public consultation.

CARRIED 093/2024 (17/04/2024)

25 DEVELOPMENT SERVICES**25.1 SETTING OF FEES FOR EXPIATIONS PURSUANT TO BY-LAWS****PURPOSE**

For Council to review the expiation fees pursuant to the by-laws of 2020.

RESOLUTION

Moved: Cr Michael O'Connell

Seconded: Cr Richard Carruthers

Pursuant to Section 246 (5)(b) of the Local Government Act 1999 and in accordance with Clause 6.1 of Council's Permits and Penalties by-law 2020, Council fixes an expiation fee commencing 1 July 2024 for alleged offences against the following Council by-laws:

By-law	Expiation Fee
Permits and Penalties by-law 2020	\$312.50
Local Government Land by-law 2020	\$312.50
Road by-law 2020	\$312.50
Moveable Signs by-law 2020	\$312.50
Dogs by-law 2020	\$312.50
Cats by-law 2020	\$312.50
Port Vincent Marina by-law 2020	\$312.50

CARRIED 094/2024 (17/04/2024)

25.2 LAND MANAGEMENT AGREEMENT - REQUEST WAIVER - 6 AND 8 MILLS GULLY ROAD STANSBURY**PURPOSE**

To seek authorisation for the request of a waiver of the land owners' obligations under Land Management Agreement (LMA) No. 11483674 at the request of the property owner Triumph Residential and Commercial Pty Ltd to allow for modular housing.

RESOLUTION

Moved: Cr Scott Hoyle

Seconded: Cr Naomi Bittner

That Council:

1. Endorse a partial waiver of sections 8.1 and 11 of the Land Management Agreement No. 11483674 on land at 6 (Lot 2), Certificate of Title Volume 6069 Folio 325 and 8 (Lot 1) Mills Gully Road, Stansbury, Certificate of Title Volume 6069 Folio 324, to allow for pre-fabricated modular design dwellings to be constructed off site in multiple sections, transported to, and assembled on the land.
2. Authorise the Chief Executive Officer to sign the required documentation under Section 17 of the Land Management Agreement No.11483674.

CARRIED 095/2024 (17/04/2024)

25.3 PROPOSED ROAD CLOSURES - POINT DAVENPORT CONSERVATION PARK, HUNDRED OF COONARIE

PURPOSE

To seek permission to proceed with the proposed road closure process for Point Davenport Conservation Park, Hundred of Coonarie.

RESOLUTION

Moved: Cr Scott Hoyle

Seconded: Cr Michael O'Connell

That Council:

1. Resolve that the land is surplus to Council's needs for the purpose of closing the unmade surveyed public roads and vesting with the Crown to subsequently be proclaimed as an addition to the Point Davenport Conservation Park.
2. Give permission to commence with the road closure process for the subject unmade surveyed public roads under the Roads (Opening and Closing) Act 1991.
3. Exclude the said unmade surveyed public roads from community land classification under Section 193 of the Local Government Act 1999, once the road closure process is complete.
4. Resolve to dispose of the subject unmade surveyed public roads for nil consideration for the following reasons:
 - The unmade surveyed public roads are proposed for inclusion with adjacent Crown land holding to subsequently be proclaimed as an addition to the Point Davenport Conservation Park; and
 - Unmade surveyed public roads to be utilised by another level of government; and
 - The land has limited value being within a conservation park and is also within the Planning and Design Code Conservation Zone with State significant vegetation overlay; and
 - The value of environmental benefits to the adjoining land parcels.

CARRIED 096/2024 (17/04/2024)

6.46pm – Cr Naomi Bittner declared a material conflict of interest in relation to Item 25.4 and left the meeting.

25.4 PERMIT TO USE PUBLIC ROAD FOR EXCLUSIVE USE

Director Development Services informed the meeting that due to the meeting being adjourned from 10 April 2024 to 17 April 2024 the dates on the public consultation document will be amended to reflect that consultation will close on 15/05/2024.

PURPOSE

To seek permission to proceed with the community engagement process for applications received for Permits to use Public Roads for exclusive use (cropping and grazing).

RESOLUTION

Moved: Cr Scott Hoyle

Seconded: Cr Alan Headon

That Council:

1. Give permission to commence the community engagement process for Permits to use Public Road Reserves for exclusive use (cropping and grazing).
2. Endorse a permit period of five years to be included in the Community Engagement Report.
3. Endorse the Community Engagement Report attached, which constitutes the information that is required to be made available to the public as part of the community engagement phase in accordance with 223 (1)(c) of the Local Government Act 1999 and Section 25 (1) (a) of the Local Government Regulations 2013.

CARRIED 097/2024 (17/04/2024)

6.48pm – Cr Naomi Bittner returned to the meeting.

26 GENERAL BUSINESS

Section 85 of the Act requires that matters on the Agenda are described with reasonable “particularity and accuracy” and reports and other documentation to be considered at a meeting are available to the public prior to the meeting. The practice of general business should be restricted to matters of urgency.

Nil

6.49pm – Cr Alan Headon declared a material conflict of interest in relation to Item 27.1 and left the meeting.

CONFIDENTIAL AGENDA**27 CONFIDENTIAL ITEMS****27.1 SECTION 270 REVIEW - PORT CLINTON ANZAC MEMORIAL****RESOLUTION**

Moved: Cr Scott Hoyle

Seconded: Cr Trevor Clerke

Section 90 Order

That pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999, the Council orders, that the public be excluded from the meeting relating to Item 27.1 Section 270 Review - Port Clinton ANZAC Memorial, with the exception of the following persons:

- Chief Executive Officer
- Executive Assistant to CEO and Mayor
- Director Corporate and Community Services
- Director Assets and Infrastructure Services
- Director Development Services

The Council is satisfied that, pursuant to Section 90(2) and (3)(a) of the Act, the information to be received, discussed or considered in relation to report Item 27.1 Section 270 Review - Port Clinton ANZAC Memorial, is confidential information relating to:

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

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

CARRIED 098/2024 (17/04/2024)

6.49pm – The public were removed from the meeting and the Chamber secured.

RESUMPTION OF PUBLIC MEETING

Released in camera minute – 7.30pm.

27.1 SECTION 270 REVIEW - PORT CLINTON ANZAC MEMORIAL

PURPOSE

For Council to reconsider the decision made at its 13 December 2023 meeting regarding the proposed ANZAC Memorial installation at the corner of Yoolamardy Terrace and Yelta Street, Port Clinton, following receipt of a request pursuant to Section 270 of the Local Government Act 1999 for a review of the decision, as provided in Attachment 3.

RESOLUTION

Moved: Cr Naomi Bittner
Seconded: Cr Richard Carruthers

That Council receives and considers the request for an internal review of a Council decision, as provided in Attachment 3, dated Thursday, 22 February 2024 and received via Australia Post on Friday 8 March 2024, seeking a review of the Council decision made at the general meeting of the Council held on 13 December 2023, resolution number 296/2023:

“RESOLUTION

Moved: Cr Tania Stock
Seconded: Cr Scott Hoyle

That Council does not support an ANZAC Memorial at the corner of Yoolamardy Terrace and Yelta Street, Port Clinton.

Carried 296/2023 (13/12/2023)”

(Original Decision).

CARRIED 100/2024 (17/04/2024)

RESOLUTION

Moved: Cr Scott Hoyle
Seconded: Cr Richard Carruthers

That Council, in accordance with its Internal Review of a Council Decision Policy PO037, review the Original Decision in relation to the proposed ANZAC Memorial installation at the corner of

Yoolamardy Terrace and Yelta Street, Port Clinton by also reconsidering the following information that had been considered by the Council at the time it made the Original Decision:

1. Agenda Report “23.4 Council Consultation – Proposed ANZAC Memorial Port Clinton” considered by Council during the 13 December 2023 Council meeting;
2. Agenda Report “22.2 Consultation – Proposed ANZAC Memorial Port Clinton” considered by Council during the 11 October 2023 Council meeting.

CARRIED 101/2024 (17/04/2024)

RESOLUTION

Moved: Cr Adam Meyer

Seconded: Cr Naomi Bittner

That Council, having considered/reconsidered the information contained within Recommendations 1 and 2 above, resolve to uphold the Original Decision for the following reasons:

- The decision was within delegated authority;
- All relevant matters were considered;
- The decision was made based on good faith and for proper purposes;
- The findings were based on evidence;
- The decision was reasonable;
- The person requesting the review was treated with fairness and in keeping with the principles of procedural fairness (also called natural justice);
- That a discretionary power was not exercised at the direction of another;
- Existing policies were adequately considered and applied;
- Council made the best possible decision in the circumstances.

“The vote was tied at three all. Due to equality of votes the Mayor was required to use his casting vote and voted against the motion.”

MOTION LOST

Cr Adam Meyer called for a division.

In Favour: Crs Naomi Bittner, Trevor Clerke and Adam Meyer

Against: Mayor Darren Braund, Crs Richard Carruthers, Scott Hoyle and Michael O'Connell

CARRIED 102/2024 (17/04/2024)

RESOLUTION

Moved: Cr Richard Carruthers

Seconded: Cr Michael O'Connell

That Council, having considered/reconsidered the information contained within Recommendations 1 and 2 above, determine that a different decision would be more appropriate, based on the evidence and resolve to rescind the Original Decision because a different decision would be more appropriate.

CARRIED 103/2024 (17/04/2024)

RESOLUTION

Moved: Cr Naomi Bittner
Seconded: Cr Scott Hoyle

That Council, having considered/reconsidered the information contained within Recommendations 1, 2 and 3 above, resolve to support a permanent ANZAC Memorial installation at the corner of Yoolamardy Terrace and Yelta Street, Port Clinton, subject to the necessary consents being obtained.

CARRIED 104/2024 (17/04/2024)

RESOLUTION

Moved: Cr Trevor Clerke
Seconded: Cr Richard Carruthers

Section 91 Order

That having considered report 27.1 Section 270 Review - Port Clinton ANZAC Memorial in confidence under Section 90(2) and (3)(a) of the Local Government Act 1999 (the Act) the Council, pursuant to Section 91(7) and 91(9) of the Act orders that the agenda report, attachments, minutes and supporting documentation relevant to report 27.1 Section 270 Review - Port Clinton ANZAC Memorial be retained in confidence and not available for public inspection until further order of the Council with the exception of the carried resolutions.

CARRIED 105/2024 (17/04/2024)

7.31pm – Cr Alan Headon returned to the meeting.

28 NEXT MEETING

Wednesday 8 May 2024

29 CLOSURE

The Meeting closed at 7.32pm.

The minutes of this meeting were confirmed at the Council Meeting held on 8 May 2024.

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MAYOR DARREN BRAUND