

SPECIAL COUNCIL MEETING

COUNCIL MINUTES

Monday 6 March 2017

Council Chambers



John Brown
General Manager
Break O'Day Council
6 March 2017

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SCM03/17.1.0 ATTENDANCE

SCM03/17.1.1 Present

Mayor Mick Tucker
Deputy Mayor John McGiveron
Councillor Glenn McGuinness
Councillor Margaret Osborne OAM
Councillor Barry LeFevre
Councillor Hannah Rubenach-Quinn
Councillor Kylie Wright
Councillor Janet Drummond

SCM03/17.1.2 Apologies

Councillor John Tucker

SCM03/17.1.3 Leave of Absence

SCM03/17.1.4 Staff in Attendance

General Manager, John Brown
Executive Assistant, Angela Matthews
Manager Community Services, Chris Hughes
Economic Development Officer, Tim Gowans
Manager Corporate Services, Bob Hoogland

SCM03/17.2.0 PUBLIC QUESTION TIME

Five (5) people in the gallery.

In accordance with Section 31(1) of the Local Government (Meeting Procedures) Regulations 2005 the following questions were submitted in writing prior to the Council Meeting.

SCM03/17.2.1 Partial Closure of Parkside Avenue, Stieglitz – Ms Buchanan, Stieglitz

We need to find out more information regarding the proposed closure of Parkside Avenue?

Reply

The Mayor advised that this item was going to be discussed at this meeting shortly.

SCM03/17.3.0 DECLARATION OF PECUNIARY INTEREST OF A COUNCILLOR OR CLOSE ASSOCIATE

Section 48 or 55 of the Local Government Act 1993 requires that a Councillor or Officer who has an interest in any matter to be discussed at a Council Meeting that will be attended by the Councillor or Officer must disclose the nature of the interest in a written notice given to the General Manager before the meeting; or at the meeting before the matter is discussed.

A Councillor or Officer who makes a disclosure under Section 48 or 55 must not preside at the part of the meeting relating to the matter; or participate in; or be present during any discussion or decision making procedure relating to the matter, unless allowed by the Council.

Nil.

SCM03/17.4.0 GOVERNANCE

SCM03/17.4.1 Partial Closure of Parkside Avenue, Stieglitz

FILE REFERENCE	032\005\011\
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OFFICER'S RECOMMENDATION:

1. Pursuant to section 14 of the *Local Government (Highways) Act 1982* (the **Act**), the Council, having considered:
 - (i) **The improvements to the safety of the public by removing a road which bisects; and**
 - (ii) **Benefits which will accrue to the public and the community through increased economic activity and employment opportunities;**

resolves that the part of Parkside Avenue, Stieglitz as marked on the plan annexed and marked "A" should be closed to all traffic for the public benefit.

2. Council delegates its functions and powers pursuant to section 14(1)(b) of the Act to the General Manager and authorises the General Manager to take such steps as may be necessary to comply with each of the requirements of that section in relation to the closure of that part of Parkside Avenue, Stielgitz.

INTRODUCTION:

Council has been asked if they would consider closure of Parkside Avenue, Stieglitz, due to the impact on a potential development of the old Parkside caravan park site. The gravel road currently provides access to houses that the developers have purchased and acts as an alternative access to a couple of other residences. It would need to be closed as a public road in accordance with the Local Government (Highways) Act 1982.

DISCUSSION:

- The General Manager advised that the proposed closure is due to the potential development of Parkside Avenue.
- The General Manager advised that Council has to follow the process set out in the *Local Government (Highways) Act*. This is included in page 17 of the agenda. Once the 28 day advertising period has expired the Council is to refer each objection to the Magistrates Court and they have the power to receive and determine the objections and make a decision accordingly.
- The General Manager advised that the ultimate decision is not Council's to close the road at this point in time.
- The General Manager advised that regardless of the decision there is also an issue with part of the current road being on private land.
- Clr Wright asked whether there is going to be further consultation regarding the proposed closure. The General Manager advised that there would be, this Council decision initiates the commencement of the process.
- Clr Wright asked whether there is any cost involved to residents going through the Magistrates Court process? The General Manager advised that he would have to check but he would expect that there may be the opportunity to attend and present at that time. If individuals choose to seek legal representation that is up to the individual. Some of the concerns may be able to be addressed with the developer prior to it getting to this stage.
- Clr McGuinness asked, for this to proceed Council would have to make a decision today for this to progress. The General Manager advised that we would like to follow this process as close to the DA process as possible to enable all appropriate information to be available to the community members. Until the DA process commences we are slightly hamstrung as to how much information can be provided to the public.
- The General Manager stated that until we go through this process we are unable to address any concerns. There are very valid points within the correspondence already received.
- Clr Rubenach-Quinn stated that it would have been good if we were able to inform residents informally before this point. Mayor Tucker stated that it is very difficult to do something when we haven't started the process. Clr Rubenach-Quinn stated that there could always be informal consultation before the formal processes. The General Manager stated that we had to wait until we could inform people regarding the potential development. Would have been good if we could have but unfortunately we couldn't.

- Clr Rubenach-Quinn asked in relation to page 17 of the agenda in regards to the sale and disposal of piece of land – is the sale actually required as part of this process? The General Manager advised that it is not in this particular case as it is not owned by Council, it is just flagging that if it was this would be the process.
- Clr McGuinness asked in relation to the proposed cul-de-sac at the end of Cunningham Street? Would this be properly sealed with kerb and channel at the cost of the developer? The General Manager advised that the engineering design has not been done yet, it is something that would have to be negotiated and this is something that we could condition off through the process and it would be at the developer’s expense.
- Clr Osborne stated that it is just a process that we are duty bound to follow so we need to have a solution therefore we need to start the process.
- Clr LeFevre agreed with Clr Osborne – it is a major development for the area and is a catalyst for the area and will create jobs.
- Clr Wright is concerned with the loss of road frontage to the residents and wants to ensure that consultation happens.
- Clr Drummond stated that she is speaking against the motion in regards to how the cul-de-sac would be constructed. Clr Drummond stated that she doesn’t think she has enough information to be able to make an informed decision. If the cul-de-sac is something that is going to be considered at the end of the process then this could end up being at the detriment of the residents. Mayor Tucker stated that as the General Manager said this would be sealed and as he said the engineering design has not been done. The General Manager stated that given the nature of the cul-de-sac it is highly likely that it would be sealed and it is also within Council’s powers to make sure this happens under LUPAA, through the process and the objections that may be received we could see this and what may be required and can add things Council believes should happen.
- Clr Rubenach-Quinn stated that she would be happy for the project to proceed under the amendment – with the removal of reference to the Public Benefit Test.
- The General Manager noted that neither the Local Government Highways Act nor the Local Government Act provides any definition or guidance as to what is meant by Public Benefits Test.
- Clr Drummond agreed with Clr Rubenach-Quinn.
- Clr McGuinness stated that the fact that the Public Benefit is in the motion means we need to be mindful of the public benefit. We need to remember we are doing this for the public benefit.

COUNCIL DECISION:

SCM03/17.4.1.48

Moved: Clr M Osborne / Seconded: Clr B LeFevre

1. Pursuant to section 14 of the *Local Government (Highways) Act 1982* (the **Act**), the Council, having considered:
 - (i) **The improvements to the safety of the public by removing a road which bisects; and**
 - (ii) **Benefits which will accrue to the public and the community through increased economic activity and employment opportunities;**

resolves that the part of Parkside Avenue, Stieglitz as marked on the plan annexed and marked “A” should be closed to all traffic for the public benefit.

2. Council delegates its functions and powers pursuant to section 14(1)(b) of the Act to the General Manager and authorises the General Manager to take such steps as may be necessary to comply with each of the requirements of that section in relation to the closure of that part of Parkside Avenue, Stielgitz.

An amendment was moved:

SCM03/17.4.1.49

Moved: Clr H Rubenach / Seconded: Clr J Drummond

1. Pursuant to section 14 of the *Local Government (Highways) Act 1982* (the **Act**), the Council, having considered:
 - (i) **The improvements to the safety of the public by removing a road which bisects;** and

resolves that the part of Parkside Avenue, Stieglitz as marked on the plan annexed and marked "A" should be closed to all traffic.
2. Council delegates its functions and powers pursuant to section 14(1)(b) of the Act to the General Manager and authorises the General Manager to take such steps as may be necessary to comply with each of the requirements of that section in relation to the closure of that part of Parkside Avenue, Stielgitz.

FOR Clr H Rubenach-Quinn, Clr J Drummond, Clr K Wright
AGAINST Clr J McGiveron, Clr M Osborne, Clr G McGuinness, Clr B LeFevre, Clr M Tucker
LOST

The original motion was put:

FOR Clr J McGiveron, Clr M Osborne, Clr G McGuinness, Clr B LeFevre, Clr M Tucker
AGAINST Clr H Rubenach-Quinn, Clr J Drummond, Clr K Wright
CARRIED

Mayor Tucker thanked everyone for their attendance and declared the meeting closed at 9.52am.

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MAYOR

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DATE