

CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2019

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
129	5 February 2018	Hillgrove Resources Debt to Council - Further Update	<p>Section 90 (3) (b) Order</p> <p>1. <u>Pursuant to Section 90(3)(b)</u></p> <p>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, Deputy Chief Executive Officer/General Manager Infrastructure & Projects, General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services and the Minutes Secretary be excluded from attendance at the meeting for Agenda Item Hillgrove Resources Debt to Council - Further Update.</p> <p>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 prejudice the commercial position of the Council.</p> <p>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 continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it 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 the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate</p>	Council report, related documents and all minutes be retained in confidence.	<p>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 prejudice the commercial position of the Council.</p> <p>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 continued non-disclosure of this information. The benefit to the public at large</p>	Retained in confidence until the debt is reduced to only the amount that is current, or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.	2 Oct 18	Within 12 months	<i>Report attachments and minutes on website 5 September 2019</i>

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			<p>a cost-effective proposal for the benefit of the Council and the community in this matter.</p> <p>Section 91(7) Order</p> <p>5. <u>Pursuant to Section 90 (3) (b) & (d)</u></p> <p>That having considered Agenda Item Hillgrove Resources Debt to Council - Further Update, in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until the debt is reduced to only the amount that is current, or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.</p> <p><u>Order History</u></p> <p>2 Oct -</p>		<p>resulting from withholding the information outweighs the benefit to it 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 the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter.</p>				
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18. CONFIDENTIAL REPORTS

- 18.1 REPORT TITLE: HILLGROVE RESOURCES DEBT TO COUNCIL -
FURTHER UPDATE**
- DATE OF MEETING: 5 FEBRUARY 2018**
- FILE NUMBER: 18/4274**
- ATTACHMENTS: ATTACHMENT 1 DOC/17/116225COUNCIL LETTER
ATTACHMENT 2 DOC/17/127137HILLGROVE
LETTER**

Mount Barker 2035 – District Strategic Plan:

Natural Environment & Sustainable Living
Objective 2.4 Maximise recycled water use.

Economic Prosperity
Objective 2.1 Strengthen and promote the water recycling and reuse business of
Council.

Governance and Leadership
Strategy 4.4 Identify strategic and operational risk issues and manage
accordingly.

Purpose:

To provide a further update on the status of the Hillgrove Resources debt to
Council.

Summary – Key Issues:

- There is an improvement in the level of the debt although it is still some distance from the position nominated by Hillgrove Resources in previous undertakings to Council.
- Regular monitoring of the Hillgrove Resources debt by Council should continue and the application of interest as per the Agreement is recommended, effective from 1 March 2018.
- Forecast future demand of recycled water from Hillgrove Resources is still awaited.

Recommendation:

That Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)

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, Deputy Chief Executive Officer/General Manager Infrastructure & Projects, General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services and the Minutes Secretary be excluded from attendance at the meeting for Agenda Item Hillgrove Resources Debt to Council - Further Update.

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 prejudice the commercial position of the Council.

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 continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it 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 the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter.

2. Note the letter from Council to Hillgrove Resources dated 15 November 2017 (attachment 1) and the response from Hillgrove Resources to Council dated 11 December 2017 (attachment 2);
3. Write to Hillgrove Resources and advise that interest will be charged on amounts owing and not paid to Council within the payment terms (30 business days of receiving the invoice) as per the Agreement between Council and Hillgrove Resources, to apply to outstanding amounts from 1 March 2018 and that Council reserves its rights in full to take possible further actions.
4. Continue to regularly monitor the performance of Hillgrove Resources in relation to the amount of the debt owed to Council for the supply of recycled water to the mine and have a further status update prepared for the Council meeting scheduled to be held on 7 May 2018;

Section 91(7) Order5. Pursuant to Section 90 (3) (b) & (d)

That having considered Agenda Item Hillgrove Resources Debt to Council - Further Update, in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until the debt is reduced to only the amount that is current, or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Background:

1. This matter has been the subject of previous confidential agenda items, the most recent being considered at the Council meeting held on 6 November 2017 and the resolutions remain the subject of confidentiality orders. It was resolved at that meeting that a status update be prepared for the Council meeting on 5 February 2018.
2. Following the November 2017 Council meeting a Council letter was forwarded to Hillgrove Resources (attachment 1) and subsequently a response was received from Hillgrove Resources (attachment 2) which includes appreciation of Council's support and "... to reaffirm our commitment to the payment plan, as previously outlined."
3. This exchange of letters was the latest in a long line of communications between Council and Hillgrove Resources regarding the long outstanding debt.

Discussion:

4. In relation to the debt reduction strategy, the Chief Executive Officer of Hillgrove Resources Mr Steve McClare indicated in late October 2017 that the intent of Hillgrove Resources was to make payment to Council of \$150,000 in November and an additional \$200,000 in December 2017 being a total of \$350,000.
5. In November 2017 Hillgrove Resources paid Council \$70,000 and in December 2017 payment of \$165,000 was received from Hillgrove Resources being a total of \$235,000 or 67% of the amount indicated. In January 2018 \$183,851 was paid so there has been a trend for higher repayments which is encouraging.

6. By email dated 31 October 2017 Mr McClare advised Council that “As discussed it is our intent to be under ninety day terms by the end of the 2017 calendar year.”
7. As shown in the table below, the actual position as at 30 January 2018 was that the amount of \$82,501 being 25% of the account is still over 90 days. This is a significant improvement on the position as at 20 October 2017 which was \$216,676 and 57% of the total debt.
8. The above is consistent with numerous previous undertakings from Hillgrove Resources where the actual payments made have fallen short of the undertaking given to Council.
9. Council has not received any further communication from Hillgrove Resources in relation to any form of explanation or change in circumstances.
10. The updated position of the Hillgrove Resources debt as at 30 January 2018 is as follows

Balance 1 July 2017	451,658
Billed this year	415,821
Received since 30 June	(533,833)
Closing Balance	333,646

Current	86,739	26%
30 calendar days	63,482	19%
60 calendar days	100,924	30%
90+ calendar days	82,501	25%
Total	333,646	100%

11. The above summary shows that the total debt has reduced during 2017/18 which is positive.
12. Whilst the payments received in December 2017 and January 2018 are a step in the right direction, this trend needs to continue, particularly as the quantity of recycled water supplied by Council during the Summer months is generally the highest for the year and otherwise it will see the total debt rise again.
13. Council has thus far continued not to apply the contract capability to add interest for non-payment by Hillgrove Resources by the due date. It is recommended that Council advise Hillgrove Resources that Council will apply interest as per the Agreement effective from 1 March 2018 this being “within 30 business days of receiving the invoice”.

14. The interest rate specified in the contract is 4 percentage points greater than the Cash Rate Target as published by the Reserve Bank of Australia, currently being 1.5%. The intent being that this should provide incentive for Hillgrove Resources to improve payment performance to Council.
15. Council can continue to reserve its rights in relation to possible further actions such as the imposition on Hillgrove Resources of interest as per the supply of recycled water contract, and/or seeking to secure the debt through a mechanism such as the declaration of a separate rate noting that this process would require community consultation.
16. In 2016/17 Council supplied Hillgrove Resources with approximately 825 mega-litres of recycled water. Notwithstanding the undertaking in the most recent letter from Hillgrove Resources to provide the requested water demand forecast "... in the coming days..." this is yet to be received and will be followed up by Council again.
17. Hillgrove Resources has offered a further site tour for Council Members. The suggestion being that this occur in March 2018 by which time Hillgrove Resources anticipate being able to provide further information regarding shifting from open cut to underground mining. The volume of recycled water required for underground mining would reduce substantially, forecast to be around only 30% of current demand. Further information on a site tour will be provided to Council Members in due course.

Community Engagement:

Informing only	Not applicable
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Policy:

Not applicable.

Budget:

The 2017/18 Council budget includes revenue from recycled water sales of \$637,635. Approximately 97% of the recycled water is forecast to be sold to Hillgrove Resources.

The budget amount is conservative and does not reflect the anticipated volume of recycled water to be supplied by Council but the likelihood of payments being received.

This revenue needs to be provisioned for anticipated future Council expenditure (beyond the mine ceasing to operate) towards an alternative disposal path being required for the steadily increasing volumes of recycled water.

Statutory/Legal:

The EPA licenses Council for the operation of the wastewater treatment plant on Springs Road and a disposal path for treated wastewater.

Health SA is the regulatory body in respect of the use of recycled water.

Staff Resource Requirements:

The recommendations can be implemented within existing staff resource capacity.

Environmental:

An objective is to maximise the use of recycled water to reduce the demand on the River Murray and ground water.

Usage by Hillgrove Resources (and other recycled water customers) enables a productive disposal path for treated effluent.

Social:

Hillgrove Resources continues to be both a major employer and a significant purchaser/consumer of goods and services with implications for many contractors and other businesses.

Risk Assessment:

The major risks to Council are that:

- a. Hillgrove Resources defaults on the payment of the debt and being unsecured, Council has no avenue for recourse and the debt will have to be written off; and/or
- b. Hillgrove Resources ceases taking recycled water from Council earlier than the current forecast of the mine operation ceasing and Council then needs to action an alternative disposal pathway and manage the associated implications.

Asset Management:

Council owns and is responsible for the pipeline that supplies recycled water to the Hillgrove Resources mine and extends to the town of Callington.

The 2017/18 Council capital budget includes provision to replace a section of this pipeline of approximately one kilometre to address the cost to Council of repairing consistent blow outs in a section of this pipeline and to minimise disruption to customers (Hillgrove Resources and others).

The business case supports the net benefit to council of undertaking this work which is scheduled for late Autumn/early Winter.

Conclusion:

Council needs to continue to regularly monitor payments from Hillgrove Resources for recycled water and the associated amount of the debt and to formally review this again in early May 2018.

Key Contacts

Brian Clancey
Deputy Chief Executive Officer/
General Manager, Infrastructure & Projects

David Peters
General Manager, Corporate

Sponsor of Project

Andrew Stuart
Chief Executive Officer

RELEASED

Attachment 1 to Item 18.1**MOUNT BARKER
DISTRICT COUNCIL**

Reference: 17/113061

15 November 2017

Mr Steve McClare
Managing Director and Chief Executive Officer
Hillgrove Resources
5-7 King William Road
UNLEY SA 5061

Dear Steve

RE: Hillgrove Resources Debt to Council

The attendance of Hillgrove Resources Chairman John Gooding and yourself at the recent meeting held with the Mayor Ann Ferguson, Brian Clancey and myself was appreciated.

Thanks also for the letter to Council from your Chairman and your subsequent emails with additional information.

All of this information was considered in confidence at the Council meeting held on 6 November 2017 and remains confidential.

The resolution of the Council meeting was to note the commitment from Hillgrove Resources to addressing the reduction of the debt substantively during November and December 2017 and to continue to monitor the performance of Hillgrove Resources in relation to the reduction of the debt with a formal review to occur at the Council meeting on 5 February 2018.

A reminder too that Council is also seeking from you a high level forecast of recycled water needs. This can be on a confidential basis with qualifications/assumptions given that there are unknowns, to reflect when and to what extent the needs of Hillgrove Resources are anticipated to change i.e. timing of the transition to undergrounding and the forecast life of that, and to the extent that you can, if the processing of material extracted from other sites was to be progressed at the current mine site, a guide as to when (assume 3 or more years lead time) and the volumes (an estimated range is fine).

Yours sincerely

Andrew Stuart
Chief Executive Officer

Attachment 2 to Item 18.2

**HILLGROVE
RESOURCES**

11 December 2017

Mount Barker District Council
PO Box 54
Mount Barker SA 5251

Attention: Andrew Stuart – Chief Executive Officer

Dear Andrew

RE: HILLGROVE RESOURCES DEBT TO COUNCIL

With regard to your letter dated 15 November 2017 I note the results of the Council Meeting and appreciate Council's continued support. I would also like to reaffirm our commitment to the payment plan, as previously outlined.

The coming year is very exciting and will see us Hillgrove return to a healthy business with numerous organic growth opportunities. We look forward to working with Council during this period and further extending the existing symbiotic relationship.

The confidential forecast is being finalised post completing our 2018 Budget. The details of which will be forwarded in the coming days by Mr Lachlan Wallace – General Manager Kanmantoo Copper Mine. Whilst not definitive it will give you a level of insight into our confidential business planning.

We wish you and all members of Council all the very best for the Festive season.

Yours sincerely

**STEVEN MCCLARE**
CEO / MANAGING DIRECTOR*Sent by email 12/12/17*

PERM16/129

Mt. Barker DC
File No: FOL/15/70/9
15 DEC 2017
Doc No: _____
Asses No: _____
Panel No: _____
Prop No: _____
SCANNED

18. CONFIDENTIAL REPORTS

18.1 REPORT TITLE: HILLGROVE RESOURCES DEBT TO COUNCIL - FURTHER UPDATE
DATE OF MEETING: 5 FEBRUARY 2018
FILE NUMBER: DOC/18/4274
ATTACHMENTS: ATTACHMENT 1 DOC/17/116225 COUNCIL LETTER
ATTACHMENT 2 DOC/17/127137 HILLGROVE LETTER

Moved Councillor Bailey that Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)
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, Deputy Chief Executive Officer/General Manager Infrastructure & Projects, General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services and the Minutes Secretary be excluded from attendance at the meeting for Agenda Item Hillgrove Resources Debt to Council - Further Update.

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disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter.

Seconded Councillor Irvine

CARRIED
OM20180205.15

Moved Councillor Bailey that Council:

2. note the letter from Council to Hillgrove Resources dated 15 November 2017 (attachment 1) and the response from Hillgrove Resources to Council dated 11 December 2017 (attachment 2);
3. write to Hillgrove Resources and advise that interest will be charged on amounts owing and not paid to Council within the payment terms (30 business days of receiving the invoice) as per the Agreement between Council and Hillgrove Resources, to apply to outstanding amounts from 1 March 2018 and that Council reserves its rights in full to take possible further actions.
4. continue to regularly monitor the performance of Hillgrove Resources in relation to the amount of the debt owed to Council for the supply of recycled water to the mine and have a further status update prepared for the Council meeting scheduled to be held on 7 May 2018.

Seconded Councillor Morrison

CARRIED
OM20180205.16

Moved Councillor Irvine that Council:

Section 91(7) Order

5. Pursuant to Section 90 (3) (b) & (d)

That having considered Agenda Item Hillgrove Resources Debt to Council - Further Update, in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until the debt is reduced to only the amount that is current, or such lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.

Seconded Councillor Keen

CARRIED
OM20180205.17

MEETING DECLARED CLOSED AT 9.29PM

MAYOR

DATE