



City of Port Lincoln



Port Lincoln - Seafood Capital of Australia

**CONFIDENTIAL AGENDA**

for the

**ORDINARY COUNCIL MEETING**

to be held on

**MONDAY 2 MAY 2016**

commencing at 7.30pm

***THIS DOCUMENT IS UNDER A MEDIA EMBARGO UNTIL  
CONSIDERED BY COUNCIL***



# City of Port Lincoln



Port Lincoln - Seafood Capital of Australia

**28 April 2016**

Dear Member

## **NOTICE OF MEETING**

Notice is hereby given pursuant to the Local Government Act 1999 as amended that a Meeting for the Ordinary Council has been called for:-

**DATE: Monday 2 May 2016**

**TIME: 7.30pm**

**PLACE: Council Chamber, Level 1 60 Tasman Terrace, Port Lincoln**

Please find enclosed a copy of the Confidential Agenda for the meeting.

Yours sincerely

**Rob Donaldson**  
**CHIEF EXECUTIVE OFFICER**



## CONFIDENTIAL AGENDA

COMMITTEE	ORDINARY COUNCIL
MEETING DATE	Monday 2 May 2016
LOCATION	COUNCIL CHAMBERS, LEVEL 1 60 TASMAN TERRACE, PORT LINCOLN
FILE REF	AGEN201623C

### 1. PRESENT

### 2. OPENING STATEMENT

“The City of Port Lincoln acknowledges and respects the diversity of cultural heritage and beliefs within our community. As a Council we are committed to serving the best interests and needs of all people in our city, and we endeavour to discharge our duties conscientiously to the best of our ability.”

### 3. APOLOGIES

Councillor Jolley

### 4. MINUTES OF THE PREVIOUS MEETING

Confirmation of the Minutes of the previous Ordinary Council Meeting held on Monday 18 April 2016.

#### Recommendation

**That the Minutes of the previous Ordinary Council Meeting held Monday 18 April 2016 as per copies supplied to members be adopted as a true and correct record of that meeting.**

### 5. BUSINESS ARISING FROM THE MINUTES

#### **5.1. DEPUTATION BY MR MORTIMER – 18 APRIL 2016**

Matters identified by Mr Mortimer in his Deputation on Monday 18 April 2016 are being pursued, and were feasible within maintenance budgets will be address by staff.

### 6. COMMUNITY PRESENTATIONS, PETITIONS AND DEPUTATIONS

Nil

**7. COMMUNITY QUESTION TIME**

A letter or written request outlining topics and queries should be submitted to the Chief Executive Officer at the start/or before the meeting.

**8. DISCLOSURE OF INTEREST**

This Agenda item is for Members to give consideration of their obligations under the Local Government Act Sections 73, 74, 75 and 75A, as to whether there is an item within this Agenda that may give rise to a Member forming the view that they have an interest – being a Material Conflict of Interest or an Actual or Perceived Conflict of Interest - which is to be disclosed, and whether it is an interest that requires that they not take part in discussion, voting, or be present in the Chambers, or state how they intend to manage an Actual or Perceived Conflict in a transparent and accountable way.

All disclosures and details of actions and voting will be recorded in the Minutes and published on Council's website, in accordance with the requirements of the *Local Government Act 1999*.

**9. MOTIONS ON THE TABLE**

Nil

**10. MAYORAL REPORT****PAGE 1****10.1. MAYOR'S ACTIVITY REPORT – 19 APRIL – 2 MAY 2016****11. DEPUTY MAYOR'S REPORT**

Nil

**12. COUNCILLORS' REPORTS & NOTICES OF MOTION**

Nil

**13. QUESTIONS FROM COUNCILLORS****13.1. COUNCILLOR MISLOV - ADOPT A ROAD PROGRAM – 15 FEBRUARY 2016 MEETING**

Councillor Mislov advised of an "Adopt a Road" program which was in place in other regional towns around the country, and enquired on the possibility of Council investigating a similar program for Port Lincoln.

Refer to Report at Agenda Item 15.2

**13.2. COUNCILLOR BROADFOOT – ABORIGINAL FLAG – 4 APRIL 2016 MEETING**

Councillor Broadfoot reported on recent discussions with members of the Aboriginal community who had expressed concerns regarding the Australian flag flying on the Civic Centre flag pole, as well as on the new flag pole on the Nautilus Arts Centre alongside the Aboriginal flag. Councillor Broadfoot enquired whether Council would continue to fly the Australian flag on the Civic Centre building, or whether an alternative flag ie the SA State flag or the City of Port Lincoln flag could be flown instead.

**CEO Response:**

Advice from the Honours, Symbols and Territories Branch of the Department of the Prime Minister regarding National Flag Protocol in relation to the City of Port Lincoln flying the SA State flag on the Civic Centre building flag pole in lieu of the Australian flag, has confirmed that this would not be in breach of National Flag Protocol.

If Council were to consider flying the SA State flag (or Council flag) on the taller Civic Centre building flag pole, with the Australian and Aboriginal flags being flown together and at the same height on the slightly lower flag poles on the Nautilus Arts Centre building, this would also not be in contravention of National Flag Protocol, as the flags would be flown on two separate buildings.

Flying the Aboriginal flag at the same height as the Australian flag on the Nautilus Arts Centre building is compliant with National Flag Protocol, whether or not the SA State flag (or Council flag) is being flown on the higher flag pole on the Civic Centre building.

The directive that all Australian Government buildings must fly the Australian Flag refers only to Federal Government buildings. Although Councils are not compelled to fly the Australian flag from a Local Government building, it is strongly encouraged.

It is proposed that the Civic Centre continues to fly the Australian flag, notwithstanding that the Australian flag is also flown on the adjacent Nautilus Arts Centre.

**14. REPORTS FROM COUNCIL COMMITTEES – NON CONFIDENTIAL****PAGE 3****14.1. FINANCIAL MANAGEMENT AND AUDIT COMMITTEE – 13 APRIL 2016****ATTACHMENT MIN201621****Recommendation**

**That the Minutes of the Financial Management Audit Committee meeting held on Wednesday 13 April 2016 be received and noted.**

**15. CHIEF EXECUTIVE OFFICER****PAGE 8****15.1. AUSTRALIA DAY BREAKFAST – MEMORANDUM OF UNDERSTANDING (MOU)****ATTACHMENT DRAFT MOU20163****Recommendation**

That Council resolves to enter into a Memorandum of Understanding (MOU) with the Eyre Peninsula's 765 5CC (Grant Broadcasters) for a further three year term commencing 1 January 2017, for joint coordination of the annual Australia Day Breakfast, on terms similar to those of the MOU for the period 2014 to 2016, and that the Chief Executive Officer be authorised to execute the Agreement.

**15.2. ADOPT A ROAD PROGRAM****ATTACHMENT I20163810****Recommendation**

That Keep South Australia Beautiful (KESAB) be invited to provide further information on the KESAB "Road Watch" program prior to Council further considering the initiation or facilitation of a voluntary community-based public place litter collection program for Port Lincoln.

**16. EXECUTIVE DIRECTOR DEVELOPMENT & ENVIRONMENT**

Nil

**17. MANAGER CORPORATE GOVERNANCE**

Nil

**18. MANAGER CIVIL OPERATIONS**

Nil

**19. MANAGER COMMUNITY INFRASTRUCTURE**

Nil

**20. MANAGER COMMUNITY DEVELOPMENT****PAGE 19****20.1. COMMUNITY HOUSE FUNDING SUPPORT****ATTACHMENT I20163432****Recommendation**

1. That an amount of \$10,000 be considered in the 2016/2017 budget, to be recurrent until otherwise determined, as Council's contribution to Community House Port Lincoln.
2. That Council staff initiate a review of the current allocation of 'community program and event funding' across Council's budget for Council's further consideration, with the objective of ensuring optimum value for Council's community program investments.

**21. SENIOR FINANCE OFFICER**

Nil

**22. TABLED PUBLICATIONS AND CIRCULARS**

Nil

**23. URGENT BUSINESS WITHOUT NOTICE****24. CONFIDENTIAL MATTERS PURSUANT TO SECTION 90 OF THE LOCAL GOVERNMENT ACT 1999 PAGE 23****24.1. BARNGARLA NATIVE TITLE CLAIM – NEGOTIATION DIRECTIONS****Recommendation**

That pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Rob Donaldson, Chief Executive Officer and the Minute Secretary, be excluded from attendance at the meeting for Agenda Item 24.1 Barngarla Native Title Claim – Negotiation Directions.

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 relates to actual litigation involving the Council as a result of which the Council will consider the status of, and its response to specific aspects of, negotiations relating to the Barngarla Native Title Claim before the Federal Court.

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 Council will consider the possible inclusion and its response to that inclusion, of land in the Council area used and planned to be used for public purposes, in the Barngarla Native Title Claim, and the negotiations between Claimants, the Crown and other parties including Council may be prejudiced by the public release of the report and attachments prior to negotiations being concluded and a negotiated outcome endorsed by the Federal Court.

**ATTACHMENT N20161023****Recommendation**

That having considered Agenda Item 24.1 Barngarla Native Title Claim – Negotiation Directions 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 report, attachments and minutes relevant to Agenda Item 24.1 be retained in confidence until the publication of the Federal Court judgment in relation to the Barngarla Native Title Claim and that this order be reviewed every 12 months.

**24.2. PROPERTY LEASE MATTERS****Recommendation**

That pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Rob Donaldson - Chief Executive Officer, and the Minute Secretary, be excluded from attendance at the meeting for Agenda Item 24.2 Property Lease Matters.

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected:

- To confer a commercial advantage on a person with whom the Council is conducting business or proposing to conduct business; and
- To prejudice the commercial position of the Council.

The matter relates to a commercial tenancy agreement from which the Council derives revenue and public disclosure of the report information prior to formal agreement of all parties would prejudice the Council's ability to achieve the best commercial outcome from its assets.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information, and the benefit to the public at large resulting from withholding the information outweighs the benefit of disclosure of the information. 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 public disclosure of the report information prior to formal agreement of all parties would prejudice the Council's ability to achieve the best commercial outcome from its assets.

**Recommendation**

That Council agrees to the early termination of the lease of EFM Corporate for the gym, basketball and related facilities at the Port Lincoln Leisure Centre, on 30 June 2016, and the Chief Executive Officer be authorised to take necessary actions accordingly.

**Recommendation**

That having considered Agenda Item 24.2 Property Lease Matters in confidence under section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and minutes relevant to Agenda Item 24.2 be retained in confidence until the decision of Council has been formally agreed to by the lessee and enacted, and that this order be reviewed every 12 months.

**25. MINUTES AND RECOMMENDATIONS OF COUNCIL COMMITTEES – IN CONFIDENCE**

Nil

**26. NEXT MEETING**

Monday 16 May 2016 at 7.30pm

**27. CLOSURE**