



DISTRICT COUNCIL OF
ORROROO/CARRIETON
Southern Flinders Ranges • Established 1997

AGENDA

Orroroo Lifestyle Units Advisory

Committee Meeting

Monday 22nd July 2019

Commencing at 10.00am

District Council of Orroroo Carrieton

Notice is hereby given pursuant to Section 87 of the Local Government Act 1999, the next Ordinary Meeting of the Orroroo Lifestyle Units Advisory Committee will be held in the Council Chambers, 17 Second Street Orroroo SA, on Monday 22nd July 2019 commencing at 10.00am.

Dylan Strong
Chief Executive Officer

16th July 2019

**THE DISTRICT COUNCIL OF ORROROO CARRIETON
INDEX FOR ORROROO LIFESTYLE UNITS ADVISORY COMMITTEE MEETING
TO BE HELD MONDAY 22nd JULY 2019**

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THE DISTRICT COUNCIL OF ORROROO CARRIETON

AGENDA FOR AN ORDINARY MEETING OF THE ORROROO LIFESTYLE UNITS ADVISORY COMMITTEE TO
BE HELD ON WEDNESDAY 22nd JULY 2019 COMMENCING AT 10AM IN THE COUNCIL CHAMBERS,
SECOND STREET ORROROO

1: PRESENT:

2: APOLOGIES:

3: DECLARATION OF CONFLICT OF INTERESTS

Elected Members are reminded of the requirements for disclosure by Members of a conflict of interest (whether a material conflict of interest under section 73 of the Act or an actual or perceived conflict of interest under section 75 of the Act) in items listed for consideration on the Agenda.

Sections 74 and 75A of the Local Government Act 1999 respectively require that Elected Members declare any material conflict of interest and any actual or perceived conflict of interest and provide details of the nature of the interest to the Council prior to consideration of that item on the Agenda. In relation to an actual or perceived conflict of interest, Elected Members must also explain how they intend to deal with that interest.

Each Member of a Council has a duty to vote at all meetings unless exempted by legislation.

The major exemption being where a Member has a conflict of interest.

4: CONFIRMATION OF MINUTES

4.1 Confirmation of Previous Committee Meeting Minutes

Minutes of the Ordinary Committee Meeting held on 3rd June 2019 are enclosed at Attachment 1.

RECOMMENDATION

That the minutes of the Ordinary Committee Meeting held on 3rd June 2019 be taken as read and confirmed.



DISTRICT COUNCIL OF
ORROROO/CARRIETON
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MINUTES

Orroroo Lifestyle Units Advisory

Committee Meeting

Monday 3rd June 2019

THE DISTRICT COUNCIL OF ORROROO CARRIETON
MINUTES FOR AN ORDINARY MEETING OF THE ORROROO LIFESTYLE UNITS ADVISORY COMMITTEE
HELD ON WEDNESDAY 27th MARCH 2019 COMMENCING AT 2.26PM IN THE ORROROO GOLF
CLUBHOUSE, POOL ROAD, ORROROO

1: PRESENT:

Elected Members: Chairman Cr Bowman and Cr Ford

Officers: Dylan Strong (Chief Executive Officer) &
Ann Frick (Manager of Corporate & Community Services)

2: APOLOGIES: Cr Parkyn

3: DECLARATION OF CONFLICT OF INTERESTS

Elected Members are reminded of the requirements for disclosure by Members of a conflict of interest (whether a material conflict of interest under section 73 of the Act or an actual or perceived conflict of interest under section 75 of the Act) in items listed for consideration on the Agenda.

Sections 74 and 75A of the Local Government Act 1999 respectively require that Elected Members declare any material conflict of interest and any actual or perceived conflict of interest and provide details of the nature of the interest to the Council prior to consideration of that item on the Agenda. In relation to an actual or perceived conflict of interest, Elected Members must also explain how they intend to deal with that interest.

Each Member of a Council has a duty to vote at all meetings unless exempted by legislation.

The major exemption being where a Member has a conflict of interest.

No Elected members declared any conflict of interests with agenda items.

4: CONFIRMATION OF MINUTES

4.1 Confirmation of Previous Committee Meeting Minutes

MOTION (LU001/0619)

That the minutes of the Ordinary Committee Meeting held on 27th March 2019 be taken as read and confirmed.

Cr Ford / Cr Bowman **CARRIED**

5: DEPUTATIONS AND REPRESENTATIONS – Nil

6: RESOLUTION – ACTION STATUS REPORT – Nil

7: COMMITTEE WORK PROGRAM: - Nil

8: ORROROO LIFESTYLE UNITS ADVISORY REPORTS

8.1 UPDATE ON UNIT 4

REPORT FOR INFORMATION

8.2 PRIVACY SCREENS

MOTION (LU002/0619)

That the Orroroo Lifestyle Advisory Committee recommend to Council that Ezi-Slat fencing be erected as privacy screening between Units 1 and 2 and Units 3 and 4.

Cr Ford / Cr Bowman CARRIED

8.3 PROPOSED EXEMPTION OF ORROROO LIFESTYLE VILLAGE

MOTION (LU003/0619)

That the Orroroo Lifestyle Advisory Committee recommend to Council that a meeting with the current tenant of Unit 1 be arranged to provide them with an update on the exemption application and to seek a written statement of support for the exemption application.

Cr Bowman / Cr Ford CARRIED

8.4 2018/2019 MAINTENANCE BUDGET & RESIDENT MAINTENANCE FEE

MOTION (LU004/0619)

That the Orroroo Lifestyle Units Advisory Committee recommend to Council that the Residents Maintenance Fee continue to be increased with CPI (Adelaide All Groups) as at 30th June each year.

Cr Bowman / Cr Ford CARRIED

9: CONFIDENTIAL REPORTS: Nil

10: CLOSURE AND NEXT MEETING

The Meeting was declared closed at 2.47pm.

Confirmed

Date:

Chairman:

Cr Bowman

5: DEPUTATIONS AND REPRESENTATIONS – Nil

6: RESOLUTION – ACTION STATUS REPORT – Nil

7: COMMITTEE WORK PROGRAM: - Nil

8: ORROROO LIFESTYLE UNITS ADVISORY REPORTS

8.1 PROPOSED EXEMPTION OF ORROROO LIFESTYLE VILLAGE

MEETING: ORROROO LIFESTYLE UNITS ADVISORY

COMMITTEE

DATE: 22nd JULY 2019



DISTRICT COUNCIL OF
ORROROO CARRIETON
Southern Flinders Ranges • Established 1997

SECTION: ORROROO LIFESTYLE UNITS ADVISORY
REPORTS

AUTHOR: MANAGER OF CORPORATE & COMMUNITY
SERVICES

| | | | |
|-----------------|---------|-----------------------|--|
| Timeframe | Current | For the period ending | 11 th July 2019 |
| Budget Impact | | | |
| Risk Assessment | Level | Medium | Comments and controls: - Exemption application proposed to lessen ongoing liability of unoccupied units |
| File Reference | | | |

STRATEGIC LINKAGE

STRATEGIC AND COMMUNITY PLAN 2017-22

Social and Community

| | | |
|--|----------|--------|
| Maintain Addison Court Retirement Units in accordance with legislative requirements and resident needs | 2.2, 2.3 | Medium |
|--|----------|--------|

RECOMMENDATION

For discussion

EXECUTIVE SUMMARY:

Highlights of this report:

- provide an update on the proposed exemption for Units 2, 3 and 4 under the Retirement Villages Act 2016; and
- meeting arranged with resident of Unit 1 to provide them with an update and seek a written statement of support for the exemption application.

BACKGROUND

The Advisory Committee has investigated the possibility of the exemption of vacant units or the termination of the Village structure. At the last Advisory Committee Meeting, it was resolved to continue with the application for exemption which was endorsed at the June 2019 Council Meeting

MOTION: (015/0619)

That a meeting with the current tenant of Unit 1 be arranged to provide them with an update on the exemption application and to seek a written statement of support for the exemption application.

Cr Ford / Cr Goehring CARRIED

DISCUSSION

The exemption application has been drafted and previously considered by the Committee. A copy is enclosed to this Report for Committee Members to review the content of the draft application.

Mr Malcolm Byerlee, Resident of Unit 1 has been invited to attend the meeting at 10.15am.

The Committee to provide an update on the exemption application to Mr Byerlee and will seek a written statement of support for the exemption application from Mr Byerlee.

ATTACHMENT: YES

TO BE ENGROSSED ON DISTRICT COUNCIL OF ORROROO CARRIETON LETTERHEAD

<Insert date>

Minister for Health and Wellbeing
c/- the Office for the Ageing
PO Box 196
Rundle Mall SA 5000

Dear Minister

Proposed Exemption of Retirement Village Scheme – Orroroo Lifestyle Village

I refer to correspondence between Council, its lawyers (Norman Waterhouse) and the Office for the Ageing over the past 12 months.

Further to that correspondence, I now write to request that you re-consider the exemption from the requirements of Section 57 of the Retirement Villages Act 2016 (RV Act) for the Orroroo Lifestyle Retirement Village (Village).

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1. BACKGROUND TO REQUEST

- 1.1 The Village comprises of four (4) independent living units. Since the Village's construction in 2012, three (3) units have been occupied. Currently in 2019 three (3) units remain unoccupied and the Council has been unable, after work by an agent appointed by the Council and advertising, to identify any suitable tenants for these vacant units.
- 1.2 It is uneconomical and unviable for the Council to continue to operate a Village of four (4) units with a 75% vacancy rate.
- 1.3 The Council has therefore determined to request that the Minister consider an exemption pursuant to the Act to enable the vacant units to be leased for residential purposes to suitable tenants and to enable all units to be available for residential leasing or sale when the two existing Village residents cease to occupy their units.
- 1.4 Council has explored the option of a voluntary termination of the Village. Legal advice has been sought which indicated that the existing resident would have their entitlements paid out and be offered new residential tenancy agreements should Council proceed with the voluntary termination and be granted by the Minister.

Commented [HW1]: The Council can apply for termination of the village or an exemption for the village. You are unable to combine an exemption and termination in one.

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Council believe that this process would place undue worry and concern about the security of existing resident tenure at the Village. Also raised during discussion was the financial implication of the payout of the exit entitlements and their pension and financial situation.

Council made a commitment to the existing residents when they entered the Village and has continued express this view that the resident would continue to remain at the Village on the same arrangements and that nothing would change for them.

2. VILLAGE BACKGROUND

2.1 History of the Construction of the Village

- 2.1.1 The Village is located at Sixth Street, Orroroo, South Australia 5431.
- 2.1.2 The Village is situated on allotment 27 in Deposited Plan 47900, and being the land comprised in Certificate of Title Volume 5568 Folio 227 (Land). The Council is the registered proprietor of the Land in fee simple. A copy of a Lands Title's Office register search for the land is enclosed.
- 2.1.3 The Village was constructed by the Council in 2012. It comprises:
 - 2.1.3.1 four independent living units; and
 - 2.1.3.2 no communal facilities other than a common driveway and landscaped areas.
- 2.1.4 A plan of the Village is enclosed.
- 2.1.5 Construction of the Village was completed in 2012.
- 2.1.6 No Government funds were used for the Village's establishment.
- 2.1.7 No donations of land or money were used for the Village's establishment.
- 2.1.8 Each unit within the Village comprises a self contained transportable house offering the following features:
 - 2.1.8.1 2 bedrooms (with the master bedroom featuring ensuite and walk in robe);
 - 2.1.8.2 living, family and meals area;
 - 2.1.8.3 kitchen with dishwasher;
 - 2.1.8.4 main bathrooms;
 - 2.1.8.5 laundry;
 - 2.1.8.6 veranda;
 - 2.1.8.7 under main roof car port;
 - 2.1.8.8 floor coverings;
 - 2.1.8.9 mains water and electricity supply;
 - 2.1.8.10 reverse cycle air conditioning;
 - 2.1.8.11 roller blinds;
 - 2.1.8.12 security screen doors;
 - 2.1.8.13 rainwater tank;
 - 2.1.8.14 solar hot water system; and
 - 2.1.8.15 ceiling fan in main living area.

2.1.9 The operator of the Village is currently, and always has been, the Council. There is no dedicated manager for the Village due to its size, rather the Village is managed by appropriate members of Council's staff.

2.2 History of occupation of the Village

2.2.1 Since construction of the Village was completed in 2012:

2.2.1.1 Mr Malcolm Byerlee has been the only occupant of Unit 1 and remains in occupation of this Unit;

2.2.1.2 Mrs Faye Beer occupied Unit 4 until April 2019 when she moved to permanent aged care. Council are currently processing her exit entitlements and resolving all contractual matters;

2.2.1.3 Mr Doug Braddock occupied Unit 2 until November 2017 when he moved to aged care at the Orroroo Hospital. His exit entitlement has been paid out and all contractual matters arising from his occupation of Unit 2 have been finalised; and

2.2.1.4 Unit 3 has never been occupied.

Commented [HW2]: Once payment has been finalised this point will need updating or even removal

3. CURRENT RESIDENT DETAILS

3.1 Current resident details

3.1.1 The current resident at the Village is Mr Malcolm Byerlee in Unit 1.

3.1.2 Units 2, 3 and 4 are presently vacant.

3.2 Mr Malcolm Byerlee

3.2.1 Mr Byerlee entered into possession of Unit 1 on 2 August 2012.

3.2.2 Mr Byerlee paid an ingoing contribution (a premium under the Retirement Villages Act 1987 in force at the time) of \$152,000.

3.2.3 A copy of Mr Byerlee's residence contract is enclosed.

3.2.4 Mr Byerlee's contact details are:

3.2.4.1 Address: Unit 1, Addison Court, 30 Fifth Street, Orroroo SA 5431.

3.2.4.2 Phone: (08) 8658 1398

3.2.4.3 Mobile: 0427 589 050

Commented [HW3]: I know that in previous correspondence it has been mentioned, however I would repeat that Mr Byerlee supports the occupation of the units by rental tenants. I would suggest evidence of this support be attached eg. a written statement from Mr Brerlee, recent meeting minutes indicating his support

3.3 Services currently provided to residents

3.3.1 The Council currently provides garden maintenance services to residents. It is proposed that the Council would continue to be responsible for garden maintenance for all Units (with the costs to Council being taken into account when setting the rent payable under the newly exempted rental agreements).

3.3.2 Current residents presently have their own phone and electricity accounts for their units as well as a rainwater tank for their personal water use. There is an

SA Water connection to the Village that is only used by the Council for watering garden areas.

- 3.3.3 The Council currently has an electricity account for the vacant units to ensure that those units can be viewed by prospective tenants. These accounts will be transferred to tenants if and when tenants are identified for these units.

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4. CURRENT OPERATIONAL DETAILS FOR THE VILLAGE

- 4.1 There is no current or threatened litigation in relation to the Village.
- 4.2 The Council currently maintains building insurance for the Village and is a member of the Local Government Association Mutual Liability Scheme. This insurance and membership would be maintained into the future.
- 4.3 A copy of last three years' financial statements for the Village are enclosed. The financial statements for the Village are contained within the general financial statements for the Council's operations.

5. FUTURE PROPOSAL

- 5.1 The Council's current intention for the Village is to retain all units for residential rentals.
- 5.2 The Council does not propose to carry out any division of the Land at this stage (including the creation of a community title scheme), rather it proposes to leave the Land as one allotment.

5.3 Proposal for existing residents

- 5.3.1 For the existing resident Mr Byerlee, it is proposed:
- 5.3.1.1 That the existing residence contract remain in place with the same conditions, maintaining his security of tenure in his Unit.
- 5.3.1.2 Residents of the Village contribute to a capital replacement fund on termination of their residence contracts. In this regard:
- (a) Mr Doug Braddock contributed \$3,375 to the capital replacement fund when he ceased to reside at the Village in 2017. The current balance of the capital replacement fund is \$3,375.
- (b) Mrs Beer's contribution is currently being processed with her departure to permanent aged care in April 2019. It is expected that the contribution will be \$3,300.
- (c) Mr Byerlee will contribute to the capital replacement fund if his residence contract is ended in accordance with the requirements of their residence contracts.

Commented [HW4]: You may wish to outline the timing of the repayment of his exit entitlement. I note that the contract mentions that if the licence is not being remarketed, Mr Byerlee will be repaid within 10 business days of receiving a valuation of the property.

Note: Mr Byerlee will still need to receive annual statements of income and expenditure of the village (at the AGM) which will include the income received from the tenants.

5.4 Proposals for currently vacant units

- 5.4.1 In regards to the currently vacant units 2, 3 and 4, the Council proposes to lease these units out to professional workers (for example nurses, teachers, State Government workers) for short terms of 6 – 12 months, to a maximum of five (5) years. The Council does not propose to limit these units to persons aged 55 and over. This is because the Council has tried attracting persons within this age range to lease these units and has so far been unsuccessful for the reasons set out in the Council's letter to the Office dated 25 September 2018.
- 5.4.2 The Council does, however, propose that the new residential tenancy agreements offered on Units 2, 3 and 4 will contain provisions to ensure that the amenity currently offered to existing residents is maintained.
- 5.4.3 A copy of an example new residential tenancy agreement for units 2, 3 and 4 is enclosed. This has been sourced from a local Property Manager, Ray White Real Estate, who has supplied the document as an example. Council will investigate the agreement further once the Office has indicated that an exemption could be granted.

Commented [HW5]: Possible additional point – All new tenants will be required to abide by the rules of the village

Commented [HW6]: When Council apply to Minister, the finalised agreement will need to be attached

5.5 Screening Measures of Prospective Tenants

- 5.5.1 A Property Manager will be engaged to market Units 2, 3 and 4 for lease. Initial screening will be conducted by the Manager before forwarding through recommendations for Council consideration and confirming of tenants.
- 5.5.2 The Council does propose to only lease Units 2, 3 and 4 to mature tenants where the tenants would be appreciative of the amenity and existing residents.
- 5.5.3 Tenants will be required to undergo a Police Check and character reference checks as part the screening process.
- 5.5.4 Council has conducted research to engage a Property Manager to handle the leasing of Units 2, 3 and 4. Initial discussion has commenced with an agent – a copy of the template documents are enclosed for the information of the Minister.

6. CONSULTATION WITH CURRENT RESIDENTS

- 6.1 On Wednesday 29 August 2018, a meeting of the Orroroo Lifestyle Units Advisory Committee of the Council was convened by the Council. In attendance at this meeting were a number of Council Elected Members, the Council's Chief Executive Officer (Kristen Clark), the Council's Manager of Corporate and Community Services (Ann Frick) and Mr Byerlee and Ms Beer, along with her family member Carol Gibb. A copy of the minutes from this meeting is enclosed.
- 6.2 The Council reasonably believes that Mr Byerlee understand what is being proposed in respect of the Village. The resident speaks English as his first language and is, to the Council's knowledge and belief, of sound mind.
- 6.3 Current resident Mr Byerlee has expressed to the Council that he agrees to this proposal to apply for an exemption for the Village on the basis outlined in this letter.

Commented [HW7]: As mentioned before, you will need to hold another meeting because Ms Beer has left.

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The Resident would like to see the Units occupied, with Council getting some revenue and the Unit getting use, not left to deteriorate with no use.

- 6.4 Council understands that independent legal advice will need to be obtained for the existing Resident (at Council's cost). This will be obtained as part of the exemption process and copies will be supplied to the Office to ensure transparency and that the interests of the residents have been considered.

Thank you in anticipation of your consideration of the Council's request. If you require any further information, please do not hesitate to contact Ann Frick at the Council Office on 8658 1260 or ann.frick@orroroo.sa.gov.au.

Yours faithfully

Dylan Strong
Chief Executive Officer

Enclosures:

1. Lands Title's Office register search for the Land
2. Plan of the Village
3. Copy of Mr Byerlee's residence contract
4. Copy of the last three years' financial statements for the Village
5. Example residential tenancy agreement for vacant units (supplied by Ray White Real Estate)
6. A copy of the minutes from the meeting of the Orroroo Lifestyle Units Advisory Committee of the Council on Wednesday 29 August 2018

Commented [HW8]: Attach a letter of support from Mr Byerlee here

Commented [HW9]: At this stage, I do not believe that legal advice for Mr Byerlee is necessary. Should you consider terminating the village independent legal advice for the resident will most likely become a requirement.

Commented [HW10]: I think it could be quite beneficial to include information on how Mr Byerlee can raise any concerns he has about a tenant. This process could then be included within the village dispute resolution policy.

9: CONFIDENTIAL REPORTS: Nil

10: CLOSURE AND NEXT MEETING