

10.2 Development Assessment Panel - Appointment of Public Officer

Pursuant to Section 56A(22) of the Development Act 1993 Council must appoint a Public Officer to perform certain duties related to the Council's Development Assessment Panel.

This is an update on a previously reported project, concept or issue.

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Attachments:

1 Executive Summary

1.1 Topic

Pursuant to Section 56A(22) of the *Development Act 1993* (the Act), Council must appoint a Public Officer to perform certain duties related to the Council's Development Assessment Panel.

1.2 Context

It was reported to Council at its meeting on 20 February 2007 that the introduction of legislation for independent Development Assessment Panels (DAP) also required the appointment of a "Public Officer" for the DAP under the Development Act.

Council appointed the Chief Executive Officer to the position of DAP Public Officer on an interim basis on 20 February 2007, pending the finalisation of arrangements to appoint an external person to the position.

It was originally intended that the appointment would be considered in conjunction with the appointment by Council of an external person to the position of "honest broker" with a role in the review of Council and administrative decisions, given the synergies between the two roles. However the timing of the introduction of legislative amendments introducing the position of Public Officer required the interim arrangements to be put in place. Issues regarding appointment of external persons to these roles, particularly matters such as indemnity and insurances, have now been resolved, and a suitable candidate identified.

1.3 Suggested Outcome

That Council make an offer of appointment to the position of Public Officer.

It is suggested that this report is considered by Council in confidence. Section 90 (2)(a) (personal affairs) is recommended as the most appropriate section of the Local Government Act 1999 to use for this purpose. If the report is not considered in confidence, the personal affairs of an individual could become publicly available.

2 Recommendation(s)

1. That

under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public be excluded from attendance at the meeting in order to consider in confidence this item.

the Council is satisfied that it is necessary that the public be excluded to enable the Council to consider information at the meeting on the following grounds:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);**

That accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.

- 2. That Council make an offer of appointment to Mr Robert (Bob) John Fuss as Public Officer pursuant to Section 56A(22) of the *Development Act 1993*, in accordance with the general terms and conditions incorporated into the agenda report, for a period of three years.**
- 3. That the Chief Executive Officer be delegated authority to negotiate and finalise the appointment on behalf of Council within the general intent and parameters of Council's decision.**
- 4. That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the report of the Council relating to discussion of the subject matter of that document, having been dealt with on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in 90(3)(a) and that the need or otherwise for continued confidentiality be reviewed no later than 12 months from the date of decision.**
- 5. That the Chief Executive Officer be delegated authority to announce the appointment of the Public Officer as soon as it has been finalised, and provide notice of the appointment pursuant to Section 56A(23) of the *Development Act 1993*.**

Key Factors

3 Discussion

The appointment of a Public Officer to the Council's Panel is a requirement under the DAP arrangements introduced by the Government in 2006.

The functions of the Public Officer are set out under section 56A(24) of the Act as follows:

"...include ensuring the proper investigation of complaints about the conduct of a member of the relevant Panel..."

The only criterion in the Act guiding the appointment of the Public Officer is that the Officer must not be a member of the Panel.

In considering the options of an "in-house" Public officer versus an external appointment, given the role of the Public Officer defined under the Act, an external appointment of an independent person is recommended. This ensures an appropriate level of transparency, impartiality and objectivity in the handling of any complaints. In addition it is possible a complaint could generate a lengthy and comprehensive investigatory process, and an independent, external, appointment allows the process to proceed with limited impact upon administrative or Elected Member resources.

Given the specialist nature of the position, Mr. Bob Fuss has been identified as a particularly well-qualified and appropriate person to hold the position. Mr. Fuss' qualifications and experience include:

- 20 years experience to 2007 in the SA Ombudsman's office as Deputy South Australian Ombudsman, responsible for management of up to 20 staff of the Ombudsman's office and a budget of \$1.5 million; overseeing investigations by staff of complaints made to the Ombudsman and personally conducting investigations and seeking to resolve complaints where major issues were involved.
- 12 years experience prior to this in a personnel role in State Government.
- A Bachelor of Science (Hons).

Following an initial approach to Mr Fuss to determine his interest in accepting the position, Mr Fuss has confirmed his interest. The general terms of the appointment are proposed to be:

- Appointment for a three year period (to take the appointment to early in the new Council term post-election in 2010).
- Remuneration to be on a "fee for service" basis on an hourly rate of \$125.00/hour and \$62.50/hour for travelling, periodically reviewed.
- The Public Officer to report to Council on the first anniversary of appointment and annually thereafter on the matters considered in the preceding twelve months.