



NOTICE OF SPECIAL COUNCIL MEETING

TO: Mayor Karen Redman
Deputy Mayor Ian Tooley
Councillors Kevin Fischer
Beverley Gidman
David Hughes
Paul Koch
Merylyn Nicolson
Adrian Shackley
Robin Symes
Jim Vallelonga

NOTICE is hereby given pursuant to the provisions of Section 83(1) of the Local Government Act 1999, that the next **Special Meeting of Council** for the **Town of Gawler** will be held in the Conference Room, Town of Gawler Administration Centre, 43 High Street, Gawler East, on **Thursday 8 November 2018**, commencing at 7:00pm.

A copy of the Agenda for the above meeting is supplied as prescribed by Section 83(3) of the said Act.

A handwritten signature in black ink, appearing to read "Henry Inat".

Henry Inat
Chief Executive Officer
7 November 2018

Order Of Business

1	Statement of Acknowledgement	3
2	Attendance Record	3
3	Public Open Forum	3
4	Declarations of Interest	3
5	Officer Reports	4
5.1	State Coordinator General - Springwood Communities	4
6	Questions without Notice	9
7	Motions without Notice	9
8	Close	9
9	Next Ordinary Meeting	9
	Tuesday 27 November 2018 commencing at 7.00pm	9

1 STATEMENT OF ACKNOWLEDGEMENT

We would like to acknowledge this land that we meet on today is the traditional lands for the Kurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kurna people as the custodians of the greater Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.

2 ATTENDANCE RECORD

- 2.1 Roll Call
- 2.2 Apologies
- 2.3 Motions to Grant Leave of Absence
- 2.4 Leave of Absence
- 2.5 Non-Attendance

3 PUBLIC OPEN FORUM

(Limited to a total time of up to 20 minutes)

4 DECLARATIONS OF INTEREST

5 OFFICER REPORTS

5.1 STATE COORDINATOR GENERAL - SPRINGWOOD COMMUNITIES

Record Number: CC18/135;IC18/412

Author(s): Jane Strange, Senior Development and Strategic Policy Officer

Previous Motions: Nil

Attachments: 1. **490 222 2018 - 490 D020 18 - Letter requesting State Planning Commission to be Relevant Authority - 3-10-2018 CR18/72638** [↓](#)



OFFICER'S RECOMMENDATION

That Council:-

1. **Notes the State Coordinator-General – Springwood Communities report.**
2. **Opposes any direct intervention by the State Coordinator General in the development assessment process of part or all of the Springwood Development moving forward.**
3. **Authorises the Mayor to write to the Premier and the Minister for Planning requesting the assistance of the State Government in finding a resolution to the existing impasse in commercial negotiations between Springwood Communities and SEA Gas on the Mainline Valve, more particularly that the State Commission Assessment Panel take on the role of planning authority for the purpose of assessing land division application 490/D020/18.**

SUMMARY

Council was recently advised that the developer of Springwood Communities has approached the State Coordinator General for assistance in resolving their on-going dispute with SEA Gas and the Department of Energy and Mining (DEM) on the cost and responsibility for infrastructure works associated with the Port Campbell to Adelaide Pipeline Mainline Valve (MLV), which is needed to facilitate the establishment of a new commercial precinct in Springwood Communities.

The purpose of this report is to inform Council of recent deliberations between staff and the State Coordinator General about the potential role of the State Commission Assessment Panel (SCAP) in the assessment of commercial development applications within the Springwood Communities development.

It is important to note that, at the time of writing this report, no such decision by the Coordinator General has been made. This is expected next week.

BACKGROUND

Land in Gawler East was rezoned from primary production to residential by the State Government in 2010, via a Ministerial Development Plan Amendment (DPA).

While Council at the time of rezoning raised concerns with the suitability of the land for residential purposes, it has been working diligently with the State Government, Lendlease and now Springwood Communities to facilitate its orderly and economic development. This has included the provision of critical infrastructure such as the Gawler East Link Road (GELR).

Lendlease commenced construction in 2011 following the Ministerial rezoning process, with the development subsequently acquired by Springwood Communities (a consortium of Arcadian Communities and the Ames family) in 2016.

The State Coordinator General is appointed by the governor to exercise powers conferred upon the position by the *Development Regulations 2008*. Among these powers is the ability to determine that a development with a total cost of over \$5 million, and which is not solely for private residential purposes, be assessed by SCAP.

A recent example of the use of such powers was the assessment of the Aldi development on Adelaide Road, which was “called in” by the State Coordinator General for assessment by the Development Assessment Commission (DAC), rather than by the Council Development Assessment Panel (CDAP). In this case, DAC was the planning authority and Council was a referral agency.

Justification for the State Coordinator General’s potential involvement in Springwood is understood to be the State Government’s significant investment in the GELR and the northern Adelaide more generally, protecting critical State infrastructure/assets and the value of the commercial precinct in Springwood (over \$5 million).

Critical State Government infrastructure/assets includes the Port Campbell to Adelaide Gas Pipeline, Mannum to Adelaide SA Water Pipeline and ElectraNet Power Transmission Lines, all of which are located within the Springwood development, and critical to the supply of essential services to the State. The presence of such infrastructure, and their respective Easements, places a significant encumbrance on the further development of the land that needs to be managed. It is important to note that Council has been carefully considering this interface, and working closely with all stakeholders.

Another significance consideration in the State Coordinator General’s potential involvement in this development is the lack of legislative guidance provided to local government by the *Development Act 1993* when dealing with new development located along the Port Campbell to Adelaide Gas Pipeline. This legislative void has result a number of delays, and has caused some frustration to both the developer, DEM and Council in the development assessment process.

Two existing Easements in favour of SEA Gas, as the licensee of the Port Campbell to Adelaide Gas Pipeline, traverse through the site. The intent of these Easements are to protect this infrastructure by controlling the use of land within close proximity to the gas pipeline, and to ensure that the operator maintains and operates their network in accordance with the relevant Australian Standard.

The requirement to maintain a “secure form of tenure” is also a licence condition imposed on SEA Gas by the State Government DEM. DEM is ultimately the Regulator of all licensed operators under the *Petroleum and Geothermal Act 2000* in South Australia, and is responsible for ensuring SEA Gas operates in pursuant with their licence obligations and in accordance with the relevant Australian Standards.

In 2002 when this gas infrastructure was designed and constructed it did so under the assumption that it would be held in private ownership, and that the surrounding use of the land would continue as primary production. However, when the State Government determined that the land was suitable for residential purposes, this fundamentally changed that assumption. Of significance to this decisions was both the thickness of the previously constructed gas pipeline, and the location of the existing MLV.

The MLV is a valve designed to vent gas from the pipeline into the atmosphere. As a result, an exclusion zone of 45 metres has been suggested by SEA Gas to manage issues associated with the gas plume that is created during venting, and a further separation distance of approximately 220m metres has been suggested to manage issues associated with the noise created during the opening of the vent. Noting that the when the MLV was installed in 2002, it was located 45 metres from the existing farm dwelling on the property. Since its installation, the valve has not been vented by SEA gas as part of their operations.

Leadlease, Springwood, SEA Gas and DEM have been investigating options since 2011 to either relocate the MLV or to leave it *in situ*, but with some modifications. The responsibility for funding these works has been an object of on-going conjecture, with neither Springwood nor SEA Gas agreeing to fund such works. As a result, commercial negotiations between Springwood and SEA Gas have stalled. However, DEM have since secured a suitable site for the relocation of the MLV on State Government land, and SEA Gas is currently working to define the costs associated this relocation.

It is important to note that the most recent land division application lodged by Springwood Communities (490/D020/18), which is currently under assessment, proposes dwelling allotments within 10 metres of the MLV. This is inconsistent with the Springwood Master Plan presented to Council, SEA Gas and DEM, which previously provided a 45 metre exclusion area.

While Council, under the guidance of the pipeline regulator (DEM), have successfully brokered mutually acceptable outcomes for both Springwood and SEA Gas on similar issues in the past, such as the widening of the SEA Gas Easement and the preservation of the Easement within all proposed road crossings, a resolution to the MLV issue has not been forthcoming. It is also worth noting that as part of advice provided to the developer by Council and DEM, in the assessment of land division applications 490/D009/17 and 490/D010/17, residential allotments proposed within close proximity to the MLV were removed from those land division applications.

As a result, the State Coordinator General is now considering the role he could play in facilitating a resolution to Springwood Communities concerning on-going commercial negotiations with SEA Gas. Such a facilitation role would result in the State taking over as the assessing authority for either a significant part or the entire Springwood Development. This is obviously a serious concern and something that Council should oppose.

COMMENTS/DISCUSSION

Central to the State Coordinator General is consideration of this matter, and any potential involvement moving forward, will be the extent/scope of development applications that should be assessed by SCAP, rather than the Council Assessment Panel (CAP).

Options include:

1. Entire Springwood Project – all land division and built form applications (including shopping and education precincts)
2. Retail Precinct applications only
3. No development applications.

As previously mentioned, Springwood Communities have lodged a development application (490/D020/18) which seeks to bring to a head the issues of developing near the gas pipeline and the MLV. This current proposal sites residential allotments within 10 metres of the MLV. This is at odds with their original Master Plan presented to both Council, SEA Gas and DEM, which provided a 45 metre exclusion zone. It is also important to note that this particular development application also proposes to span across two Council Boundaries (Town of Gawler and The Barossa Council).

Given fact that the application spans two Council boundaries staff have written to the Chair of SCAP suggesting that pursuant to Section 34 (1) (b) (iv) of the *Development Act 1993*, SCAP should be the relevant planning authority in relation to this particular development application. Council has yet not received a response to the above correspondence.

This is distinct from the powers afforded to the State Coordinator General to have a particular development application assessed by SCAP.

It is considered that this approach would allow the State Government via SCAP to resolve issues pertaining to development within close proximity to the MLV, which would provide a level of certainty to the developer in relation to the MLV issue. This would then also ensuring Council continued to be the relevant planning authority for all development applications thereafter, including development within the commercial precinct.

It is considered that the newly appointed CAP, which comprises some of the most highly respected and experienced independent planning professionals in the state, is best positioned to assess significant development within the Springwood Communities development, as local knowledge and local decision making is needed to ensure the complexities associated with such a development are appropriately identified, managed and implemented.

To have such a significant land division, which will span over 10 years of development, controlled by the State Government at the expense of local knowledge is obviously a major concern. Council will lose significant influence relative to the design, functionality, interface and application of the development.

There are also the complexities of the situation relative to the necessary Land Management Agreements and Infrastructure Deeds being put in place. Should these not be actioned, the full Separate Rates would be payable at Section 51 Clearance for any land division. This would be an issue for the developer to manage, as it would have no control over the timing of approvals. Essentially, the Separate Rates would be required to be levied immediately on lodgement of any land division rather than a staged approach to its payment.

COMMUNICATION (INTERNAL TO COUNCIL)

Chief Executive Officer
 Manager, Development Environment and Regulatory Services
 Development Services Team Leader
 Senior Development and Strategic Policy Officer
 Strategic Planner

CONSULTATION (EXTERNAL TO COUNCIL)

State Coordinator-General
 Springwood Communities

POLICY IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Development Act 1993
Petroleum and Geothermal Energy Act 2000

FINANCIAL/BUDGET IMPLICATIONS

Should SCAP become the relevant planning authority for certain types of development applications, this will have a financial impact on Council due to reduced application fees. Please see below some estimates:

Type of Development	Number of Applications (approx.)	Development Value (assumed)	Total Fee Lost
Commercial/Retail		\$60,000,000	\$75,000

It is extremely unlikely that SCAP would assume responsibility for minor development applications, or individual dwelling applications. It is far more likely that only large lot land division applications and commercial developments would be assessed by SCAP.

COMMUNITY PLAN

Objective 2.1: Physical and social infrastructure to match population growth
 Objective 2.3: Urban growth to be sustainably managed
 Objective 2.6: Local economic activity to create local job opportunities and generate increased local wealth



Town of Gawler
43 High Street
Gawler East SA 5118
PO Box 130
Gawler SA 5118
Phone: (08) 8522 9211
Email: council@gawler.sa.gov.au
Website: www.gawler.sa.gov.au

3 October 2018

The Chair,
State Planning Commission,
GPO Box 1815
ADELAIDE SA 5001

Email : scapadmin@sa.gov.au

Dear Sir,

Re : DIVISION OF LAND – 490/D020/18

Council has received an application for the division of land on property adjacent Calton and Balmoral Roads at Gawler East.

In relation to the above development, Council is writing to seek agreement that the State Planning Commission is the relevant authority for the assessment of this application, as declared in Section 34 (1)(b)(iv) of the *Development Act 1993*.

A portion of the application is within the Town of Gawler area under Development Application 490/D020/18 and another portion is within The Barossa Council area under Development Application 960/D014/18, with five proposed residential allotments being partially in each Council area.

Should the application in The Barossa Council area be approved prior to the application in the Town of Gawler, these allotments will be land locked as there will not be an approved road access.

For these reasons, it is requested that the relevant authority, currently the respective Councils, be changed to the State Planning Commission.

A copy of the proposed Plan of Division is attached for your reference.

Your timely response would be much appreciated.

Yours faithfully,

for **David Bielatowicz,**
TEAM LEADER DEVELOPMENT SERVICES

Enc. Plan of Division
cc : The Barossa Council – L. Monteduro

6 QUESTIONS WITHOUT NOTICE

7 MOTIONS WITHOUT NOTICE

8 CLOSE

9 NEXT ORDINARY MEETING

Tuesday 27 November 2018 commencing at 7.00pm