

10 June 2005

Dear Elected Member

I wish to advise that the next Council Meeting will be held on Tuesday 14 June 2005 at the Council Chambers Smillie Street Robe commencing at 5.00pm.

**Please note that Tom O'Connor Regional Recreation and Sport Officer will be attending at 4.00pm to discuss his role etc.**

Yours faithfully

RJ Kay  
Chief Executive Officer

## AGENDA

PRESENT

APOLOGY

**CONFIRMATION  
OF MINUTES**

Minutes of the Council Meeting held on 10 May 2005 be taken as read and confirmed.

**BUSINESS ARISING**

**MAYOR'S REPORT**

Report on National Sea Change Taskforce Conference.

**REPORTS OF  
COMMITTEES**

1. Machinery Committee Meeting - 18 May 2005.
2. Skate & Recreation Park Advisory Committee - 24 May 2005.
3. Aged Care Committee - 1 June 2005.
4. Plastic Bag Reduction Strategy Committee - 2 June 2005.
5. Caravan Park Working Committee Report.

Recommendation - That the reports / minutes be received and that the recommendations and resolutions contained in the minutes be adopted.

**REPORT OF  
SUBSIDIARY**

**REPORTS OF  
DELEGATES**

1. M Dening-Wasson.

**REPORTS OF  
ASSOCIATED  
BODIES**

1. SELGA Waste Management Committee Meetings - 15 April & 20 May 2005.

## OFFICERS' REPORTS

1. Chief Executive Officer (green).
2. Manager of Works (gold).
3. Development Officer (blue).
4. Robe Library.
5. Robe Visitor Information Centre.

## FINANCE

1. Accounts Paid May 2005.
2. Budget Comparison 31 May 2005.

## NOTICES OF MOTION

Following Notices of Motion has been submitted by Cr Denning-Wasson.

- (1) **Rescission Motion R13(3)**

**That council resolution 270/2005**

‘that Cr Mathews be excluded from the meeting for the portion of the meeting that considers submissions relating to Lake Butler and final adoption of responses to submissions but able to participate in discussion and vote on other submissions’

**be rescinded.**

### *Supporting Information*

I believe council passed an ‘ultra vires resolution.’

My understanding of section 73 and 74 of the Local Government Act 1999 is that this section of the act which relates to Conflict of Interest is self regulating and under no circumstances can this decision be made by any one other than the person concerned, that being Cr Mathews in this instance.

It is my belief that we as a sitting council acted beyond our legal authority or right in determining Cr Mathews to have a conflict of interest and her subsequent exclusion from certain parts of discussion and final decision in this instance.

Regulation 29 was not breached and would not have been breached. Cr Mathews did not breach the provisions of either the Act of the Regulation.

It is my understanding that it is an elected members responsibility to determine whether or not under sections 73 & 74 of the Local Government Act 1999 that members has a prescribed interest in a matter before the Council (Conflict of Interest).

The Act clearly states... Validity of Resolutions - Section 74(4): and Consequences of breach and penalties.

I urge council to reconsider this decision with the appropriate information.

- (2) **That an apology be given to Cr Mathews and any personal legal expenses incurred with regards to the Conflict of Interest issue relating to resolution 270/2005 be reimbursed.**

*Supporting information*

It is my belief that an elected member may ask the CEO or Presiding Member to seek legal advice on their behalf from the preferred council legal adviser, at council expense.

Cr Mathews incurred un necessary expense in seeking independent legal advice once it was made known to her that council were determining her status on whether or not she had a prescribed interest. This was not in fact councils right or by her request.

**QUESTIONS  
ON NOTICE**

Following Questions on Notice were submitted by Cr Mathews:

- (1) How long has the \$540,000 contributed by Transport SA to Robe Council been in a Trust Fund?

Was this given in one lump sum?

For what purpose was the \$540,000 given?

Would the Robe Council be able to service a \$6,000,000 debt if the Robe Marina Project fails?

- (2) What has Council spent on the Marina Project to date?

Following Questions on Notice were submitted by Cr Dening-Wasson:

- (1) **With regards to Section 34 of the Development Act, plus Regulation Schedule 10 clause 2A relating to possible conflict of interest in council approving its own developments why have we not lodged a request with the Development Assessment Commission to become the authority for the proposed Marina development?**

I believe that Council has not requested that the Development Assessment Commission become the authority for the proposed Marina development. A report dated 19 Sept 2003 by EDO Fiona Ritchie recommends that the development plan approval would be sought from Development Assessment Commission as a requirement to achieve construction of stage 1 of the marina.

**There are some development things that Council can't approve for itself including projects which contain a shop (definition includes café or restaurant) and/or industrial buildings. Even if it is a single plan with stages, and the café and industrial sheds are not in the first stages, each stage should be approved by the Commission, not Council. Any wrongful Council approval does not get retrospectively validated by removing such buildings from the single plan after the wrongful approval.**

The Masterplan clearly has these buildings.

- (2) **Was the Marina Plan sent to the Minister for Heritage for an opinion?**

I am of the belief that Section 37 of the Development Act, plus, the Development Regulations Schedule 8, clause 5 relate to requiring Heritage input

**Any development near a State Heritage item that directly affects the State Heritage place or "where the development will affect the context of the place in which a state heritage item is located" must be referred to the Minister for Heritage. If Council doesn't address the Heritage issue then there is a deficiency in process. If a reasonable person could come to the conclusion that council's failure to refer it to heritage is incorrect, then it is an error of law.**

It is hard to see how a reasonable person could think anything except it should go to heritage because Lake Butler is virtually surrounded by State Heritage items being Karatta House, Chinese Monument, Customs House, Catholic Church, Robe House and Moorakynne House. There are others close by. Lake Butler is I believe registered on the local heritage list.

- (3) Can we review the Maunsell opinion on Peter Riseley and John Hinges alternative Marina plan.

(It may be appropriate to have this plan independently reviewed by another engineer)

- (4) Is there a legal process or public consultation process required to change the name of a lake? In particular Lake Butler. If the lake's name is not changed by naming the Marina the Great Southern Marina how will the lake retain its identity?

**CORRESPONDENCE** Section A:

1. Limestone Coast Tourism - Limestone Coast Tourism Update (see attached).

Officers Comment - Recommend that the letter be received.

2. Department of Water, Land and Biodiversity Conservation - Levy South East Catchment Water Management Board (see attached).

Officers Comment - Recommend that the letter be received.

3. Animal & Plant Control Commission - Implementation of Natural Resources Management (see attached).

Officers Comment - Recommend that the letter be received.

4. Environment Protection Agency - Increase in Waste Contributions (see attached).

Officers Comment - Recommend that the letter be received.

5. Ratepayers Defence Association - Indigenous Land Use Agreements (see attached).

Officers Comment - Recommend that the letter be received.

6. Limestone Coast Tourism - Limestone Coast Federal Governmentn Tourism Impact Model (see attached).

Officers Comment - Recommend that Council support the project namely:

- (1) provide a letter of support
- (2) and agree to participate in the TIM analysis and strategic planning element of the project.

7. Australian Local Government Association - ALGA Ageing Awareness and Action Survey Report (see attached).

Officers Comment - Recommend that the letter be received.

8. Greenways Tennis Club - Discontinuing playing Tennis at Greenways (see attached).

Officers Comment - Council will have to decide what is to occur.

9. D Snook - Street Naming (see attached).

Officers Comment - Recommend that the suggestion be noted.

10. M Williams Member for MacKillop - Development (Sustainable Development) Amendment Bill (see attached).

Officers Comment - Recommend that the letter be received.

11. Federal Minister for Transport - Roads to Recovery Program Allocation (see attached).

Officers Comment - Council has previously indicated that these funds will be allocated to the seal of Wrights bay Road to commence in 2006/07, Council should resolve accordingly.

12. Wattle Range Council - Coonawarra Australia's Other Red Centre Gateway Project (see attached).

Officers Comment - Do Council want to supply a letter of support?

13. Federal Minister for Local Government - Excellence in Governance for Local Government (see attached).

Officers Comment - The document is available.

14. Zero Waste SA - Household Hazardous Waste & Farm Chemical Collection (see attached).

Officers Comment - Recommend that the letter be received.

15. Admella Commemoration Advisory Committee - Membership (see attached).

Officers Comment - Recommend that the letter be received.

16. Office for Youth - Invitation to Apply for Funds for a Youth Advisory Committee (see attached).

Officers Comment - Council decision required.

17. SA Boating Facility Advisory Committee - Boating Facilities (see attached).

Officers Comment - Recommend that the letter be received.

18. Local Government Association of SA - Water Smart Australia (see attached).

Officers Comment - I would like to develop an application for better re-use of the STEDS System but Council would need the assistance of engineers and others to develop a plan. This is a cost without any guarantees of success. Council would have to work towards the next round as it cannot be developed before 30 June 2005. The cost could be recovered from the STEDS charge. Council decision required.

19. Local Government Association of SA - Access for People with Disabilities (see attached).

Officers Comment - Recommend that the letter be received.



20. Local Government Association of SA - Postponement of Rates - Seniors (see attached).

Officers Comment - Recommend that the letter be received.

21. Local Government Association of SA - Sustainable Development Bill 005 (see attached).

Officers Comment - Recommend that the letter be received.

22. Local Government Association of SA - Elections Bill 2005 Consultation on a New Issue (see attached).

Officers Comment - Council to respond to survey.

23. Local Government Association of SA - Road Safety Design & Slogan for Use by Councils (see attached).

Officers Comment - Recommend that the letter be received.

24. Local Government Association of SA - Consideration by Councillors of Cheques Disbursed by CEO (see attached).

Officers Comment - Council comment.

25. Local Government Association of SA - Nominations for the SA Fire & Emergency Services Commission Advisory Board (see attached).

Officers Comment - Recommend that the letter be received.

26. Natural Resources Council - Towards South Australia's Natural Resource Management Plan (see attached).

Officers Comment - The document is available.

27. Minister for Infrastructure & Strategic Infrastructure Plan (see attached).

Officers Comment - The full documents are available - the South East section is attached.

28. Dr Mark Hutton - State and Health Plan (see attached).

Officers Comment - Council decision required.

29. Local Government Association of SA - Draft Youth Development Policy (see attached).

Officers Comment - Council can comment.

Section B:

30. Annual Report - Foundation for Young Australians.

31. National Australia Bank Volunteer Awards 2005.

32. Australian Government - Women in Australia 2004.

**GENERAL BUSINESS**

**CONFIDENTIAL  
ITEM**

Item in Confidence - Ombudsman as attached.