

Presiding Member Report – APLA Charter Update

ITEM 13 11/08/2020
Council

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2010/03031
Public

EXECUTIVE SUMMARY

During recent strategic planning discussions, Adelaide Park Lands Authority (APLA) Board members have reflected on the meeting procedures required to be adhered to; particularly noting the inflexibility around speaking times, opportunities to engage in informal discussion, raising items of business and other conventions prescribed under the current Charter.

At its meeting of 6 August, 2020, APLA members unanimously resolved to recommend a change to the APLA Charter to better reflect the advisory nature of the APLA Board, while still adhering to the requirements of the *Adelaide Park Lands Act 2005* and the *Local Government Act 1999*.

This Presiding Member Report seeks Council's approval for the change, prior to consultation the Minister for Infrastructure and Transport and the Minister for Planning and Local Government.

RECOMMENDATION

THAT COUNCIL

1. Approves, for the purposes of consultation with the Minister for Planning and Local Government and the Minister for Infrastructure and Transport, that Section 4.8.2 of the Adelaide Park Lands Authority Charter be amended to read: 4.8.2 Subject to the *Adelaide Park Lands Act 2005* and the provisions of this Charter the Board may determine its own procedures for meetings, which must be fair and contribute to free and open decision making.

IMPLICATIONS AND FINANCIALS

City of Adelaide 2020-2024 Strategic Plan	Strategic Alignment – Enabling Priorities
Policy	Not as a result of this report
Consultation	Council must consult with the Minister administering the <i>Adelaide Park Lands Act 2005</i> in relation to any proposed amendment to the APLA Charter and then obtain the approval of the Minister administering the <i>Local Government Act 1999</i> . Public consultation is not required.
Resource	Not as a result of this report
Risk / Legal / Legislative	Consistent with legislative requirements. There is no statutory obligation that requires APLA to adopt the <i>Local Government (Procedures at Meetings) Regulations 2013 (SA)</i> .
Opportunities	To improve the operations of the Adelaide Park Lands Authority
20/21 Budget Allocation	Not as a result of this report
Proposed 21/22 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Review of the Charter is required at least once every four years.
20/21 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

1. The Adelaide Park Lands Authority (APLA) is established by section 5 of the *Adelaide Park Lands Act 2005*, and is taken to be a Subsidiary of the Council under section 42 of the *Local Government Act 1999*.
2. In April 2019, a number of new appointments were made to the APLA Board to reflect the skills-based nature of APLA.
3. During recent strategic planning discussions, Board members have reflected on the rigid meeting procedures required to be adhered to, particularly noting the inflexibility around speaking times, challenges to engage in informal discussions, raising items of business and other conventions.
4. It has been noted that while the APLA Board is an advisory body, it is bound by the same meeting conventions of a council.
5. As a result of these discussions, the Presiding Member undertook to review how meetings could be conducted similarly to other section 42 subsidiaries of Council.
6. At its meeting of 6 August, 2020, APLA members resolved to recommend a change to the APLA Charter to better reflect the advisory nature of the APLA Board, while still adhering to the requirements of the *Adelaide Park Lands Act 2005* and the *Local Government Act 1999*.
7. In 2018, the APLA resolved to review and make amendments to its Charter.
8. The Charter review was approved by the Minister for Local Government on 25 March 2019 and Published in the State Government Gazette on 18 April 2019 (Link 1 view [here](#)).
9. As a result of the revisions to the Charter, APLA is bound to adhere to the meeting procedure as prescribed by the *Local Government (Procedures at Meetings) Regulations 2013 (SA)*, this is located at s4.8.2 of the Charter.
 - 4.8.2. *Subject to the Park Lands Act and the provisions of this Charter the procedure to be observed at a meeting of the Board will be:*
 - (a) *as prescribed by the Local Government (Procedures at Meetings) Regulations 2013 (SA) ('Meeting Regulations') and any related code of practice; and*
 - (b) *insofar as the procedure is not prescribed by the Meeting Regulations, as determined by the Board.*
10. There is no statutory obligation that requires APLA to adopt the *Local Government (Procedures at Meetings) Regulations 2013 (SA)*.
11. Such provisions outlined in (9) are not present in the charters for either the Rundle Mall Management Authority (RMMA), nor the Adelaide Central Market Authority (ACMA).
12. Instead, the relevant sections of the RMMA (section 25.1 - Link 2 view [here](#)) and ACMA (2.15.1 - Link 3 view [here](#)) charters:
 - 12.1. *Meetings of the Board*
Subject to Schedule 2, Clause 5 of the Act, the Board may determine its own procedures for meetings, which must be fair and contribute to free and open decision making.
13. It is therefore sought that the APLA charter be amended to be closer in line with both RMMA and ACMA.
14. While APLA is established as a section 42 subsidiary under the *Local Government Act*, there are key statutory board meeting provisions which APLA is required to observe that ACMA or RMMA does not.
15. These operating provisions are drawn from the Adelaide Park Lands Act 2005 with the following directions:
 - 15.1. s9 – outlines the functions of the Authority;
 - 15.2. s10 – sets out meeting proceedings (e.g. who will be the Presiding Member, quorum number, what constitutes a decision and voting);
 - 15.3. s13 – requires a meeting to be held in a place open to the public and inability for the Charter to exclude this provision; and
 - 15.4. s13 – mandates that the Charter must be consistent with the Adelaide Park Lands Act 2005
16. In accordance with section 13 of the *Adelaide Park Lands Act*, the City of Adelaide must not adopt or amend the Charter without first consulting the Minister responsible for the administration of the *Adelaide Park Lands Act* and then obtaining the approval of the Minister responsible for the administration of the *Local Government Act*.

17. Should Council and the Minister for Local Government agree to the amendment, a meeting procedure guideline will be adopted to determine the future function of meetings.
18. Such meeting guidelines would not seek to alter or amend:
 - 18.1. Composition of APLA
 - 18.2. Key functions of APLA
 - 18.3. Quorum
 - 18.4. Requirement to host meetings in public and ability for members of the public to provide deputations
 - 18.5. Distribution of agendas
 - 18.6. Reporting requirements of minutes, recording of formal votes of the board (*Adelaide Park Lands Act Act* section 10, APLA Charter 4.8.3 to 4.8.26)

DATA & SUPPORTING INFORMATION

Link 1 – Adelaide Park Lands Authority Charter

Link 2 – Rundle Mall Management Authority Charter

Link 3 – Adelaide Central Market Authority Charter

ATTACHMENTS

Nil

- END OF REPORT -