

# CONFIDENTIAL



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|---------------|--|------------|-----------|
| REPORT FOR:   | <b>Council</b>   |            |           |
| MEETING DATE: | 27 January 2016  |            |           |
| REPORT FROM:  | Chief Executive Officer  |            |           |
| REPORT TITLE: | <b>Information Report – Briefing on Potential &amp; Current Legal Issues</b> |            |           |
| FILE NAME:    | F10/383  | RECORD NO: | AR16/3229 |

## COMMUNITY VISION & STRATEGIC PLAN OUTCOMES

### **6 We Achieve**

6.3 We aim to provide good governance practices and compliance with all legislative requirements in delivery of services.

### **PURPOSE**

To provide Council with an update on a number of potential and current legal issues that are being dealt with by the Chief Executive Officer.

### **RECOMMENDATION**

**Council** receives and notes the report (AR16/3229) dated 21/01/2016, submitted by the Chief Executive Officer, concerning "Information Report – Briefing on Potential & Current Legal Issues".

### **DISCUSSION**

#### **1. Rates Notice Assessment 2273 – 9986 – 1032 (F15/576)**

A request has been received in respect to the rates applicable to the above assessments.

The matter is complex.

Legal advice has been obtained from Norman Waterhouse Lawyers and a response has been provided. Copy emailed to Elected Members for perusal (Letter 07/12/2015 – PR15/5761).

There is a potential risk to Council should it be determined that the rate calculation methodology is incorrect; however it is likely Council would strongly contest the matter.

#### **2. Corporation of City of Port Augusta v Andrash Express (Port Augusta) Pty Ltd & Anor – ERD-15-171 – Mogas/Premier Stateliner (F10/382)**

The above matter has been listed for a pre-trial conference. Copy emailed to Elected Members for perusal (Emails 20/01/2016 – AR16/3070 & 05/01/2016 – AR16/527).

3. **Major Works Contract – Port Augusta Central Oval – Defects (F15/500)**

A resolution in respect to this major works contract for Central Oval defects is being sought. Copy emailed to Elected Members (Letter 11/01/2016 – AR16/ 11 January 2015).

4. **Port Augusta Hockey Club – Demolition of Damaged Infrastructure on Council Land (F15/252)**

This matter is considered finalised and is presented to Council for information, however the association has threatened to sue Council for its loss of interest in the building.

Attachments to this report - (Letter 10/10/2015 - AR15/39481 & Letter 13/11/2015 (AR15/43595).

5. **Bowhill Investments Property Group/ Augusta Developments Pty Ltd (F10/610)**

Advice has been received of a potential dispute / claim to be lodged in respect to matters relating to the either Bowhill Investments Property Group and/or Augusta Developments Pty Ltd.

6. **Unity Housing Development – Flinders Terrace**

Council is currently in dispute with Unity Housing in respect to works that were carried out contrary to the approved plans.

**CONFIDENTIALITY PROVISIONS**

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public except, the Chief Executive Officer, Executive Assistant, Director - City & Cultural Services, Director – Community Services and Acting Corporate Services, Acting Director – Infrastructure and Environment, be excluded from attendance at the meeting for Report AR16/3229 – Information Report – Briefing on Potential & Current Legal Issues.

The Council is satisfied that, pursuant to Section 90(3)(i) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information relating to actual litigation and litigation that the Council believes on reasonable grounds will take place involved the Council.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of the information on the legal issues could negatively impact on anticipated Court proceedings, and also to ensure the fairness of proceedings by preventing the disclosure of information which may hinder the administration of justice.

Having considered Report AR16/3229 in confidence under Section 90(2) and (3) (i) of the *Local Government Act 1999*, the Council, pursuant to Section 91(7) of that Act orders that the Information Report – Briefing on Potential and Current Legal Issues (AR16/3229) be retained in confidence until all issues have been fully resolved.



AR15/43595

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File Name: F15/252  
 Record No: AR15/43595

**13 November 2015**

Secretary  
 Port Augusta Hockey Association  
 PO Box 3062  
 PORT AUGUSTA SA 5700

Attention: Mr Mahanbir Grewal  
[mahanbir.grewal@gmail.com](mailto:mahanbir.grewal@gmail.com)

Dear Sir

**Hockey Club – Demolition of Damaged Infrastructure on Council Land**

I refer to previous correspondence regarding the demolition of the building on the land off McSparran Crescent, which was leased by the Hockey Association from Council, and which had been used as the Association's clubrooms. In particular, I refer to your letter of 10 October 2015.

In January 2004, the Association entered into a lease with the Council by which the Association leased from the Council the land and all structures on the land. From the terms of the lease it is clear that from the time of entry into the lease, all structures on the land, including the building, became the property of the Council.

As such, Council was entitled to determine that it was appropriate to demolish the building, which Council owned, on the basis of its justified safety concerns. As the building is not the property of the Association, the Association has no claim whatsoever for compensation arising from the decision by Council to demolish the building.

On that basis, Council does not agree to pay any compensation to the Association, or to entertain any further claims in this respect.

Yours faithfully

**JOHN BANKS**  
**CHIEF EXECUTIVE OFFICER**

ARIS/39481

**PORT AUGUSTA HOCKEY CLUB****P.O.BOX 3062. PORT AUGUSTA. 5700**

WITHOUT PREJUDICE

John Banks,  
CEO  
Port Augusta Council,  
Port Augusta.

Dear John,

**DEMOLITION OF PORT AUGUSTA HOCKEY CLUB BUILDING BY COUNCIL**

We refer to the above Building which was demolished by your Council in July 2015 and by your order. The Foundation Members tried in vain to pursue to give us more time to propose alternatives but you have demolished it.

We would like now to submit a very reasonable claim for the loss of that building. In our Annual Accounts submitted to you of the YEAR 2002, the Balance Sheet shows the Building cost at

\$ 90,000.00. As we are committed in trying to bring Hockey back to Port Augusta after 12 years we would like to claim only 50% of the Book Value of \$ 90,000.

We would like the Council to look seriously at our most reasonable claim of \$ 45,000.00 only.

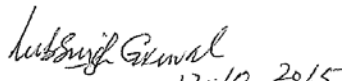
Sincerely,

  
12.10.15.

Neil Drew

President

10.10.2015

  
12.10.2015

Mahanbir Grewal

Secretary

10.10.2015