

REPORT OF THE ROXBY DOWNS COUNCIL GOVERNANCE REVIEW COMMITTEE

31 August 2016

1 Contents

1	Contents	1
2	Executive Summary.....	3
2.1	Background	3
2.2	Governance Review Committee Terms of Reference.....	3
2.3	Recommendations of the Committee	3
2.3.1	Short term Recommendations	3
2.3.2	Medium Term Recommendations.....	4
2.3.3	Long Term Recommendations	4
2.3.4	Recent Resignation of the Administrator	4
3	Background	5
3.1	Terms of Reference	5
3.2	Project Brief	5
3.3	Committee Membership.....	5
3.4	Uniqueness of Roxby Downs Council	5
3.5	Current Governance Structure	6
3.6	Current Governance Issues	7
4	Governance Options	9
4.1	Short term improvement opportunities	9
4.2	Medium term improvement options.....	9
4.2.1	Assessment of Options	9
4.2.2	Cost of options	10
4.2.3	Recommended option	11
4.3	Longer term opportunity	11
5	Recommended Option	13
5.1	Benefits of recommended option	13
5.2	Effectiveness of Administrators	13
5.3	Number of Administrators.....	14
5.4	Appointment of Administrators	14
5.5	Terms of reference for Administrators.....	15
5.6	Role of Chief Executive Officer (CEO)	16
5.7	Council and State Government interface	17
5.8	Other Opportunities	18
5.9	Administrators' remuneration and responsibilities	18
5.10	Council and Community Board, Community Forums Interface Governance model	19
5.10.1	History and background.....	19

5.10.2	Current state 2016	19
5.10.3	Future state 2016 and linkage through to Administrators and CEO	20
5.11	Assessment of Administrators' Performance.....	20
5.12	Resignation of the Administrator	21
6	Consultation.....	22
6.1	Consultation with State Government	22
6.2	Consultation with BHP Billiton	23
6.3	Consultation with the Ombudsman	23
6.4	Consultation with the Roxby Downs Community.....	23
7	Glossary.....	26
	Appendices	27
	Appendix 1 – Committee Terms of Reference	28
	Appendix 2 - Committees' Project Brief.....	35
	Appendix 3 - Committee Members' Curriculum vitae	41
	Appendix 4 - Committee Activities	45
	Appendix 5 - Synopsis of Briefing Paper	46
	Appendix 6 - Assessment of Options	48
	Appendix 7 - Analysis of Cost of Options	52
	Appendix 8 - Brimbank Council Administrator's Code of Conduct.....	55

2 Executive Summary

2.1 Background

Roxby Downs is a mining town, 568 km north of Adelaide, South Australia which was established in the 1980's primarily to support the BHP Billiton operations at Olympic Dam. The current population is in the order of 4,000 people which grows and contracts with employment at the mine.

The Municipal Council of Roxby Downs was created and operates under the provisions of the Roxby Downs (Indenture Ratification) Act 1982. Since then, the Council has been governed by an Administrator, appointed by the Minister which is a dual one of Administrator with Chief Executive responsibilities. There are currently no elected members in the Council as this is not available under the current Indenture. Council also provides water, electricity and many other community services so there is a high degree of reliance on the Council.

Community expectations have changed since the Indenture was proclaimed. Apart from undertaking statutory public consultation, there is less opportunity for the Roxby Downs community to have input into Council decisions, such as budgets and capital projects, when compared to other South Australian councils.

Good governance would recommend a separation of the governance role from the role of management.

2.2 Governance Review Committee Terms of Reference

The Roxby Downs Governance Review Committee was formed in February 2016 and consisted of six members including the Roxby Downs Audit Committee, governance specialists and experts in State and Local Government. The Committee was commissioned to research and

make recommendations on improvements to the Administrator's Governance role within the current legislative framework. Any recommended model was not to compromise the legal function of the Council or the role and function of the Roxby Downs Community Board.

Governance Options

The Committee considered five options including:-

1. Status quo with continuous improvement
2. Governance Charter with expanded Audit Committee advisory role
3. Governance Charter with separate advisory role
4. Separate Administrator with Chief Executive
5. Multiple Administrators with Chief Executive

2.3 Recommendations of the Committee

The Committee approached its task from the position that, despite its uniqueness and constraints, the Roxby Downs Council should operate as closely as possible to all other councils in South Australia.

2.3.1 Short term Recommendations

Short term opportunities to improve governance include:-

- Publishing Council reports on proposed resolutions;
- Publishing Council decisions;
- Conducting public meetings when the Administrator makes resolutions;
- Publishing all Council policies on the website;
- Publishing Audit Committee agendas and minutes of meetings;

- An annual Audit Committee meeting held in Roxby Downs and open to the public; and
- Ensuring two-way communication with the Roxby Downs community.
- Adopt as policy any accountability or transparency provisions in the Act that are relevant to Roxby Downs Council but currently fall outside the legislative remit of the Council.

These short term recommendations can be implemented for \$74,660 pa.

2.3.2 Medium Term Recommendations

The medium-term recommendations of the Governance Review Committee are as follows:-

- Separate the role of Administrators and Chief Executive Officer (CEO) to make a clear distinction between political and operational responsibility;
- Appoint two part- time Administrators employed by the Minister for Mineral Resources and Energy with the approval of BHP Billiton, and answerable to the Minister;
- The Administrators to engage and consult with the local community and meet in public to make decisions;
- The CEO to be responsible to the Administrators for the day to day operation of the Council;
- Community forums to appoint their chairs to the Community Board which will appoint a chair and revisit the constitution of the Community Board;
- The role of the Roxby Downs Advisory Reference Group to no longer be required.

The medium term recommendations can be implemented for an additional \$166,400 pa. The proposed Administrators will provide another level of review and expertise and this cost may be reduced by savings which arise as a result of the implementation of the recommendation.

It should be noted that subsequent advice from the Department of State Development indicates that under the current indenture only one Administrator can be appointed. This, in the view of the Committee is sub optimal but still provides an improvement in governance.

2.3.3 Long Term Recommendations

The long-term recommendations are as follows:-

- The medium term recommendations to be given at least two years to be established;
- Move to a fully elected Council with Councillors from the Council area;
- Review the Indenture to facilitate the establishment of a fully elected Council, this being beyond the scope of this Committee; and
- Review the Local Government Act to facilitate the filling of casual vacancies given the transient nature of the Roxby Downs residents.

2.3.4 Recent Resignation of the Administrator

On the 8th June 2016, it was announced that Bill Boehm, the Administrator, had resigned from the role. An interim Administrator, Geoff Whitbread has been appointed.

The Governance Review Committee believes that this event creates an ideal opportunity for the State, in conjunction with BHP Billiton, to expedite the implementation of the short and medium term recommendations of this report, rather than simply replacing the Administrator and retaining the existing governance arrangements which are considered deficient.

3 Background

3.1 Terms of Reference

In February 2016 the Roxby Downs Municipal Council (Council) adopted the Terms of Reference which established the Roxby Downs Governance Review Committee (Committee).

A copy of the Terms of Reference is reproduced in Appendix 1.

In summary, the Committee was commissioned to research and make recommendations on improvements to the Administrator's Governance role, within the current legislative framework. Complementary improvements were to be explored and any recommended model was not to compromise the *"legal function of Council nor the role and function of the Roxby Downs Community Board."*¹

The report was to be completed within four months of the first meeting. This was later extended to provide sufficient time for consultation.

The final report will be forwarded directly to the Council, Minister for Mineral Resources Development, Minister for Local Government, South Australian Ombudsman and BHP Billiton.

3.2 Project Brief

The Terms of Reference were supported by a formal Project Brief, which is reproduced in Appendix 2.

The Project Brief reinforced the Terms of Reference and provided additional guidance.

3.3 Committee Membership

The Administrator appointed the following people to the Committee:

David Powell (Chair);
Bill Cossey;
Brian Cunningham;
Warwick Koster;
Felicity-ann Lewis; and
Trevor Starr.

Brief Curriculum vitae for each of the Committee members is provided in Appendix 3.

Committee support was provided by Alan Rushbrook.

Michael Kelledy and Cimon Burke of KelledyJones lawyers provided advice on legal matters and statutory interpretations.

The Committee commenced meeting in February 2016.

The Committee activities are described in Appendix 4.

3.4 Uniqueness of Roxby Downs Council

Roxby Downs is a town in an arid area, 568 kilometres by road from the nearest capital city, around 14 kilometres south of Australia's largest underground mine. The Olympic Dam mine is one of the largest of its type in the world, producing copper, gold and uranium and operated by the world's largest mining company BHP Billiton.

¹ Paragraph 2.1.2.2 Terms of Reference of the Roxby Downs Council Governance Review Committee. January 2016.

The town of Roxby Downs exists to support the operation of the mine, as implied in the vision of Council as articulated in its Strategic Management Plan²

A World Class Community Supporting a World Class Mine

The town was established in the 1980's and has community facilities of a high standard making it an attractive, if isolated, town for those employed directly and indirectly through the operations of the mine, and their families. It has a population of approximately 4,000. The population level is not static and changes in response to the demand for local labour at the mine. The median age of the resident population is 29 years of age which is substantially lower than the state average of 39 years of age and the dominant demographic is that of young families. BHP Billiton operates two accommodation camps, the smaller one Roxby Village is within the town and the larger Olympic Village outside of the town adjacent to the Olympic Dam airport.

Being predominantly a mining town has a number of implications for the population and its structure. Without employment people don't stay in Roxby Downs. Living in Roxby Downs is presently not seen as a destination of choice for permanent residency for many citizens due to the town's remoteness, the impermanence of work and drive in – drive out arrangements for workers associated with the mine's operations. The level of households who rent is approximately double the state average and the tenure of continuous employment is shorter and subject to volatility. The average level of income is substantially above the state average.

The town is subject to the boom and bust cycle of the mining industry. Five years ago planning was underway for a substantial expansion of the town to facilitate open cut mining. Now that the open mine plans have been shelved and commodity prices have fallen there has been a contraction in resident numbers in the town.

Recently announced changes to roster arrangements to 7 days on 7 days off could potentially impact on the size of the resident population and the micro economy of the township. This may also impact on the optimum Governance structures which are ultimately recommended to be put in place.

3.5 Current Governance Structure

In his briefing paper to the Committee, the Administrator outlined the legislative structure for the Council. The synopsis of that paper, as it relates to the governance arrangements, is reproduced in Appendix 5.

The Administrator describes the legislative and governance arrangements as ...

*"The Municipal Council of Roxby Downs (Roxby Council) was created and operates under the provisions of the Roxby Downs (Indenture Ratification) Act 1982. Since the Municipality's inception in 1982 the Council has been governed by an Administrator, a position which is effectively a dual one of Administrator (i.e. Council) with Chief Executive Officer Responsibilities."*³

Uniquely Roxby Downs Council has no elected members and all governance and administrative responsibilities are vested in one person, the Administrator. The Administrator is appointed by the Minister, and is only subject to distant oversight by the State Government department responsible for the support of mining in South Australia. The Council, under the Local Government Act 1999, is subject to the same operational and reporting requirements as any other council in South Australia with the exception of those requirements which relate to the operation of an elected body and their meetings.

Seven years ago, the then Minister for Mineral Resources Development recognised the relative isolation of the Administrator and created the

² page 1, Roxby Downs Council Strategic Management Plan 2012-2017

³ page 1, Roxby Downs Governance Review Committee Terms of Reference

Roxby Downs Advisory Reference Group (RDARG). RDARG's role is to create a link between the Administrator and both the Minister and the Minister's senior public servants whose role includes oversight of the Roxby Downs Council.

At the time, the then Minister, recognising the absence of an Elected Council, was hopeful that RDARG could act as a source of advice to the Administrator not only in his dealings with the State Government but also with the community of Roxby Downs.

RDARG has met approximately five times per year since its inception, but less regularly in recent years. It has also met from time to time in Roxby Downs and as part of these meetings has met with members of the community to hear their views and concerns.

Views concerning the effectiveness of RDARG are mixed. The Administrator has only occasionally sought the advice of RDARG and RDARG has found itself, on behalf of the Minister, having to give occasional direction to the Administrator. Neither of these situations has been satisfactory.

Good governance would recommend a separation of the governance role from the role of management. The governance role should be one of setting policy and strategic direction ("to govern") and the role of management, the CEO and senior management team, to implement the direction of the governance ("to manage").

An effective system of governance would incorporate the following principles:

- Leadership
- Accountability
- Transparency
- Efficiency
- Responsiveness, and
- Flexibility.

3.6 Current Governance Issues

Whilst there is no perfect system of governance, the Committee in its deliberations identified a number of limitations inherent in the current governance arrangements.

These are:

1. Community expectations have changed in the last 25 plus years and there is currently no formal community franchise (voting) or process for community members to have input into Council decisions.
2. The Council is unique in the number of services it provides to the community including water, electricity and many community services and hence community members have a high degree of reliance on the Council for the provision of services.
3. The Ombudsman has an increasing interest in the operations of the Roxby Downs Council and an expectation there will be sound procedural practices in accordance with the normal statutory provision governing councils and a desire to normalise the operation of the Roxby Downs Council within the constraints of the Indenture.
4. Roxby Downs Council processes are unique and lack the usual required transparency of other councils (e.g. public meetings, meeting papers available on web site).
5. There is State Government and community concern that Council may be planning too far in advance and the infrastructure planned may not be required if the population does not grow. This is exacerbated by the transient nature of the town's population. Many current ratepayers do not see the value in longer term infrastructure plans as they naturally look for more immediate infrastructure benefits they can enjoy in the here and now.

6. Community members don't feel they have access to an elected voice and an ability to influence, question or challenge decisions made by the Council.
7. The budget process is more complex than other councils because in addition to the statutory consultations obligations under the Act, the budget has to be agreed by the State Government and BHP Billiton given they equally contribute to any meaningful deficit. This creates difficulties given that the Act requires councils, except in cases of extraordinary administrative difficulty to, complete the rate declaration process by 31 August each year.
8. BHP Billiton strategic and operational decisions have a significant impact on the employment levels, size and structure of the town.
9. Various community bodies established to interface between Council and community have not always been effective.
10. State Government staff in the Department of State Development are not operationally familiar with the management of local government or local government authorities and oversight of the Council is a very small part of their overall responsibilities.
11. The Administrator is an employee of the Crown which brings with it primary responsibilities of fidelity to the State. This position can operate to limit the Administrator's ability to act in the best interests of the Council / local community. There is no party independently able to represent the Council's or the community's best interest.
12. There is a perceived lack of guidance given to the Administrator at a strategic level.
13. The Administrator is required to be a politician and an administrator and there is

no filter or buffer between the community and the administration.

From an operational perspective none of these issues has a direct impact on the day to day management of the Council. However, it is clear that the current governance arrangements have a number of significant deficiencies, which over time, are likely to have a detrimental effect in the minds of the local community. The dual roles of the Administrator as Council and Chief Executive Officer is confusing for the community and results in some community tension.

There is no local democratic process and this is compounded by a governance structure that has levels of accountability which are significantly less than other local government authorities in Australia. Also, there is evidence that the current employment arrangements for the Administrator constrains the level of advocacy which local communities would normally expect from independent elected representatives.

4 Governance Options

The Committee approached its task from the position that, despite its uniqueness and constraints (of the Indenture), the Roxby Downs Council should operate as closely as possible to the expectations of all other councils in South Australia.

The background briefing papers and review of information re formal 'direction of the council' lead the Committee to conclude that there is very little dialogue between the Administrator and the Department / Minister to whom the Administrator is responsible. Not-with-standing the shared responsibility and benefits derived by the Olympic Dam operator BHP Billiton, any direction of the Administrator must come from the Minister and as a consequence the Administrator is in practical terms the sole person who manages, directs and determines the services, infrastructure and directions the town needs to pursue in support of the resident families and local businesses.

- An annual Audit Committee meeting conducted in Roxby Downs and open to the public; and
- Complying with procedures and policies that mostly relate to improved two way communications with the community of Roxby Downs, acknowledging that many of the fundamental building blocks are already in place.
- Review and give consideration to implementing the accountability and transparency provisions in the Act that could be relevant to Roxby Downs Council (i.e. provisions that relate specifically to elected member may not be relevant) with a view to adopting as policy those measures that currently fall outside the legislative obligations of Council.

The Committee recommends that consideration be given to the implementation of these options as soon as practical.

4.1 Short term improvement opportunities

In the short term there are opportunities to improve the governance of the Council. These include:

- Publishing Council reports on proposed Council resolutions prior to them being resolved;
- Publishing Council decisions and the background to those decisions on the Council's web site;
- Conducting public meetings when the Administrator is considering significant resolutions of Council;
- Publishing all Council policies on the Council's web site;
- Publishing the Audit Committee meeting agenda on the web site prior to each meeting and minutes after the meeting

4.2 Medium term improvement options

4.2.1 Assessment of Options

In assessing options for the future governance of Council the Committee used as a starting point a list of options provided by the Administrator. In the Committee's view this provided a comprehensive summary of the available options

Option	Description
1 Status Quo with required improvements	Retain current operational practice with an Administrator but continue to introduce improvements to

Option	Description
	communications and governance elements.
2 Governance Charter. Expanded Audit Committee advisory Role	The Audit Committee to undertake an expanded role, fulfilling the additional function of a Governance Support Group with meetings open to the public and operating in Roxby Downs.
3 Governance Charter. Separate Committee advisory Role	A new Committee separate from the Audit Committee to undertake the role of a Governance Support Group with meetings open to the public and operating in Roxby Downs.
4 Separate Administrator and Chief Executive Officer	Provide a more traditional Administrator role, potentially one that is part time and employ a separate Chief Executive Officer. 'Meetings' of the Administrator would be like normal Council Meetings and open to the public with all decisions made in this forum. Administrator would operate and act as an elected member.
5 Separate Administrators and Chief Executive Officer	Provide a more traditional Administrator role in an expanded form with two appointed, likely to be part time, with a separate Chief Executive Officer. Meetings of the Administrators would be like normal Council Meetings and open to the public with all decisions made in this forum.

Option	Description
	Administrators would operate and act as elected members.

The Committee undertook an evaluation of each of the options by assessing them against the issues outlined in the earlier part of the report. The results of that evaluation are reproduced in Appendix 6.

4.2.2 Cost of options

The five options considered were expanded to 6 for costing purposes and included the costing of 2 and 3 separate Administrators (shown as 5(a) and 5(b) in Appendix 7.

The Committee is of the view that the Council would benefit from the implementation of a number of immediate changes in internal governance practice changes. Whilst there is an argument that these costs could be absorbed within the current workforce the committee chose to assume that additional resources would be required to undertake the additional work required. These are estimated at \$74,660 per annum.

The incremental costs beyond the status quo (with improvements) are:

Option	Incremental Cost
2 Governance Charter. Expanded Audit Committee advisory role	\$30,000
3 Governance Charter. Separate Committee advisory role	\$12,670
4 Separate Administrator (1) and Chief Executive Officer	\$93,400
5(a) Separate Administrators (2) and Chief Executive Officer	\$166,400
5(b) Separate Administrators (3) and Chief Executive Officer	\$240,200

4.2.3 Recommended option

The three options which separated the role of the administrator from that of the Chief Executive Officers were identified as being the most beneficial. These are options 4, 5(a) and 5(b) in the table above. The other options were not seen by The Committee to address the fundamental issue of the lack of separation of the governance and administrative functions.

This lack of separation reduces transparency, concentrates authority in one person and due to the nature of the employment relationship with the State Government is perceived to limit the independence and therefore the effectiveness of the Council.

The recommendation of the Committee is for the separation of the powers of the Administrator/s and Chief Executive Officer in order to better define and discharge the role of the “body politic” from the executive/operational responsibilities undertaken by the CEO thereby removing an inherent or perceived conflict under the present arrangement. Whilst the Committee’s observation is that the conflict is principally perceived it is nevertheless an issue that needs to be addressed for good governance and community accountability reasons.

Prior to finalising the preferred option legal advice was sought from Council’s lawyers on whether the legislation permitted the appointment of multiple administrators.

The advice from KelledyJones Lawyers was, in part ...

Whilst it is clear that the Indenture did not envisage the Council to be established in this way from its commencement, it is possible for two (or more) persons to exercise the multi-faceted role of a council and, in turn, be appointed as the Administrator for this purpose.

They also went on to clarify that the appointment of an Administrator, or Administrators, is subject to the Minister’s discretion and the approval of BHP Billiton.

Further the appointment would be in the form of an employment contract and not as an independent contractor.

The Committee decided that option 5(a), followed by option 4, was their preferred option. However, the Committee also recognised that the State Government may wish to seek the views of the Crown Solicitor with respect to the advice provided by KelledyJones before it would proceed with option 5(a).

The recommended option does come at a cost. There are limitations with the current governance arrangements and there would be a cost to addressing these issues, even without any changes to the Administrator’s role. Should the recommended option be implemented it is expected that there could be substantial reduction in management support costs currently incurred by Council and would result in a substantially lower net cost.

Also it would be expected that part of the role of the new Administrators would be to review, and exercise control over Council expenditure. This could also lead to further reduction in Council expenditure.

4.3 Longer term opportunity

In the longer term there could be an opportunity to move towards a fully elected body, as has been articulated as a goal at the legislative level. This would require a change in the Indenture and is therefore beyond the scope of the Committee’s consideration. However, even if it was within its terms of reference, it is unlikely that the Committee would recommend an immediate transition to a fully elected body.

The proposal to separate the roles of Administrator (in the normally understood role of Administrator as it applies to Local Government) and Chief Executive Officer as recommended in this report should be given at least two years to establish itself. Beyond this time there could be opportunity to reassess the option of a locally elected Council. This would be dependent on the future size of the town and

stability within the community. Given the transient nature of the population there may well need to be changes to the Local Government Act to more readily accommodate the filling of casual vacancies on councils before an elected Council would be a practical option for the town of Roxby Downs.

5 Recommended Option

5.1 Benefits of recommended option

As outlined previously, the Committee considered five medium term alternatives which could lead to important changes to the 34-year current arrangement. They ranged from the status quo with a continuous-improvement program involving more structured meetings and reporting of the deliberations and decisions of the Council to the complete separation of the powers of the combined Administrator function that presently exists. The former would, in the Committee's view, result in greater understanding of the processes of the Council in production of appropriate position and information papers to support Council decisions but nevertheless does not provide the transparency and integrity of genuine public debate and input into process which is a feature of other elected councils throughout the state.

That said, there is considerable benefit to be had in implementing many of these procedural changes as soon as practical as recommended in section 4.1 above.

The preferred position of separation of roles and functions provides the greater long term solution to the current perceived shortcomings and is an appropriate stepping stone towards transition to a conventionally elected council at a future date if the parties to the Indenture Agreement agree over time to proceed with that structural change.

It is the Committee's view that greater accountability and more rational decision-making in the absence of direct stakeholder input will be achieved by the separation of powers and functions. Introduction of two separately appointed Administrators who have advocacy roles and responsibilities for both community and Council will enable a more balanced and independent decision-making body that has accountability, transparency and

democracy as its core principles. The preferred option has been predicated on the concept that the Administrators perform exclusively the functions of an elected council leaving the Chief Executive to implement decisions of Council. The respective powers and modus operandi of each are separately outlined later in this report.

5.2 Effectiveness of Administrators

Research was conducted by the Committee on the effectiveness of state government appointed administrators.

The appointment of administrators to the exclusion of elected bodies has been common practice during times of structural change in local government as witnessed by the recent appointment of Administrators in 19 merging councils in New South Wales. State governments also have powers to appoint Administrators when there is dysfunction in the elected body.

Brimbank Council in Victoria has had a team of three Administrators since November 2009. The Victorian State Government has twice extended their tenure. The Chief Administrator at Brimbank Council, Mr. John Watson, believes that the three Administrators are very welcome by the majority of residents. Anecdotally this arrangement is well accepted by the community. The Code of Conduct for the Administrators for Brimbank Council, which is reproduced in Appendix 8 provides an ideal resource for any future Administrators appointed to Roxby Downs.

Recently an Administrator was appointed to replace the council in Auburn, New South Wales. The Administrator, Mr. Viv May, was interviewed as part of the research for this report. He indicated that in his view between one and three Administrators is sufficient. Maintaining contact with the community can be

challenging and that once he settles the council his role will be a part time, approximately two days a week role.

In South Australia there are other legislative precedents for the appointment of non-elected officials to act as non-elected councils. A relevant example was the appointment of Commissioners in Whyalla in 1948. Once the town had grown and consolidated a locally elected Council commenced in 1970.

5.3 Number of Administrators

The number of Administrators to exercise the “political” role of the Council has been the subject of debate by the Committee. However, it is proposed that the number be two persons meeting and exercising their role together in the same fashion as an elected council with neither having the power to act individually or in an executive role. It could be argued that a three person Administrators’ group would lead to issues/ services being determined by majority vote. The likelihood of absolute deadlock of two persons having to come to consensus on issues was acknowledged by the Committee. Issues of cost and practicality of a larger body were also factors of consideration.

The Administrators would be expected, as part of their responsibilities, to undertake a significant community consultation function in order to properly discharge their decision making powers on behalf of the community. The Committee considered that two Administrators could fulfil this role adequately.

The role of presiding member could alternate at meetings.

It is not considered necessary that one member be given a casting vote. Should there be a significant impasse the responsible Minister may need to intervene, but this was not considered to be an outcome which is likely to eventuate.

In the event of an Administrator taking leave the remaining Administrator could take on any activities required outside of a meeting of

Council (e.g. attending meetings, liaising with Chief Executive Officer), Council meetings could be conducted with one Administrator attending the meeting electronically, or if there is no other alternative the Minister would have to make a short term appointment.

5.4 Appointment of Administrators

The Administrators appointed by the responsible Minister will exercise their powers as a Council formally in meetings convened on a regular basis by the Chief Executive Officer.

Of vital importance in the appointment of the Administrators is the need to clearly establish that their role is to act independently in the best interests of the Roxby Downs community. The Administrators would, through the normal local government reporting mechanisms (i.e. Annual Business Plans and Annual Reports) and the quality of Council services, be responsible to the Minister. It is recommended that the Administrators have annual meetings with the Minister.

No recommendation has been made as to the domicile of the appointed Administrators as the skill profile and experience of the appointees is seen to be of significant importance in the first instance. Appointment to the role would be undertaken in accordance with the requirements of the Indenture by the State Government and BHP Billiton following a call for interested parties who reside within South Australia.

It is proposed that the term of the appointments should coincide with the rest of local government in South Australia and be for the same duration. In South Australia local government elections take place every four years with the next election due to take place in November 2018.

Consideration was given to representatives of the State Government, BHP Billiton and the Roxby Downs Community Board being appointed, but this did not, in the view of the Committee meet the criteria of transparency

and accountability. The committee were also concerned that appointed representatives of the State Government and BHP Billiton could have conflicts of interest in dealing with any matters, including the annual budget, concerned with either organisation. Any individuals interested in an Administrator role would be able to apply and be considered on their merits.

During Community Consultation, the residents of Roxby Downs expressed an interest in nominating candidates for Administrator(s) and voting on their appointment. This could be considered by the State Government in the context of the appointment by the Minister.

5.5 Terms of reference for Administrators

The Administrators will have shared powers only exercised in regularly convened meetings of the Council. Those meetings are to be compliant with meeting procedures outlined in the Act and Regulations. The community will have prior advice of all meetings including regular agenda papers consistent with the Act and decisions of the Administrators will be published.

The powers of the Administrators consistent with Section 6 of the Act include:

- act as a representative, informed and responsible decision-maker in the interests of its community;
- provide and co-ordinate various public services and facilities and to develop its community and resources in a socially just and ecologically sustainable manner; and
- encourage and develop initiatives within its community for improving the quality of life of the community;
- represent the interests of its community to the wider community;
- exercise, perform and discharge the powers, functions and duties of local government under this and other Acts in relation to the area for which it is constituted.

The principles to be observed by the Administrators include those outlined in Section 8 of the Act:

- provide open, responsive and accountable government;
- be responsive to the needs, interests and aspirations of individuals and groups within its community;
- participate with other councils, and with State and national governments, in setting public policy and achieving regional, State and national objectives;
- give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the community;
- seek to co-ordinate with State and national government in the planning and delivery of services in which those governments have an interest;
- seek to facilitate sustainable development and the protection of the environment and to ensure a proper balance within its community between economic, social, environmental and cultural considerations;
- manage its operations and affairs in a manner that emphasises the importance of service to the community;
- seek to ensure that Council resources are used fairly, effectively and efficiently;
- seek to provide services, facilities and programs that are adequate and appropriate and seek to ensure equitable access to its services, facilities and programs;
- achieve and maintain standards of good public administration; and
- ensure the sustainability of the Council's long-term financial performance and position.

The Administrators will have no executive powers to direct or control members of Council staff, except for the Chief Executive Officer, who will be appointed by and subject to regular assessment by the Administrators.

Pursuant to Section 44 of the Act the following powers cannot be delegated by the Administrators:

- make a by-law or to determine that a by-law applies only within a part or parts of the area of the Council;
- declare rates or a charge with the character of a rate;
- borrow money or to obtain other forms of financial accommodation;
- adopt or revise a strategic management plan of the Council;
- adopt or revise an annual business plan or budget of the Council;
- approve expenditure of money on works, services or operations of the Council not contained in a budget adopted by the Council;
- establish a subsidiary, or to participate in the establishment of a regional subsidiary;
- make an application or recommendation, or to report or to give a notice, to the Governor or the Minister, being an application, recommendation, report or notice for which provision is made by or under the Act or another Act; and
- fix, vary or revoke a fee under section 188(1)(d) to (h) of the Act.

The Administrators would be responsible for liaising and communicating with the State Government and BHP Billiton. This would include communicating on matters such as:

- strategic planning;
- policy;
- annual budget and annual business plan, including rates and capital expenditure;
- Indenture issues;
- funding; and
- employment of the Chief Executive Officer.

The Administrators will be responsible for engaging and consulting with the local community including:

- promoting discussion and debate within the community and with other stakeholders about the priorities and needs of Roxby

Downs Council. Attendance at meetings of the Community Board is one of the means of achieving this objective; and

- canvassing, and considering, the needs and opinions of the community when making decisions pursuant to the Council's Public Consultation Policy, which is available on the Council's website.

Consistent with other elected councils in South Australia there would be an expectation that the Administrators will be available to deal with strategic and policy matters raised by the local community particularly community bodies/groups and Boards. This will necessitate them being present at strategic events for the town.

The Administrators would be accountable to discharge Council's obligations under the Act.

The Administrators would be expected to meet at least ten times per annum in Roxby Downs. Decisions would be recorded and published in accordance with the meeting regulations of the Act.

Advice received from KelladyJones indicates that the conflict of interest provisions contained in the Act which came into force on 31 March 2016 will not apply to the Administrators when they meet as Council as the Indenture effectively precludes the application of sections of the Act which relate to elected members and meetings of elected members. However, as they would be appointed by a Minister of the Crown they would be subject to the Public Sector (Honesty and Accountability) Act 1999.

5.6 Role of Chief Executive Officer (CEO)

Roxby Downs Council will have a Chief Executive Officer appointed in accordance with Sections 96, 97 and 98 of the Act. The Administrators will appoint the CEO.

The CEO would be responsible to the Administrators for the day to day operation of

the Council and delivery of services at standards determined by the Administrators.

The functions of the Chief Executive Officer will include—

- a) to ensure that the policies and lawful decisions of the Council (in this case, the Administrators) are implemented in a timely and efficient manner;
- b) to undertake responsibility for the day-to-day operations and affairs of the Council;
- c) to provide advice and reports to the Council on the exercise and performance of its powers and functions under this or any other Act;
- d) to co-ordinate proposals for consideration by the Council for developing objectives, policies and programs for the area;
- e) to provide information to the Council to assist the Council to assess performance against its strategic management plans;
- f) to ensure that timely and accurate information about Council policies and programs is regularly provided to the Council's community, and to ensure that appropriate and prompt responses are given to specific requests for information made to the Council;
- g) to ensure that the assets and resources of the Council are properly managed and maintained;
- h) to ensure that records required under this or another Act are properly kept and maintained;
- i) to give effect to the principles of human resource management prescribed by this Act and to apply proper management practices; and
- j) to exercise, perform or discharge other powers, functions or duties conferred on the chief executive officer by or under this or other Acts, and to perform other functions lawfully directed by the Council.

The Chief Executive Officer must consult with the Council (i.e. the Administrators) when determining, or changing to a significant degree—

- a) the organisational structure for the staff of the Council; or
- b) the processes, terms or conditions that are to apply to the appointment of senior executive officers; or
- c) the appraisal scheme that is to apply to senior executive officers. The Chief Executive Officer is responsible for appointing, managing, suspending and dismissing the other employees of the Council (on behalf of the Council).

5.7 Council and State Government interface

The Administrators, consistent with the Indenture, would be answerable to the appropriate Minister in respect of governance of the town. The Indenture currently states that this is the Minister for Mines, currently the Minister for Mineral Resources Development.

Whilst the Committee debated the benefits of having the Administrators appointed by the Minister for Local Government, there remains good reason, apart from it being dictated by the Indenture, for the current arrangement to continue. The communications required in relation to ongoing Council funding and maintaining a conduit between Council and BHP Billiton could be more easily achieved through the Department of State Development as opposed to the Office of Local Government.

It is suggested that there be increased dialogue between the two relevant ministers and their departments on matters relating to Roxby Downs Council. The Office of Local Government would be able to bring significant knowledge and experience in the governance of local government. In particular, this should take place when considering the appointment of

Administrators and when any changes in governance arrangements are being considered.

As mentioned in 5.5 above one of the principal responsibilities of the Administrators would be to liaise with and maintain communications between the Council and the State government and BHP Billiton. It is envisaged that there would be two meeting as year between the Administrators and the Minister, supplemented by regular meetings between the Chief Executive of the Department of State Development and appropriate staff.

To reduce unnecessary complexity and because the Administrators should be able to adequately fulfil most of its responsibilities, there would be no need for the Roxby Downs Advisory Reference Group to continue in the future.

5.8 Other Opportunities

An opportunity may exist for the State and mine operator to contract or empower the Council to provide services or obligations covered by the Indenture Agreement that are not core for these organisations.

The unique position of Council, and its remoteness, presents the potential to provide commercial services to the community, filling a void which must otherwise be addressed by the State government or BHP Billiton.

Roxby Downs Council already delivers water, power and recreational services. However there is scope for a competent administration to negotiate for delivery of other services which are not core business of government and/or BHP Billiton such as land division, airport, asset ownership and leasing etc. on a strictly commercial basis.

5.9 Administrators' remuneration and responsibilities

The Committee sought to obtain relevant benchmarks for the possible remuneration for

the Administrators. This was challenging as Roxby Downs Council did not fit easily into any of the existing categories used by local government or by the State Government.

The skill set for discharge of the responsibilities of Administrator should include local government experience as either Mayor or Chairman level or Senior Officer - Chief Executive or Director level.

For local government the relevant allowance benchmark was considered to be the position of mayor. For State Government the benchmark may be Chair of a substantial Board.

The Remuneration Tribunal has recommended that the Mayor's allowance for Councils in Category 3 be \$51,784. A Mayor in a Council with a category 4 designation receives an allowance of \$36,861.

Using the latest information on the Department of Premier and Cabinet website, the State Government's Boards and Committees Remuneration Framework as approved by Cabinet on 10 December 2007 the Administrator's work with Roxby Downs Council could fit into the Committee level 3 description. In 2007 a Chair of a Board of an organisation with these functions would receive \$46,435 and members \$30,957.

As the Administrators would be the decision makers for Council and would be required to undertake significant travel, the Committee recommends an allowance in the vicinity of \$60,000 per annum be considered. This allowance would enable the State Government to attract suitable applicants.

Because Administrators would also receive expenses associated with travel and accommodation, the overall direct cost of the revised structure is projected to be in the region of \$85,000 per Administrator per annum. In addition, existing senior officers of the Council will need to undertake substantially greater detailed documentation of Council proposals.

At Brimbank City Council the Chief Administrator estimated that each Administrator committed three days a week to

their tasks. In the Auburn Municipal Council, the current Administrator works full time but he believes this time commitment will reduce significantly in the future.

The Administrators are proposed to meet as the body politic on predetermined meeting times advertised widely in the Roxby Downs community, open to the public with a properly constituted agenda and supporting documentation which consistent with the Act, is to be available to the community three clear days prior to the scheduled meeting time. It is considered appropriate that deputations from residents or community groups should be part of each meeting.

In relation to the formal meetings of the Administrators, the CEO is responsible for the development of the agenda in consultation with the Administrators and will ensure that appropriate minutes and record of decisions are kept and published as well as implementation of decisions of the Administrators.

5.10 Council and Community Board, Community Forums Interface Governance model

5.10.1 History and background

In 2005 the current Administrator undertook a community development exercise to develop a Community Plan. As a result of that process the Roxby Downs Community Board was established and resourced by Council to provide a structure and a forum for Community and Council meeting and communication. The Community Board would develop a Community Plan and would report to the Community on its progress in an active partnership with the Council.

The structure consisted of a Board of volunteers and in the ensuing years, a series of volunteer committees (appointed by the

Administrator) known as the Community Forums evolved to support the Community Board.

The Community Forums which currently exist are:

- Arts and Culture;
- Alcohol and substance abuse;
- Business;
- Roadsafe;
- Volunteering;
- Multicultural;
- Community Garden;
- Environment;
- Health;
- Women's network;
- Youth; and
- Sport and Recreation.

5.10.2 Current state 2016

The Forums in general have been successful with the exception of the Sports and Recreation Forum. The creation of this Forum was initially difficult to achieve for many reasons and it was disbanded some time ago when the Olympic Dam expansion was put on hold. A Review of Sports and Recreation facilities which is currently finalising its work has seen the Forum re-established. The Forums with an executive group representing a wide range of member organisations have proven to be most effective.

The Community Forums still exist today and represent the avenue through which information can be shared and initiatives presented to Council. Ideas would potentially become reality and events and projects are created through the Community Board. Forum members would potentially organize events, activities and functions, discuss issues, manage projects, and support the Community Board to reach its goals.

Over the years it became apparent that the Community Board structure was useful but not optimal in Community engagement. In mid-

2015 the Community Board itself instigated an internal review of its operations and in early 2016 resolved that the Governance structure would work best if each Community Forum would appoint its respective Chairperson (who would be elected through a process of nomination and appointment by members of each Forum), or nominee, to the Community Board. As a result, the Community Board Constitution has been amended to allow for this more optimal structure to be put in place.

It is expected that one of the local Forum Chairpersons would be elected by the Community Board as the Chair of the Community Board or alternatively another local Independent Chair who is not in an official role on a Forum could be appointed as Chair.

Each Community Forum would have its own agreed Terms of Reference for the appointment of its Chairperson and Executive and as a result the community in general would have input (in each Forum's area of interest) into the Community Board.

5.10.3 Future state 2016 and linkage through to Administrators and CEO

In the future there exists (and needs to be) a crucial link between the Community Board and the appointed Independent Administrators and the CEO. The Governance structures for the Community have now been agreed by the Community and established as above.

It would seem that the next logical step would be to revisit the Constitution of the Community Board and establish ex-officio roles for the Administrators and the CEO on the Community Board.

This would then give the Administrators and the CEO the opportunity to attend Community Board meetings, hear from the Chairs of each Community Forum about what their members

are saying and use this information in their strategic and decision making role for Council.

The attendance of the CEO would also be critical to answer any operational matters raised by the Community Board.

Communication between the local community and the Administrators and CEO under this model would be optimal.

5.11 Assessment of Administrators' Performance

It is not intended that the Administrators should be appointed and left to their own best endeavours for the term of their appointment. Whilst it is recognised that ultimately the Administrators would report to the Minister there would be great value if a formal mechanism is established for the Administrators to receive feedback on their performance from the groups they work with, or whom they represent.

This is important for three reasons – it would help to clarify the new governance mechanism and the expectations in the roles of both the Administrators and the CEO in the eyes of the Community (through the Community Board leadership), it would provide some form of accountability for the Administrators to the Community and additionally, it would provide valuable feedback for the Administrators in order to maximise their performance in their roles.

This would be best achieved through a simple 360 degree survey conducted on a six monthly basis. Feedback could be sought from the Community Board, State Government, BHP Billiton and the CEO and the results presented to all respondents by a facilitator.

This mechanism would achieve a transparency which would potentially result in the Community and the Administrators working side by side to achieve the best outcomes for the Roxby Downs community, BHP Billiton and the State Government.

5.12 Resignation of the Administrator

On the 8th June 2016, it was announced that Bill Boehm, the Administrator had resigned from the role. An interim Administrator, Geoff Whitbread has been appointed.

The Governance Review Committee believes that this event creates an ideal opportunity for the State, in conjunction with BHP Billiton, to expedite the implementation of the short and medium term recommendations of this report, rather than simply replacing the Administrator and retain the existing governance arrangements which are considered deficient.

This includes the appointment of two Administrators and a new Chief Executive Officer.

6 Consultation

The Committee felt it was important to consult with key stakeholders on the report and its emerging recommendations.

6.1 Consultation with State Government

A meeting was held with Mr. Paul Heithersay and other staff from the Department of State Development in June 2016 to discuss the recommendations and their implementation. The implications of what was then the recent resignation of the Council Administrator was discussed. Consultation with BHP Billiton was also discussed.

Following the meeting there was regular contact between the Chair of the committee and members of the Department of State Development.

An email was received from Margo Gall of the Department of State Government on 5 July 2016 offering suggestions about the contents of the report, but making no comment on the recommendations contained in the report.

A further email was received on 26 July 2016 from Sam Walker and copied to Paul Heithersay and Geoff Whitbread. It is reproduced below:-

Thank you for making available to us a copy of the draft report of the Roxby Downs Governance Review Committee. As discussed at our meeting on 16 June, we needed to get Crown Law advice with regard to the draft recommendation that more than 1 Administrator should be appointed.

The Department of State Development agrees that there are actions that can and should be done in the short term, the medium term and the long term, to improve governance in Roxby Downs.

I am not aware of anything that would prevent implementation of the short term changes, as outlined in section 2.3.1 of the draft report. The State government agrees that the long term objective is to achieve elected local government, as outlined in section 2.3.3 of the draft report. However, it should be noted that, for a variety of reasons, we believe that achieving elected local government in the near term, with only the current number of ratepayers, would lead to significant issues for the municipality and put burdens on the community that are not currently fully appreciated.

With regard to the draft recommendations for governance change in the medium term, put forward in section 2.3.2 of the draft report, we agree that governance changes can and should be looked at in the medium term. We agree that Options 1 to 4 set out in section 4.2.1 of the Draft Report are achievable within the current legislative framework (a clear requirement under the Terms of Reference for the Roxby Downs Governance Review Committee), and warrant further consideration. However for reasons outlined below, we consider that Option 5, the recommended option, is not achievable within the current legislative framework.

In that regard, and as mentioned to you when we met, we have received advice from the Crown Solicitors office. In relation to the appointment of an administrator, the specific provisions of the Roxby Downs (Indenture Ratification) Act 1982 [hereafter referred to as the Rat Act] and the Indenture are very clear.

- The Minister must appoint a person to be the Administrator. The appointment can be for any period agreed between the Minister and the Company. [Clause 23(3) of the Indenture and s 12(3) of the Rat Act]. The
- While a person is appointed as Administrator, certain provisions of the Local Government Act, including those relating to Elected Members, are

suspended. Conversely, as soon as there is no Administrator appointed, by default the relevant parts of the Local Government Act apply and full elected local govt must then come into play. [Section 12(3) of the Rat Act].

- The Administrator shall have the powers, functions and duties of a municipal council and shall exercise and discharge those powers, functions and duties in such manner as he thinks fit. [section 12(5) of the Rat Act]. If more than 1 Administrator was appointed, then could have diverging views, but there would be no way to divine which was the 'right' one.

Our advice is that the general rule of construction that "the singular includes the plural" (eg section 26(b) of the Acts Interpretation Act) is not intended to apply in this case due to the specific construction of the Roxby Downs (Indenture Ratification) Act.

Therefore, it is our strong view, based on the Crown Solicitor's advice, that the Roxby Downs (Indenture Ratification) Act 1982 allows the Minister to appoint 1 and only 1 Administrator at any given time.

With regard to the appointment of a Chief Executive Officer, our advice is that section 96 of the Local Government Act is applicable to the Roxby Downs Council, and nothing in the legislation prevents the appointment by the Council (ie. by the Administrator) of a CEO.

In summary, we have no issues with the Committee's recommendations for governance change in the short term and long term (sections 2.3.1 and 2.3.3 of the draft report), but the government considers it not legally possible to implement in their entirety the medium term recommendations (section 2.3.2) as the legislation prevents the appointment of more than 1 Administrator. We do not see any legal barrier to support for the other aspects of these draft medium term recommendations.

6.2 Consultation with BHP Billiton

State Government undertook to have discussions with BHP Billiton regarding the draft report.

Subsequently, two members of the committee met with Mr. Simon Corrigan and Mr. Chad Menzies, BHP Billiton, to discuss the proposed recommendations which were broadly supported and they encouraged further community consultation.

6.3 Consultation with the Ombudsman

In March 2016 two members of the committee met with Mr Wayne Lines, the SA Ombudsman, to discuss the work of the committee.

A draft of the committee's report was forward to the SA Ombudsman in July 2016. A response was received by the committee in which he gave broad support to the contents of the draft report and offered one suggestion to the report, which was subsequently included in the report by the committee.

6.4 Consultation with the Roxby Downs Community

Public consultation on the draft recommendations of the Roxby Downs Governance Review Committee commenced on 3rd August 2016 with an announcement in the in Roxby Monitor.

A Press Release was issued to the local media on 2nd August 2016 and on 10th August 2016 an article discussing the review was published. In the same edition Council posted another notice summarising the Review and informing the community about the Review.

A notice was put on Council's web site giving people the ability to make comments.

A notice explaining the review and consultation was posted on Council's Facebook page.

Council's Communications Officer spoke on local radio to inform the community of the Review and consultation.

Letters were sent to the member so the Community Board informing them of the consultation and asking them to inform their networks.

A dedicated email address was provided for the public to send comments to as well as a phone number and email to ask questions.

Council staff were informed of the consultation on 11th August 2016 and were provided with a presentation on the 16th August 2016.

A public meeting was held on 25th August 2016 which 22 community members attended and received a presentation by members of the committee. They were provided with an opportunity to ask questions and make comments.

The public consultation finished at 5:00 pm on Wednesday 30th August 2016. At that time six written responses had been received, and another was received early the following day. The responses, as they relate to the Terms of Reference, are summarised below.

Source	Summary of relevant comments
letter	<ul style="list-style-type: none"> Supported the role of the Community Board in improving communications between the community and Council. Sees merit in the appointment of two Administrators, with selection on merit. The costs of the proposed change should be made public.
email	<ul style="list-style-type: none"> Supportive of the proposal of one CEO and two Administrators. Local people should be given an opportunity to "vote or have a say" in who holds the roles. Still needs to have an Audit Committee and Advisory Reference Group in the medium term.
email	Requests extension of time for the consultation.
Webpage (reproduced in full)	I believe Roxby Downs should have an elected mayor or CEO at head of council supported by BHP Billiton and overriding governance provided by state government. Council needs to prevent major spending and try to reduce costs as much as possible including rates power and water because we need to encourage people to live and invest in the town. Positive steps being made of late around communication and transparency is encouraging and needs to continue.
webpage (reproduced in full)	Community representation required ASAP
email	<ul style="list-style-type: none"> Support all short term recommendations. Support appointment of two Administrators, "worth having one who is a local person". "community ...needs to be assured that the town has sufficient financial viability to support an elected council"

	<ul style="list-style-type: none"> • Consultation period too short and submissions should be extended until 2nd September 2016.
email	<ul style="list-style-type: none"> • “my preference is for the Administrator and CEO be 2 separate people, and for the community board to have some role in tampering resolutions or the ability to give feedback that would be heeded”

7 Glossary

Committee	Roxby Downs Governance Review Committee
Indenture	Roxby Downs (Indenture Ratification) Act 1982
RDARG	Roxby Downs Advisory Reference Group
Minister	Minister for Mineral Resources and Energy
Act	Local Government Act 1999

Appendices

Appendix 1 – Committee Terms of Reference



TERMS OF REFERENCE OF THE ROXBY COUNCIL GOVERNANCE REVIEW COMMITTEE January 2016

1. ESTABLISHMENT

- 1.1. Pursuant to Section 12 of the *Roxby Downs (Indenture Ratification) Act 1982*, the Council establishes a committee to be known as the Roxby Council Governance Review Committee ("the Committee").
- 1.2. Pursuant to provisions of the *Roxby Downs (Indenture Ratification) Act 1982*, the provisions of the Act which relate to the establishment and meetings of a Council Committee do not apply to the Council. However, in the interests of ensuring transparency and accountability in decision-making, the Council requires the Committee to observe those relevant provisions of the Act that are applied to it by these Terms of Reference and the provisions of section 126 of the Local Government Act 1999 as that applies to Councils Audit Committee.

2. FUNCTIONS & OBJECTIVES

Without limiting the operation of the Committee the Committee will undertake the following functions:

2.1. Administrator's Governance Role

- 2.1.1. The Committee shall review the requirements and explore options for improvements to the Administrator's Governance Role as laid out in the provisions of the *Roxby Downs (Indenture Ratification) Act 1982*.
- 2.1.2. There are however a range of complementary and other options for improvements that can and should be explored but the Committee shall operate within the within the following constraints:
 - 2.1.2.1. There can be no changes to the current Indenture Act such that the municipality is still required to be governed by an Administrator.
 - 2.1.2.2. Any model going forward must not compromise the legal operation of Council nor the role and function of the Roxby Downs Community Board.
- 2.1.3. The Committee review shall address options for improvements which shall include but not be limited to the following aspects:
 - 2.1.3.1. the interpretation of the legal requirements of the role placed on the Administrator, the Minister for Mineral Resources Development , BHP Billiton

and the Department of State Development by the *Roxby Downs (Indenture Ratification) Act 1982*,

- 2.1.3.2. the legal obligations placed on the State Government, BHP Billiton and Council by the *Roxby Downs (Indenture Ratification) Act 1982* and how these affect the operation of the Council
- 2.1.3.3. the issues associated with the Administrator operating as "The Council" as well as the Chief Executive Officer ;
- 2.1.3.4. arrangements relating to Councils support for the Roxby Downs Community Board and associated Forums
- 2.1.3.5. various options for changes and improvements to the current situation
- 2.1.3.6. costs and benefits with respect to each option identified
- 2.1.3.7. a draft governance charter developed to assist in the governance aspects of the municipality;
- 2.1.3.8. consider any other matters or undertake any other tasks referred to it by the Council within the broad scope of these terms of reference.

2.2. Reporting Responsibilities

- 2.3. The Committee shall complete a detailed report detailing the conduct of the review and make whatever recommendations that are deemed relevant on any area within these Terms of Reference. These should be provided for as follows:
 - 2.3.1. Those matters that are within the direct control and action by The Administrator.
 - 2.3.2. Those matters that require modifications to the current operating requirements of the Administrator.
- 2.4. Unless otherwise agreed to by Council the final report shall be completed within 4 months from the date of the first meeting of the Committee.
- 2.5. At a minimum a final report shall be provided directly to the Council, Minister for Mineral Resources Development, Minister for Local Government, South Australian Ombudsman and BHP Billiton.

3. MEMBERSHIP

- 3.1. The Committee will the current Roxby Council Audit Committee members plus a minimum of three independent members (i.e. not any officer of the Council) appointed by Council
- 3.2. The Presiding Member of the Committee shall be the Presiding Member of the Roxby Downs Council Audit Committee.
- 3.3. The role of the Presiding Member includes:
 - 3.3.1. Overseeing the conduct of the committee and ensuring it achieves the objectives of committee.
 - 3.3.2. overseeing and facilitating the conduct of meetings in accordance with the *Local Government Act* and these Terms of Reference.
 - 3.3.3. ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner; and

3.3.4. where a matter has been debated significantly and no new information is being discussed to call the meeting to order and ask for the debate to be finalised and the motion to be put.

3.4. The members of the Committee are appointed for the period of the review.

4. OPERATIONAL MATTERS

- 4.1. The Committee does not have delegated authority to undertake any powers or functions of the Council. Accordingly, all decisions of the Committee constitute recommendations.
- 4.2. The Committee must meet as regularly as possible on such dates and at such times as the Presiding Member of the Committee, or the Committee by resolution, may determine to fulfil the reporting requirements as outlined. The Council may direct the Committee to hold any additional meetings.
- 4.3. The Council will provide a support officer and logistics for the purposes of co-ordination and preparation of agendas and reports for and minutes of Committee meetings and as a point of contact for all Committee members.
- 4.4. The Committee has sole discretion to invite or seek submissions on any aspect from anybody or organisation deemed relevant to the review.
- 4.5. In conducting the review the Committee must ensure that matters discussed that could be seen to prejudice the operation of the State Government and or BHP Billiton are held in camera.

5. NOTICE OF MEETING AND MEETING PROCEDURE

- 5.1. The Committee shall conduct its meetings in accordance with the Meeting Procedures set out in the Appendix to these Terms of Reference.
- 5.2. Notice of Committee meetings will be given to members of the Committee pursuant to section 87 of the Act by email or as otherwise agreed by Committee members at least three clear days before the date of the meeting.
- 5.3. All formally convened meetings of the Committee will be conducted in confidence and not be open to the public, subject to prescribed requirements. The Administrator, with the concurrence of the Presiding member of the Committee may determine that any particular meeting (or part thereof) will be open to the public. Any such decision to conduct a meeting (or part thereof) in public must be made in conjunction with the finalisation of the Agenda for the meeting and in such case, public notice of the meeting will be given by way of publication on the Council's website and notice displayed at the Council's offices.
- 5.4. Both the information considered by the Committee during its meetings and the minutes of Committee meetings remain confidential, but, subject to legislative requirements and with the concurrence of the Committee and Administrator minutes of the meeting or part thereof may be made available to members of the public.
- 5.5. A quorum for a meeting of the Committee shall be four members of the Committee.
- 5.6. A member may, at the discretion of the Chair of the Committee, attend and participate in the meeting by telephone or by other approved electronic means.
- 5.7. All members of the Committee present at a meeting must vote on a question arising for decision.
- 5.8. All decisions of the Committee shall be made on the basis of a majority decision of the members present.

5.9. Every member of the Committee has a deliberative vote only. In the event of a tied vote the person presiding at the meeting does not have a second or casting vote.

5.10. Insofar as these Terms of Reference do not prescribe the procedure to be observed in relation to the conduct of a meeting of the Committee, the Committee may determine its own procedure.

5.11. Any decision of the Committee must be supported in the minutes of the meeting by clear reasons for the decision.

6. CONDUCT AND DISCLOSURE OF INTEREST

Members of the Committee must comply with the conduct and conflict of interest provisions of the Act. In particular, Sections 62 (general duties), 63 (mandatory code of conduct) and 73-74 (conflict of interest, members to disclose interests) must be observed.

7. COUNCIL WORK BY COMMITTEE MEMBERS

At the sole discretion of The Administrator, Committee members may, if requested, perform other work for Council as a separate engagement subject to individual members declaring an interest and refraining from participating in the decision making should that matter come before the Committee for consideration.

8. REIMBURSEMENT OF EXPENSES

Reimbursement of expenses incurred by the independent members of the Committee will be paid in accordance with the relevant Council policy.

9. REPORTING

In addition to the reporting obligations outlined within the Terms of reference the Presiding Member of the Committee will, where necessary, provide a written report to the Council recommending any items that require a specific decision by the Council.

Bill Boehm
Administrator

Enc Appendix 1 Meeting Procedures

ROXBY COUNCIL GOVERNANCE REVIEW COMMITTEE

APPENDIX 1

MEETING PROCEDURES

1. The Council requires the Committee to observe parts 1, 3 and 4 of the *Local Government (Procedures at Meetings) Regulations 2000*, which apply in respect of all meetings of the Committee.
2. The decision of the Chairperson at meetings of the Committee in relation to the interpretation and application of these Meeting Procedures shall be absolute and binding on the Committee.
3. A meeting of the Committee will commence as soon after the time specified in the notice of meeting when a quorum is present.
4. The minutes of proceedings at a meeting of the Committee must include
 - 4.1. the names of the members present at the meeting; and
 - 4.2. the names of the mover and seconder of each motion
 - 4.3. each motion carried or lost at the meeting; and
 - 4.4. any disclosure of interest made by a member.
5. The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting of the Committee.
6. Business may only be transacted at a meeting of the Committee as follows:
 - 6.1. by way of a motion without notice in support of a recommendation set out in an officer's report, or
 - 6.2. by way of a motion without notice which is accepted by the Chairperson as suitable having regard to the 'Guiding Principles' at Part 1 of the *Local Government (Procedures at Meetings) Regulations*, or
 - 6.3. by way of a motion without notice which has been given consent by the meeting, or
 - 6.4. by way of a notice of motion which has been provided in writing (together with a supporting short explanation) to the Committee support officer at least 7 clear days before the meeting at which it is to be considered.

(NOTE: for the purposes of 6.4 the motion must be provided in written form)
7. Only one amendment may be moved in relation to any motion. An amendment to a motion may not be moved by the mover and seconder of the motion.
8. Subject to clause 9 any motion or amendment which is not seconded will lapse.
9. Any motion or amendment may be varied where the mover and the seconder agree.
10. Only the mover of a motion has a right of reply.

11. A member may speak more than once to a motion with the consent of the Chairperson or the consent of the meeting.
12. A member does not have a right to speak to any agenda item which is for information only unless the Chairperson or the meeting grants consent to speak.
13. All other aspects of the meeting procedure at a Committee meeting will be determined at the discretion of the Chairperson having regard to issues of equity and fairness and the Guiding Principles at Regulation 5 of the *Local Government (Procedures at Meetings) Regulations* or otherwise with the consent of the meeting.

Note: where the Chairperson refuses to grant consent to any matter in accordance with these Meeting Procedures and provision is made for consent to be provided by the meeting, the Chairperson must put the issue to the meeting at the request of the member seeking the consent.

Bill Boehm
Administrator

Appendix 2 - Committees' Project Brief



ROXBY COUNCIL

GOVERNANCE REVIEW PROJECT

PROJECT BRIEF

As adopted on 18 February 2016

INTRODUCTION

The Municipal Council of Roxby Downs ("Roxby Council") was created and operates under the provisions of the *Roxby Downs (Indenture Ratification) Act 1982*. Since the Municipality's inception in 1982 the Council has been governed by an Administrator. The Administrator fulfils the role of both an elected body and a chief executive officer of a council under the *Local Government Act 1999* ("the Act"), subject to the direction of the Minister for Mineral Resources and Energy. This is a unique governance arrangement compared to other councils in South Australia.

The current incumbent has been performing the role since June 1999 during which time a large array of community development, administrative and governance changes have been implemented. In August 2015 Council's Audit Group agreed in principle with the Administrator's desire to further improve governance arrangements for Roxby Council, and in November 2015 the Group endorsed preparation of a report regarding Governance options. Separately, the South Australian Ombudsman has also enquired about the operation of formal governance protocols that apply to Local Government within the Roxby Council.

Feedback has been received locally as well as at a Government level that suggests the current governance model may not readily be understood. It was created approximately 27 years ago when the township was being established in a different operating environment.

The State Government is supportive of the Administrator exploring options for improvement in the Council's Governance arrangements within the current legislative parameters.

After research and consideration of governance arrangements interstate and in the international arena, it is considered that an independent peer review process would be an appropriate and effective approach to examine a range of options for consideration prior to implementing any formal changes.

Council has determined that prior to making structural changes in the interim, that this peer review can be implemented through expanding the membership of Council's current Audit Committee, who already have a good background as to the operations of Council, with the addition of additional members with appropriate relevant experience.

This Project Brief outlines the scope of the work to be undertaken.

REVIEW CONSIDERATIONS

The Roxby Council Governance Review is to undertaken by the Group in accordance with this Project Brief.

Whilst the Project Brief outlines the broad parameters there are a range of considerations that the Group should operate within. Some of these are outlined and further expanded upon as follows:

Constraints

As part of the Review, the Group is required to examine and critique an array of options for improvements to governance. The options must accord with the following:

- There must be no changes that would require changes to the Indenture Act. That is, the municipality is still required to be governed by an Administrator.

The State Government and BHP Billiton have determined as recently as 2011 that the municipality will be governed and managed by an appointed Administrator. Changes to the Indenture Act require not just agreement between the State Government and BHP Billiton but also must be ratified by State Parliament. Negotiations can be complex and protracted. There is a limited definition of the role of "Administrator", it is suggested that this be reviewed.

- Any model going forward must not compromise the lawful operations of Council nor the role and function of the Roxby Downs Community Board.

The Community Board and associated Forums represent an excellent community management and policy model that has proved a success. Formerly, a Council Town Board Advisory Group existed, however, it was ineffective. It's members agreed to disband in favour of a Community Board, which ultimately led to the current structure.

Indenture Act

The Administrators Governance role is outlined very briefly in the provisions of the Roxby Downs (*Indenture Ratification*) Act 1982. The operation of the Council is heavily influenced by its provisions, some of which are outdated and/or unclear and remain open to interpretation. It is critical that in examining the governance options for improvements, that the Group is *au fait* with the Indenture and its impacts on the management and governance of the Roxby Downs Community.

Strategic and Annual Business Plans

It is necessary for the group to consider and understand the Council's Strategic and Annual Business Plans and the philosophy of the Council. Setting strategy in the context of the State Government and BHP Billiton's role will potentially impact desired improvements to governance.

The Role of the Administrator

A necessary component of the review is examining the role of the Administrator.

In doing so it is essential that the Group consider (amongst other things) of the issues arising in connection with the Administrator fulfilling the dual role of the elected body and the Chief Executive Officer, and how this intertwines with the roles of State Government and BHP Billiton.

Options

The Group is required to examine and report on all options that offer potential improvement, identifying the strengths, weaknesses, opportunities and threats for each as well as the anticipated costs and benefits. A briefing paper will be provided to the Group which identifies several options required to be examined, although these options are not intended to limit the Group's discussions and deliberations in any way.

One of the options includes a Governance Charter, a draft of which has been prepared for the Group's consideration.

The Group is also able to consider such other matters or carry out other tasks within the broad scope of this brief as referred to it by the Council.

OPERATIONAL MATTERS

The following operational matters are relevant to the conduct of the review.

Membership

The Group shall consist of the current members of the Roxby Council Audit Committee plus a minimum of three independent members.

The Chair of the Group shall be the current Presiding Member of the Roxby Council Audit Committee. His role includes

- overseeing the conduct of the Group and ensuring it achieves the objectives required.
- overseeing and facilitating the conduct of meetings ensuring all members have an opportunity to participate in discussions in an open and encouraging manner; and
- where a matter has been debated significantly and no new information is being discussed to call the meeting to order and ask for the debate to be finalised and a recommendation or the matter finalised.

The members of the Group are appointed for the period of the review.

Operational Considerations

The following matters are relevant to the conduct of the review:

- 1 The Group is a committee of the Council and does not have delegated authority to undertake any powers or functions of the Council. Accordingly, all decisions of the Group constitute recommendations.
- 2 The Group must meet as regularly as possible on such dates and at such times as the Chair of the Group, or by resolution of the Group, may determine to fulfil the reporting requirements as outlined.
- 3 The Council will provide a support officer and logistics for the purposes of co-ordination and preparation of agendas and reports for and minutes of Group meetings and as a point of contact for all Group members.
- 4 The Group has sole discretion to invite or seek submissions from any person on any aspect deemed relevant to the review.
- 5 In conducting the review the Group must ensure that any matters that could prejudice the operation of the State Government and or BHP Billiton are discussed and maintained in confidence.
- 6 Subject to paragraph 5, meetings of the Group (or parts thereof) may be conducted in confidence and not be open to the public at the discretion of the Chair.
- 7 Both the information considered by the Group during its meetings and the minutes of the Group remain confidential, but, subject to legislative requirements and the concurrence of the Group and Administrator minutes of the meeting or part thereof may be made available to members of the public.
- 8 A quorum for a meeting of the Group shall be four members.
- 9 A member may, at the discretion of the Chair of the Group, attend and participate in the meeting by telephone or by other approved electronic means.
- 10 All members of the Group present at a meeting must vote on a question arising for decision. All decisions of the Group shall be made on the basis of a majority decision of the members present. Every member of the Group has a deliberative vote only. In the event of a tied vote the person presiding at the meeting does not have a second or casting vote. Any decision of the Group must be supported in the minutes of the meeting by clear reasons for the decision.
- 11 Members of the Group must comply with the conduct and conflict of interest provisions of the Act. In particular, Sections 62 (general duties), 63 (mandatory code of conduct) and 73-74 (conflict of interest, members to disclose interests) must be observed.

- 12 It is acknowledged that members of the Group may, if requested, perform other work for Council as a separate engagement subject to individual members declaring an interest and refraining from participating in the decision making should that matter come before the Group for consideration.
- 13 Reimbursement of expenses incurred by the independent members of the Group will be paid in accordance with the relevant Council policy.
- 14 With the concurrence of the Administrator, the Group may if it so chooses publish its reports on the Council's website or in any manner deemed appropriate.

REPORTS

The Group shall complete a detailed report addressing the conduct of the review, including the options that the Group has considered, the Group's preferred options and make whatever recommendations the Group deems relevant on any area within this project brief. The report is an independent report.

The reports must also identify those matters that

- are within the direct control and action by the Administrator; and
- may require modifications to the Council's current operations and/or governance structure.

Unless otherwise agreed to by Council the final report must be completed by 30 June 2016.

The final report shall be provided directly to the Council, Minister for Mineral Resources Development, Minister for Local Government, South Australian Ombudsman and BHP Billiton. A public version will also be made available.

Bill Boehm
Administrator

Appendix 3 - Committee Members' Curriculum vitae

David Powell - Chair

David Powell, Managing Director of Powell & Co is a Chartered Accountant with over 30 years' experience including 25 years in Big 4 Accounting firms, 10 years as a partner.

David is the Chair of the Audit Committee of five state and local government organisations including Roxby Downs Council.

He consults in Governance, Risk Management, Probity, Internal Audit and IT Audit. In particular, he has been involved with some of the largest corporate and government internal audit assignments in Australia providing advice to management and boards of major Australian enterprises in both the private and public sector.

David is widely recognised as one of the most experienced Internal and IT Auditors and Risk practitioners in Adelaide and is one of the few holders of the Certified Internal Auditor, Certified Information Systems Auditor, Certified Governance in Enterprise IT and Certified in Risk and Information Systems Controls accreditations.

Bill Cossey AM

Bill is a former senior South Australian public servant having held a number of Chief Executive positions in his career. These include Chief Executive roles in the State Courts Administration Authority, the Adelaide Festival Centre, the State Services Department, the Office of Business and Regional Development and the Office of the Government Management Board. He has also served as Chief Executive of the Department of Education Training and Employment and the Attorney General's Department for limited periods.

Bill has also worked in the private sector as a consultant working in Washington DC with US based company Cresap, McCormick and Paget and, in Australia, with PA Management Consultants.

Since retiring from full time public service work, Bill has undertaken a number of major assignments of a consulting nature, mainly at the request of the South Australian Government and the South Australian Local Government Association. For a number of years he has been Chair of the Roxby Downs Advisory Reference Group. He previously, for 6 years, chaired the Audit Committee for the City of Marion and currently chairs the Audit Committee for the Kangaroo Island Council.

Bill has been a member of the governing bodies of the University of South Australia, the Energy and Water Ombudsman organisation, the People's Choice Credit Union, ECH, the Adelaide Benevolent Society, the Real Estate Institute of SA, Tennis Australia and Tennis SA.

Bill has a B.Sc with majors in Mathematics and Mathematical Statistics from the University of Adelaide.

Brian Cunningham

Brian has had over 20 years of experience as a Chief Executive in both the Private and Public Sectors. He has wide ranging experience in leading and managing successful organizations over that time. In terms of corporate profile and history, Brian is probably best known in Australian

Rules football States in Australia for his key leadership role in the successful tender for an Australian Football League Club franchise licence in 1994 which resulted in the Port Adelaide Football Club entering the National AFL competition in 1997 and ultimately winning its first AFL Premiership in 2004.

Brian then led strategic reviews and change management programs in the structural reform of two large South Australian Government Departments as Chief Executive Officer. He has performed the role as Chairman of various National and State Government committees in the spheres of Training, Education and also Economic Development during his Government tenure.

Today Brian's focus is on executive coaching, consultancy and also corporate governance. He currently sits as a Director on six diverse Boards and acts as Chairman of five of these. Brian is a Fellow of the Australian Institute of Company Directors and holds a Bachelor of Science and a Diploma in Education.

Warwick John Koster

Warwick has practised in public accounting for 40 years and is a Registered Company Auditor, Registered SMSF Auditor and a Justice of the Peace.

He graduated with a Bachelor of Arts in Accounting, is a Fellow of the Australian Society of CPA's and a Fellow of the Tax Institute of Australia.

He has extensive commercial experience and is the accountant to many small to medium sized business.

Warwick is a current member of the Roxby Downs Audit Committee and has held that role for 7 years.

Dr Felicity-ann Lewis

A dedicated, dynamic leader, Dr Felicity-ann Lewis is passionate about creating a better, healthier, more inclusive Australia.

Felicity-ann was 14 years as the Mayor of the City of Marion and had a two year term as National President of the Australian Local Government Association from 2012-2014. Felicity-ann was the 2014 SA Australian of the Year.

Since retiring as Mayor of Marion in November 2014 she has accepted roles as Chairperson of the Dog and Cat Management Board and Regional Development Australia- Adelaide Metro. Her other committee roles are a three year appointment on the Australian Press Council, and the Development Policy Advisory Committee. Both a leader and a team player, Felicity-ann is involved on the Migrant Resource Centre, Nature Play SA, and the ANZAC Commemorative Committee.

Her passion for the community is matched by a commitment to health promotion. She has a Doctorate of Education from the University of South Australia and is currently a senior lecturer at Flinders University in the School of Education in the area of health education.

Trevor Starr

Trevor's public sector career has included senior management positions in State and Local Government which culminated in 15 years as a Chief Executive of City Councils. As CEO of The City of West Torrens he was responsible for creating a modern and customer oriented municipality with an impressive reputation for service delivery and community advocacy.

He has played a key role on peak bodies/associations concerned with state-wide policy matters such as Mutual Liability Scheme, Libraries Board of SA, & LGA Committees including several terms on the State Executive. In addition, he is a Fellow of LGMA, serving as its National President in 2002.

Trevor's professional interests and skills are diverse, but include

- Forward planning and review
- People management
- Strategic planning
- Negotiation with other tiers of government, community groups and developers
- Mentoring of Council Leaders, administrative and elected
- Review of regulatory and governance responsibilities

Trevor's commitment to community has been demonstrated through his role as an Elected Member and Mayor of The City of Happy Valley and service to YMCA, Southern Development Board and Australia Day Council.

Since 2008 Trevor has been assisting Councils through his consulting company, StarrSolutions, working with the majority of regional Councils in South Australia. He has also provided services extensively to the Local Government Association, including training and development on Audit Committee responsibilities.

Appendix 4 - Committee Activities

The committee met on the following dates

5th February 2016
22nd February 2016
4th March 2016
29th March 2016
18th April 2016
2nd May 2016
27th May 2016
17th June 2016
6th July 2016

Members of the committee had meetings with the following people

Mr. Wayne Lines, SA Ombudsman, and staff
Mr. Paul Heithersay, Deputy Chief Executive, Department of State Development, and staff
Simon Corrigan and Chad Menzies, BHP Billiton
Community consultation meeting
Mr. Geoff Whitbread, Acting Administrator, Roxby Downs Council

Appendix 5 - Synopsis of Briefing Paper

The Municipal Council of Roxby Downs ("the Council") was created and operates pursuant to the provisions of the Roxby Downs (Indenture Ratification) Act 1982 ("the Indenture Act"). The Indenture Act reflects and gives effect to the binding agreement between the State Government and the Joint Venturers (now BHP Billiton) regarding the arrangements for the municipality and the Olympic Dam operations. The Agreement has status as legislation and can only be varied by agreement between the State Government and BHP Billiton following ratification by State Parliament.

Since its establishment, the Council has been governed by an Administrator, currently appointed by the Minister for Mineral Resources and Energy. Pursuant to the Indenture Act, "the Administrator shall have the powers, functions and duties of a municipal council in relation to the municipality and, subject to directions of the Minister, shall exercise and discharge those powers, functions and duties in such manner as he thinks fit." Accordingly, the Administrator fulfils the roles that are otherwise performed for any other SA council by both the elected body and the chief executive officer under the Local Government Act 1999 ("the LGA"). This is a unique governance arrangement when compared to other councils in South Australia.

Relevant in the context of this report, the Indenture Act provides that the Local Government Act 1934, which has since been replaced by the LGA, applies to the Council subject to the modifications prescribed by the Indenture Act. These modifications include that whilst the Council is administered by the Administrator, the provisions of Parts 3 to 8 (inclusive) of the Local Government Act 1934 do not apply to the Council. The effect of this exclusion is that the provisions of the LGA that are equivalent to Parts 3 to 8 of the Local Government Act 1934 do not apply to the Council - these are the provisions that relate to elected members and meetings of a council.

There is evidence that the Council's unique governance model is not easily understood, in particular, by the community that the Council serves. Further, issues of public perception regarding the accountability of the Administrator to the community have been and continue to be raised. As a consequence, the Governance Review Committee was established to review the Council's existing governance structure, to examine options for improvement and to make recommendations within the following parameters:

- the options considered must be able to be implemented within the current legislative framework and recognise that for the foreseeable future, the Council will continue to be governed by an Administrator as required by the Indenture Act; and
-
- the governance model moving forward must not compromise the lawful operations of the Council nor the independent role and function of the Roxby Downs Community Board.

Appendix 6 - Assessment of Options

Assessment of Options

A score was given to each issue where

- 1 - unlikely to result in an improvement
- 3 – could result in a moderately positive impact in governance
- 5 – could result in a significant improvement in governance

	Description	Option 1 Status Quo with improvements	Option 2 Expanded Audit Committee role	Option 3 Governance Support Group	Option 4 Administrator & CEO roles separated	Option 5 Administrators & CEO
1	Community expectations have changed in the last 25 plus years and there is currently no formal community franchise (voting) or process for community members to have input into Council decisions.	1	1	2	3	3
2	The Council is unique in the number of services it provides to the community including water, electricity and many community services and hence community members have a high degree of reliance on the Council for the provision of services.	1	1	1	4	5
3	The Ombudsman has an increasing interest in the operations of the RDC and an expectation there will be sound procedural practices in accordance with the normal statutory provision governing councils with a desire to normalise the operation of the Roxby Downs Council within the constraints of the Indenture.	3	4	4	4	5

4	Roxby Downs Council processes are unique and lack the usual required transparency of other councils (e.g. public meetings, meeting papers available on web site).	3	3	3	4	5
5	There is State Government and community concern that Council may be planning too far in advance and the infrastructure planned may not be required if the population does not grow. This is exacerbated by the transient nature of the town's population. Many current ratepayers do not see the value in longer term infrastructure plans as they naturally look for more immediate infrastructure benefits they can enjoy in the here and now.	1	2	2	3	4
6	Community members don't feel they have access to an elected voice and have an ability to influence, question or challenge decisions made by the Council.	1	1	1	4	5
7	The budget process is more complex than other councils because in addition to the statutory consultations obligations under the Act, the budget has to be agreed by the State Government and BHP Billiton given they equally contribute to any meaningful deficit.	1	1	1	2	3
8	BHP Billiton decisions have a significant impact on the employment levels, size and structure of the town.	1	1	1	2	2
9	Various community bodies established to interface between Council and community have not always been effective.	1	1	1	4	5
10	State Government staff in the Department of State Development are not operationally familiar with the management of local government or local government authorities and oversight of the Council is a very small part of their overall responsibilities.	1	1	1	3	4

11	The Administrator is an employee of the Crown which brings with it primary responsibilities of fidelity to the State. This position can operate to limit the Administrator's ability to act in the best interests of the Council / local community. There is no party independently able to represent the Council's or the community's best interest.	1	1	3	4	5
12	There is a perceived lack of guidance given to the Administrator at a strategic level.	1	3	3	4	5
13	The Administrator is required to be a politician and an administrator and there is no filter or buffer between the community and the administration.	1	1	1	1	1

Appendix 7 - Analysis of Cost of Options

ROXBY DOWNS GOVERNANCE REVIEW - Indicative Cost of Options

Item	Option 1			Option 2			Option 3			Option 4			Option 5 (a)			Option 5 (b)		
	Status Quo with req'd improv			Gov Charter. Expanded Audit Committee Role			Gov Charter. Separate Committee Role			Separate Administrator (1) & CEO			Separate Administrator's (2) & CEO			Separate Administrator's (3) & CEO		
	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount
Cost of considered options																		
Existing Administrator Salary & Super	1	\$153,000	\$153,000	1	\$153,000	\$153,000	1	\$153,000	\$153,000									
New Administrators Salary and Super										1	\$60,000	\$60,000	2	\$60,000	\$120,000	3	\$60,000	\$180,000
Existing Administrator Accommodation - 3 Pihbbs Court. Consumables by incumbents	1	\$10,000	\$10,000	1	\$10,000	\$10,000	1	\$10,000	\$10,000									
New Administrator Accommodation - Share 16 Hamilton Court. Consumables by incumbents										1	\$5,000	\$5,000	1	\$5,000	\$5,000	\$1	\$5,000	\$5,000
Existing Administrator Travel.	18	\$700	\$12,600	18	\$700	\$12,600	18	\$700	\$12,600									
New Administrators Travel										12	\$700	\$8,400	24	\$700	\$16,800	\$36	\$700	\$25,200
Existing Administrator expense allowance	1	\$5,000	\$5,000	1	\$5,000	\$5,000	1	\$5,000	\$5,000									
new Administrator expense Allowance										1	\$5,000	\$5,000	1	\$10,000	\$10,000	\$3	\$5,000	\$15,000
New CEO Salary & Super										1	\$153,000	\$153,000	1	\$153,000	\$153,000	\$1	\$153,000	\$153,000
NewCEO Travel.										18	\$700	\$12,600	18	\$700	\$12,600	\$18	\$700	\$12,600
New CEO expense allowance										1	\$5,000	\$5,000	1	\$5,000	\$5,000	\$1	\$5,000	\$5,000
New CEO Accommodation - 3 Pihbbs Court. Consumables by Incimbert										1	\$10,000	\$10,000	1	\$10,000	\$10,000	\$1	\$10,000	\$10,000
New CEO PA Level 3-2. Required for Administrative Support to the Administrator and CEO	0.5	\$74,660	\$37,330	1	\$37,330	\$37,330	1	\$18,665	\$18,665	0.5	\$74,660	\$37,330	0.5	\$74,660	\$37,330	\$1	\$74,660	\$37,330
Upskill training for staff as part of transition process				1	\$10,000	\$10,000	1	\$10,000	\$10,000	1	\$10,000	\$10,000	1	\$10,000	\$10,000	\$1	\$10,000	\$10,000
Mobile Phone stationary increase for incidentals										1	\$5,000	\$5,000	1	\$5,000	\$5,000	\$1	\$5,000	\$5,000
Equivalent staff support to Senior Managers to compensate for additional time required to service new structure. FTE for PA Level 3-2	0.5	\$74,660	\$37,330	1	\$37,330	\$37,330	1	\$18,665	\$18,665	0.5	\$74,660	\$37,330	0.5	\$74,660	\$37,330	\$1	\$74,660	\$37,330
Additional Committee Expenses				1	\$20,000	\$20,000	1	\$40,000	\$40,000									
Subtotal			\$255,260			\$285,260			\$267,930			\$348,660			\$422,060			\$495,460
Item	Option 1			Option 2			Option 3			Option 4			Option 5 (a)			Option 5 (b)		
	Status Quo with req'd improve			Gov Charter. Expanded Audit Committee Role			Gov Charter. Separate Committee Role			Separate Administrator (1) & CEO			Separate Administrator's (2) & CEO			Separate Administrator's (3) & CEO		
	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount
Cost of existing structure																		
Administrator Salary & Super	1	\$153,000	\$153,000	1	\$153,000	\$153,000	1	\$153,000	\$153,000	1	\$153,000	\$153,000	\$1	\$153,000	\$153,000	\$1	\$153,000	\$153,000
CEO / Administrator Accom - House 3 Pihbbs Crt	1	\$10,000	\$10,000	1	\$10,000	\$10,000	1	\$10,000										
Administrator Accommodation - Share 16 Hamilton Court. Consumables by incumbents									\$10,000	1	\$10,000	\$10,000	\$1	\$10,000	\$10,000	\$1	\$10,000	\$10,000
Administrator Travel.	18	\$700	\$12,600	18	\$700	\$12,600	18	\$700	\$12,600	18	\$700	\$12,600	\$18	\$700	\$12,600	\$18	\$700	\$12,600
Administrator expense allowance	1	\$5,000	\$5,000	1	\$5,000	\$5,000	1	\$5,000	\$5,000	1	\$5,000	\$5,000	\$1	\$5,000	\$5,000	\$1	\$5,000	\$5,000
Subtotal			\$180,600			\$180,600			\$180,600			\$180,600			\$180,600			\$180,600
Increased Costs			\$74,660			\$104,660			\$87,330			\$168,060			\$241,460			\$314,860
Incremental cost						\$30,000			\$12,670			\$93,400			\$166,800			\$240,200

Item	Option 1			Option 2			Option 3			Option 4			Option 5 (a)			Option 5 (b)		
	Status Quo with req'd improv			Gov Charter. Expanded Audit Committee Role			Gov Charter. Separate Committee Role			Separate Administrator (1) & CEO			Separate Administrator's (2) & CEO			Separate Administrator's (3) & CEO		
	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount	No	Rate	Amount
Change in cost made up of																		
Administrator Salary & Super												-\$93,000			-\$33,000			\$27,000
Administrator Accommodation												-\$5,000			-\$5,000			-\$5,000
Administrator Travel.												-\$4,200			\$4,200			\$12,600
Administrator expense allowance												\$0			\$5,000			\$10,000
New CEO Salary & Super												\$153,000			\$153,000			\$153,000
New CEO Travel.												\$12,600			\$12,600			\$12,600
New CEO expense allowance												\$5,000			\$5,000			\$5,000
New CEO Accommodation - 3 Phibbs Court.												\$10,000			\$10,000			\$10,000
New CEO PA Level 3-2. Required for Administrative Support to the Administrator and CEO			\$37,330			\$37,330			\$18,665			\$37,330			\$37,330			\$37,330
Upskill training for staff as part of transition process						\$10,000			\$10,000			\$10,000			\$10,000			\$10,000
Mobile Phone stationary increase for incidentals												\$5,000			\$5,000			\$5,000
Equivalent staff support to Senior Managers to compensate for additional time required to service new structure. FTE for PA Level 3-2			\$37,330			\$37,330			\$18,665			\$37,330			\$37,330			\$37,330
Additional Committee Expenses						\$20,000			\$40,000									
Total			\$74,660			\$104,660			\$37,330			\$168,060			\$241,460			\$314,860

Assumptions:

1. A new support staff member will be utilised full time under both scenarios - 10% ECO support, 10% administrator(s) support and 80%
2. The one new support staff member will be sufficient initially.
3. 20 - 25 public meetings a year.
4. New administrators spend 24 days a year in Roxby.
5. Costings for first year only.
6. Costings at current prices.
7. Assumes status quo in policy terms i.e.. Power and water run and maintained by RDC

Appendix 8 - Brimbank Council Administrator's Code of Conduct



ADMINISTRATORS' CODE OF CONDUCT

*This Code of Conduct was adopted by resolution of the Brimbank City Council on
14 December 2011 and in accordance with Section 76C of the
Local Government Act 1989.*

December 2011

Administrators' Code of Conduct

Table of Contents

1.	Introduction/Preamble.....	3
2.	Community Expectations	4
3.	Administrators Working Together (Commitment Statements).....	4
4.	Councillor Conduct Principles	4
5.	Communication.....	5
6.	Decision Making	6
7.	Advocacy and Representation	6
8.	Decision Making in the Community Interest	6
10.	Access to Council Information.....	7
11.	Appropriate use of Council Property/Funds.....	7
12.	Relationships with Staff.....	8
13.	Conflict of Interest.....	8
14.	Acceptance of Gifts and Hospitality.....	8
15.	Dispute Resolution Procedures.....	9
16.	Enforcement of Code	9
17.	Code Review	10
18.	Governance declaration and Reporting.....	10
19.	Administrators Signatures.....	10
 ATTACHMENTS		
	Attachment 1: Administrators Access to Information Policy.....	12
	Attachment 2: CONFLICT OF INTEREST DISCLOSURE REQUIREMENTS (Section 79 Local Government Act 1989).....	13
	Attachment 3: Administrators Acceptance & Declaration of Gifts Policy.....	15
	Attachment 4: Mobile Phone Policy - Administrators.....	16

1. Introduction/Preamble

As Administrators of Brimbank City Council, we are committed to working together constructively as a team to achieve the vision for the Municipality.

As Administrators acting together we constitute the Council. Acting as individual Administrators we cannot bind the Council, and we have no executive power when acting outside of a duly constituted Council Meeting.

We respect our multicultural community, embrace its diversity and recognise our indigenous heritage.

This Code of Conduct is part of Council's Governance Framework and goes beyond what is required by legislation. It is our commitment to governing this City effectively, adhering to the principles of good governance.

This Code of Conduct does not apply to Council staff. Council staff, including the CEO, are bound by the Employees Code of Conduct, which also contains principles of good governance.

Definitions

The following definitions are listed to assist with the reading of the Document:

Act – means the Local Government Act 1989 (as amended) and sections made under it.

Council – means Brimbank City Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989.

Administrators – means the individuals appointed by the Minister for Local Government under sections 6(a) and 6(b) of the Local Government (Brimbank City Council) Act 2009 on 17 November 2009 and holding the office of Administrator of Brimbank City Council.

Council Officers – means the Chief Executive Officer (CEO) and staff of Council appointed by the CEO.

Community – means the whole Brimbank Community.

Organisational Values and Behaviours

As Administrators we acknowledge and endorse Brimbank City Council's organisational values and behaviours, namely:

- We show **Respect**
- We act with **Integrity**
- We work **Together**
- We **Communicate** openly
- We strive for **Excellence**.

In addition to the above, Administrators acknowledge and endorse the statement that "we act on behalf of the whole Brimbank Community".

2. Community Expectations

- 2.1 The community's expectations of us as their appointed representatives are high. The business of Council will be conducted in a professional manner with efficiency and impartiality, whilst demonstrating compassion and sensitivity towards the needs of the community.
- 2.2 We acknowledge our obligations as Administrators to carry out our duties:
 - (a) in the best interests of our community,
 - (b) in accordance with the Local Government Act 1989, and
 - (c) in accordance with other relevant legislation and regulations.
- 2.3 We further acknowledge that we have a responsibility to report to our community on our compliance with the Local Government Act 1989 and this Code.

3. Administrators Working Together (Commitment Statements)

- 3.1 Our primary role as Administrators is to set the vision and directions for the City of Brimbank; to advocate on behalf of the whole community; and to make a range of decisions on issues which affect the Brimbank community.
- 3.2 We value teamwork and, in order to support our work as a team, we commit ourselves to ensuring that:
 - **We always remember that the community comes first:** including listening to the community, never forgetting who we represent, attending meetings, and being presentable, gracious and humble in all our dealings.
 - **We are honest in our actions:** including acting honestly, with integrity, impartially, decently and in ways that build and maintain trust.
 - **We work with a genuine 'spirit of inquiry':** including being open-minded and magnanimous, valuing experience and fresh ideas, and seeking to increase our knowledge and options before making decisions.
 - **We have regard for each other:** including listening and communicating respectfully, acknowledging each other's feelings, carefully defining problems or issues, and making time to discuss them informally, and avoiding all forms of abuse.

4. Councillor/Administrator Conduct Principles

We endorse and agree to the following Councillor Conduct Principles specified in sections 76B and & 76BA of the Act and we accept that they apply equally to us as Administrators:

- 4.1 In performing our role as Administrators, we will
 - (a) act with integrity; and
 - (b) impartially exercise our responsibilities in the interests of the local community; and
 - (c) not improperly seek to confer an advantage or disadvantage on any person.

- 4.2 In addition, in performing our role as Administrators we will
- (a) avoid conflicts between our public duties as an Administrator and our personal interests and obligations;
 - (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
 - (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Administrators, Council officers and other persons;
 - (d) exercise reasonable care and diligence and submit ourselves to the lawful scrutiny that is appropriate to our office;
 - (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
 - (f) act lawfully and in accordance with the trust placed in each of us as an appointed representative;
 - (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Administrator; and
 - (h) be open and transparent in all our relations with other Administrators and the Brimbank Community.

5. Communication/Media

We endeavour to ensure that the messages communicated through the media and otherwise are clear and consistent, and positively portray the Council as a decisive and responsible governing body.

- 5.1 The Chair of the Panel of Administrators will provide official comment to the media on behalf of Council where the Council has officially determined a view on the matter and where the matter is of a political, controversial or sensitive nature. This includes:
- State-wide political issues affecting Local Government
 - Contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community
 - Issues pertaining to policy and Council decisions
 - Issues relating to the strategic direction of the Council.
- The Chair of the Panel of Administrators may request another Administrator to make official comment on behalf of the Council, where appropriate.
- 5.2 The CEO is the official spokesperson for all operational matters pertaining to Brimbank City Council as an organisation including:
- Staffing and structure of the organisation
 - Corporate issues relating to service provision or the day-to-day business of Council

The CEO may delegate authority to a Council officer if appropriate.

- 5.3 As individual Administrators, we are entitled to express our own independent views through the media, however we will make it clear that any unofficial comment is our own personal view, and does not represent the position of the Council as a whole.

6. Decision Making

We acknowledge that effective decision-making is an essential component of good governance. Accordingly:

- We will actively and openly participate in the decision making process, striving to be informed to achieve the best outcome for the community;
- We will respect the views of the individual in debate. However, we also accept that decisions are to be based on a majority vote; and
- We accept that no Administrator can direct another Administrator on how to vote on any decision.

7. Advocacy

- 7.1 We recognise the legitimate role that Members of Parliament have in advocating on behalf of their communities and this may include the making of representations to Administrators.
- 7.2 We agree that all representations made to an Administrator (by way of correspondence addressed to an individual Administrator or by verbal or written request to an Administrator) by Members of Parliament (or their staff) designed to unduly influence a decision of Council or exert unreasonable pressure on an Administrator must be declared and recorded. The declaration will consist of a verbal declaration at the time of voting on a particular motion affected.
- 7.3 Members of Parliament will be advised when making representations to Administrators that their representations will be declared by the Administrators.

8. Decision Making in the Community Interest

Administrators hereby agree to a standing agenda item at the start of each Council meeting that declares that all Administrators:

- Understand and acknowledge their obligations under section 63 of the Local Government Act 1989 (the Oath of Office provision), and
- Will conduct the meeting in accordance with this Code of Conduct.

9. Information and Confidentiality and Misuse of Position

- 9.1 As Administrators, we will respect the confidentiality of the information we receive in the course of performing our duties and responsibilities, and we will not under any circumstances convey, electronically, verbally, or in writing information to a third party for as long as it continues to be confidential.

- 9.2 As Administrators we will treat Council information appropriately by:
- a) Not using information gained by virtue of being an Administrator for any purpose other than to exercise our role as Administrator;
 - b) Respecting Council's policies in relation to public comments and communications with the media;
 - c) Not releasing information deemed "Confidential Information" in accordance with Section 77 of the Act;
 - d) Recognising the requirements of the Information Privacy Act 2000 regarding the access, use and release of personal information;
 - e) Adhering to Council policies relating to accessing Council information (refer to Attachment 1).
- 9.3 As Administrators, we will not misuse our position:
- (a) to gain or attempt to gain, directly or indirectly, an advantage for ourselves or for any other person; or
 - (b) to cause, or attempt to cause, detriment to the Council or another person.

10. Access to Council Information

As Administrators we agree to the protocol established by the Administrators Access to Information Policy (Attachment 1) in relation to all requests made by Administrators for briefings from Council officers or access to information on Council files (other than requests for clarification/explanation of items on a forthcoming Council agenda).

11. Appropriate use of Council Property/Funds

- 11.1 Administrators will comply with Council's Administrators' Mobile Phone Policy and Mobile Computing Device Policy (Attachment 4), as amended from time to time, provide the Declarations required to be submitted under the Council's reimbursement procedure, and reimburse Council for the personal use of mobile telephones provided by Council.
- 11.2 Administrators agree to identify all personal calls made on the Council issued mobile phones/Blackberries by the end of each month (for calls made in the previous month). The cost of all personal calls will automatically be passed onto the Administrator in accordance with Council's Mobile Phone Policy and procedure.
- 11.3 Details of Administrators' expenses will be reported to Council.
If an Administrator fails to complete the declaration required by the Mobile Phone Policy procedure by the end of the month (for calls made in the previous month) then all of the call costs will be automatically passed on to the Administrator (provided that Administrators will be reminded of the obligation to submit the declaration at least 7 days prior to the submission deadline and provided further that a *reasonable* period of grace will be allowed where an Administrator has been granted a leave of absence or is otherwise absent).

- 11.4 Laptops/Data download devices issued to Administrators will be submitted to Council no less than twice each calendar year, within 7 days of a request by the CEO, to allow an analysis of their use to be carried out.

12. Relationships with Staff

- 12.1 As effective Administrators we will work cooperatively with the Chief Executive Officer and other members of staff. We recognise the division of responsibilities and that the role of Administrator (acting as Council) is one of advocacy, leadership and decision making, and that the Chief Executive Officer is responsible for management and administration. In recognition of this division of responsibilities, we will make all initial contacts with staff through the CEO and General Managers, or as authorised by the CEO to the CCRU. For the avoidance of any doubt, this does not apply to ongoing contact with Council Officers nominated to support Council's various committees and the proper functioning of such committees.

We will place no restrictions on the ability of staff to give independent professional advice to Council.

- 12.2 In performing our duties as Administrators we will respect the roles and responsibilities of Council staff, and welcome the same respect in return.
- 12.3 We will not direct, or seek to direct Council staff or request staff to alter any recommendations made by officers nor imply that recommendations should be changed. We accept that all decisions to modify, change or reject officer recommendations must only be made at formal Council meetings (Ordinary Council Meeting or Planning Committee Meeting).
- 12.4 We recognise our responsibilities in ensuring that our interactions with staff, each other or others associated with Council meet the requirements of the Occupational Health and Safety Act 2004 and the Equal Opportunity Act 1995 to protect people from risks to their health and safety, including harassment, bullying, violence and discrimination.
- 12.5 We will not act in a manner inconsistent with the Administrator Access to Information Policy (Attachment 1), and we will make all initial contact with, and requests for information from, staff through the CEO, General Managers or as authorised by the CEO to the CCRU.

13. Conflict of Interest

- 13.1 As Administrators, we will comply with all the provisions of the Act in regard to Interests and Conflicts of Interest (sections 77A to 79D).
- 13.2 We agree to be bound by the disclosure of conflict of interest requirements of the Act (section 79) detailed in Attachment 2.
- 13.3 We further agree to comply with the requirements of section 81 of the Act in relation to the submission of Register of Interests returns.

14. Acceptance of Gifts and Hospitality

- 14.1 Administrators may be offered gifts or other hospitality. While these offers are generally genuine in nature they can give rise to:

- Perceived / potentially inappropriate relationships
- Potential conflict of interest
- Possible breach of the Act
- Discomfort to the recipient
- Potential embarrassment if the offer is declined.

To address this matter, Administrators agree to comply with, and will adhere to the conditions for acceptance of gifts set out in, Council's Acceptance and Declaration of Gifts Policy - Administrators (Attachment 3).

15. Dispute Resolution Procedures

- 15.1 As Administrators, we commit to working effectively together at all times and to developing good working relationships. In the event of any dispute occurring where Administrators are unable to resolve interpersonal conflicts that unduly affect the operation of the Council adversely, the parties to the dispute agree to work together with openness and transparency to try to resolve the dispute, and will agree to the appointment of a mediator acceptable to both parties nominated by the Chief Executive Officer, or failing agreement to be appointed by the President of the Municipal Association of Victoria, if they are unable to resolve the dispute themselves within 72 hours.
- 15.2 If a mediator is appointed, all Administrators agree to cooperate with the dispute resolution process and provide reasonable assistance to the mediator when requested.
- 15.3 In the event that a dispute cannot be resolved by agreement or mediation, it may (subject to any direction issued by the Minister) be referred to a Councillor Conduct Panel in accordance with clause 16.
- 15.4 The dispute resolution procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and Committee meetings.

16. Enforcement of Code

- 16.1 Breaches of this Code of Conduct will be enforced through the following processes:
 - (a) Possible referral to Council's Protected Disclosure Coordinator to be dealt with under Whistleblowers Protection Act process.
 - (b) If the allegation of a breach is from an Administrator or Administrators:
 - Refer the matter to Internal Dispute Resolution under the Code
 - If the matter is still unresolved an Administrator or Administrators may (subject to any direction issued by the Minister) make Application to the Councillor Conduct Panel established under the Act.
 - (c) If the allegation of a breach is from Residents or the Community:
 - Refer the allegation to the Chair of the Panel of Administrators (unless the allegation relates to the Chair of the Panel of

Administrators) for initial investigation and determination of appropriate action, and/or

- If the allegation relates to the Chair of the Panel of Administrators, the matter should either be referred to the Chief Executive Officer in the first instance, and the Chief Executive Officer will in turn refer the matter to Council which will deal with the matter in accordance with paragraph (b) above, or to Local Government Victoria.
- (d) If a breach is discovered by an Officer it will be referred to the CEO to be dealt with in accordance with clause 16.2.
- (e) If the allegation is from Government sources, the Minister may launch an investigation.

16.2 Upon becoming aware of a breach of this Code, the Chief Executive Officer is required to:

- (a) inform the party allegedly in breach of the Code (including the nature of the breach)
- (b) undertake or cause to be undertaken any preliminary assessment or investigation to enable the CEO to form a view that a breach has occurred, and
- (c) if a breach has occurred report such breach to the Council Chamber as soon as practicable thereafter, subject only to any confidentiality requirements required by legislation or any guidelines issued by a relevant authority.

17. Code Review

This Code of Conduct will be reviewed regularly by Administrators and no less than at least every two (2) years.

18. Governance Declaration and Reporting

Any matters required to be reported under this Code will be included in Council's standing quarterly Governance Report submitted to Council.

19. Administrators Signatures

This Code has been developed and approved in accordance with section 76C of the Local Government Act 1989.

It is acknowledged that in accordance with the legislation, this Code addresses the statutory requirements set out in section 76C of the Act, namely it:

- Includes Councillor (Administrator) Conduct principles;
- Establishes a process for resolving disputes between Administrators;
- Provides Procedures for disclosure of interests and conflicts of interest; and
- Includes other matters relating to the conduct of Administrators which the Council considers appropriate.

This Code also provides guidance and direction in relation to providing the community with the highest standards of democratic and corporate governance.

Signed on 14 December 2011 by:



Chair of the Panel of
Administrators



Administrator



Administrator