



Special Council Meeting

Purpose:

To Consider the Future Management of Tuia Lodge

Held on

Wednesday, 9th December 2015

Commencing at 6.05pm

In the Soldiers Memorial Hall
Bentley Street, Donnybrook WA 6239

A handwritten signature in blue ink, appearing to read "JR Attwood".

JR Attwood
Chief Executive Officer

10 December 2015

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SPECIAL COUNCIL MEETING
TO CONSIDER THE FUTURE MANAGEMENT OF TUIA LODGE
9 DECEMBER 2015
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SHIRE OF DONNYBROOK/BALINGUP SPECIAL COUNCIL MEETING MINUTES

Held in the Soldiers Memorial Hall, Donnybrook
Wednesday, 9 December 2015 at 6.05pm

MEMBERS PRESENT

COUNCILLORS

Cr Logiudice (President)
Cr Mills (Deputy President)
Cr Bailey
Cr Crowley
Cr Dilley
Cr Mitchell
Cr Tan
Cr Van Der Heide

STAFF

John Attwood – Chief Executive Officer
Greg Harris – Manager Finance and Administration
Kate O’Keeffe – Executive Assistant
Lucy Bourne – Governance Officer
Paul Robins – Shire Ranger

PUBLIC GALLERY

Philippa Ahrens	Elma Bewsher	Rayma Cole-Bucktin
Liz Alford	David Bewsher	Gwen Combes
Rob Alford	Iona Bewster	Mario Contarino
Brad Anderson	David Bleakley	Trevor Cooper
Val Anderson	Verelle Blee	Sandra Cooper
Kym Anderson	Barry Blythe	Glenn Cooper
Rick Anderson	Sue Blythe	Brian Cowan
Judith Archibald	Kate Bond	Jane Cox
Rod Atherton	Les Bond	Tina Cristaldi
Graham Atherton	Tarnya Box	Sandra Cristaldi
Meryl Atherton	Monika Bredon	Angelo Cristaldi
Shane Atherton	Dieter Bredon	Tricia Crombie
Joanne Atherton	Sylvie Buchanan	Mal Crombie
Brendon Atherton	Maryanne Buck	Joan Crowley
John Austin	George Buck	Nat Crowley
Ray Bagley	D. S. Bunter	Sam Cusato
Mary Bagley	Gwen Cain	Luisa Dale
Megan Baldock	Len Cain	Emma Dale
Rob Baldock	Verity Campbell	Leonie Darlington
Dennis Balfour	Peppi Cavallo	Sean Davies
Lorna Bell	Stephen Chinnery	Amanda Davis
Keith Bell	Anne Christian	Bernie Dawson
Alan Bell	Betsy Clarson	Julie Dawson
Wendy Betti	Warren Clarson	Wade De Campo
J Betti	Terry Cobby	Paul de Kluyver

Colin Delaporte	Karl Hutchinson	Garry McCorkell
Dave Denholm	Alex Jackson	Simon McInnes
R J Dent	Dawn Jackson	Keryn McNeven
Robin Depiazzi	Rod Jackson	Micheael McNeven
Des Depiazzi	Jean Jennings	Karen Miller
Jane Drake-Brockman	Ruth Johnson	Rachel Mitchell
Fred Drake-Brockman	Mal Johnson	Pam Mohi
Ian Drummond	Christina Jones	Trish Moore
Jill Duncan	Russell Jones	Allen Morgan
Margaret Ellard	David Jones	Muriel Morgan
Laurel Farley	June Jones	Rita Murray
Max Farley	Alicia Keall	Shaun Nelson
Karen Farley	Terry Kelly	Gwendoline Nidd
Ethel Farley	Phyllis Kelly	Leanne Northrop
Gordon Farley	Ian Kemp	Lois O'Brien
Judy Fitzgerald	Bryce Kemp	Tim O'Brien
Joan Fowler	Lynita Kemp	Jo O'Dell
Lyn Fry	Robin Kent	Viv Padman
Maria Giancono	Bill Kent	Susan Pegs
Joe Giancono	Donna Khan	Lucille Picce
Erica Gibbons	J Kidd	Brian Piesse
Max Gibbons	Mal Kitchen	Victor Piscioneri
Jeanette Gibbons	Chris Knight	Kelsie Pothoff
Maxine Gibson	Gil Langley	Suzanne Priestley
Rod Gibson	Sue Lanyon	Gabriela Ptakova
Chris Gorman	Brett Lawtie	Maxine Quick
Neil Gubler	Sharon Lawtie	Doris Raab
Peter Gubler	John Licciardello	Kerry Radford
Laurel Hay	Joe Licciardello	Sue Radford
Raemer Haygarth	Rosie Licciardello	Christine Rae
Frank Haygarth	Gerry Loveridge	Peter Rae
Anthony Haygarth	Lindsey Loweth	Mick Ramsay
Robyn Hayward	Roger Loweth	George Rani (?)
Allan Hayward	Kyle M	Allan Reed
Vinna Henderson	Wade Mancktelow	Robyn Roberts
M Hernan	Anne Margetts	Lyn Robins
S Hernan	Brian Marsh	Erika Rodgers
Leah Hewson	Lois Marsh	Phillip Rogers
M Hickman	Margaret Marshall	Mary Rossini
N Hickman	Alex Marshall	Daniel Rossini
Marilyn Hickman	Joe Martella	Kayleen Russell
John Hicks	Linda Martindale	Irene Russell
Anne Hicks	Helen Matthews	John Russell
John Hill	Ian Matthews	Bert Russell
Michelle Holmes	Robert Maynard	Steve Russell
Andrew Holmes	Rhonda McBrearty	Wendy Saunders
Rob Horton	George McBrearty	A Scaffidi
Anthea Horton	Linda McCabe	S J Scaffidi
Peter Howello	M McCall	Tony Scaffidi

P Scaglione	Lindsey Thomas	Keith White
Leonie Schofield	John Thomson	Gaye William
N Seukis	Peter Thorpe	Dave William
Colin Sharp	Elspeth Thorpe	Ian Williams
John Sheehan	Ann Tomerini	Roz Williams
Tom Sheehan	Alf Torrisi	Don Williams
Elaine Sheridan	David Tuia	John Wilson
Graham Sheridan	Rino Tuia	Frank Wilson
Dawn Simmons	Nigel Tuia	Kate Wood
Annie Sims	Phil Tyler	Olive Wood
John Small	Marie Tysoe	Marie Woodley
Nina Smith	Christine Valenzula	Elsie Woodley
Jenny Smith	Margo Veen	Peter Wright
Bev Smith	Bev Walker	Jean Wringe
Vernon Smithers	Beth Walker	Mike Wringe
Bev Strang	Max Walker	John Wringe
Brian Sutton	A. R. Walker	James Wringe
Drew Sutton	Dallas Walker	Joan Wundenberg
Margaret Terrace	Stephen Warner	
Leah Terrace	Murray Wells	

APOLOGIES

Cr King

1 PUBLIC QUESTION TIME

Questions taken with or without notice at the Special Meeting of Council on 9 December 2015.

Ann Margetts

My question is directed to Councillor Tan. Is it true that Council breaches its own policy?

Cr Tan

This is a very important question. At the last Council meeting the minutes of the Special Council Meeting of 19 November were available. On page four, it is noted that at 6.07 Council welcomed Mrs Sue Harris and introduced her. Cr Van Der Heide raised a point of order referring to Council Policy 1.19 which states that presentations will not be heard on any matter that is to be considered in a closed agenda. This is confusing. Why would Council have that policy? I have been learning the Local Government Act and have taken courses at WALGA including a presentation on good governance given by Tony Bryant.

President

Can you answer the question directly?

Cr Tan

Are you trying to prevent me from telling you what I have learned? Why did Council adopt a policy where the President can reject a presentation if the matter is going to be dealt with later in the meeting? Yesterday I spoke to James McGovern of Walga. He said Council polices are rules, not laws. If a presentation is going to improve understanding or knowledge, Council may set that rule aside and it is not a breach. The policy objective clearly states to establish criteria for presentations to Council and Committee meetings that relate to items on the Agenda (as opposed to invited presentations or briefings). If Sue Harris was invited by the President therefore Council Policy does not apply, it is baseless.

Alan Reed

In relation to the report that Council has, were all Councillors provided with a copy of the report, or at least did they have the opportunity to read the report and its recommendations prior to making their decision on 19 October?

The reason I ask this question is because if they were not aware of any findings or recommendations, how could they make an informed decision?

Why, if Council on 20 October when they swore in the new councillors and appointed the new boards and committees, why did they re-appoint the Board if they had any concerns? Why did they wait until 19 November before withdrawing delegation authority of the Tuia Lodge Board?

Did the Council wait until the new councillors had been sworn in because they did not have the numbers with the previous members of Council?

President

I'm of the understanding that councillors had both reports. I'm not sure if they had them in full. (Consults CEO). Yes, they were in full.

On the 20th October, we didn't appoint that committee, it was already there, so we didn't make any changes to that committee.

Alan Reed

Why did they wait until 19 October, only four weeks later, when there were no new allegations?

President

We weren't sure how we were going with the investigation.

Jill Duncan

I would like to thank Councillors Dilley, Crowley and Van Der Heide for their informative and factual letter on the Tuia Lodge issues. As a community we have all heard or read the rhetoric and emotive responses by some councillors to justify their reasons for voting to withdraw delegated authority from the Tuia Lodge Board. Cr Tan and Cr Bailey have been especially prominent with their letters to the newspaper and the Preston Press, calling for yet further investigation into alleged misconduct with all manner of justification from "the good intentions of councillors" to "the difficult decisions being made" and the rhetorical questions based on hearsay evidence. What WE, as a

concerned and affected community, have NOT heard is - What is the vision of Crs. Bailey, Tan, King, Mills and Logiudice for the future management of this award-winning aged care facility, as it was their vote which has created the chaos before us now?

Is it not in the public interest for these councillors to personally identify and explain how they each would see the future management model for this community facility?

Surely the input of these councillors would be of value to the community and help us to understand any future collective decision of Council, considering they have the majority vote?

Can we take away the rhetoric and emotive prose of recent media publications and ask for honest and practical answers now?

Assuming there will be decisions made by Council at this meeting, don't we, as the residents and ratepayers, deserve to have the best possible explanation now from these councillors, who purport to listen to, and represent the views of the majority of us?

President

I will not answer on behalf of councillors but will invite them to give their view. Cr Bailey?

Cr Bailey

It's not right that our previous Council was happy with the way Tuia Lodge was being run. The previous Council moved and seconded the recommendation should Tuia Lodge be run and owned by Council. Notwithstanding Council resolves the right to call for expressions of interest from service providers. To say it was just the new councillors is not correct. In particular council didn't have faith in the management of Tuia Lodge Board and refused to hand over the land. Why would anyone hand over \$4m worth of assets for the new owners to go ahead and sell it? It was the old council that had reservations, so much so that the CEO sought a legal opinion on the actions of management at Tuia Lodge. I have been urging the CEO to release all confidential items so we the people have the full story.

My vision for Tuia Lodge is to make sure the residents are well and truly cared for. There are statutory declarations coming through that are concerning and that should be investigated. If there are any actions in any organisation people are stood aside while the matter is resolved. I can't see what the problem is here. If they think an investigation to get to the truth is a problem, then we have a problem.

Accreditation has been there for the past two-and-a-half days this week to investigate concerns. We want to make sure this is the best facility in the State. We want to make it better.

Cr Tan

My vision – if the workers are unhappy the residents are going to suffer. If this is investigated then that's what it's all for - happy, safe workers.

Cr Mills

My vision is the same as everyone else's. To have a first class facility that is run and managed correctly. Why did we take away the delegation authority? There was a lot of information there was no evidence these allegations had been cleared. I was at a training course where it was made clear that by law we are supposed to keep all records. No records have been presented to me that have shown the allegations have been addressed in the way they should be. Until they are proved or disproved we need to go down this path. If you had allegations made against you would you not want it cleared? Why wouldn't you want it investigated?

President

I have a vision about the ongoing operation of Tuia Lodge. Residents are always the number one priority. That is very important. We are responsible to the staff. The staff have to be managed in a way that is appropriate for the care of residents and I always say if staff need training, or need to have training for that job, then they get the training. Training is important to staff. Management needs to be able to manage staff in a way that is not detrimental to staff or residents. Looking forward we have had some hiccups and we need to deal with those hiccups. You have got to run the full process from beginning to end until you get a resolution. If we are not doing that we are not doing our job correctly. My vision is to make Tuia Lodge bigger and better.

Marie Woodley

To the Councillors who voted to go down the path of dismissing the Board of Tuia Lodge, my question is – did they know how their decision would affect the residents of Tuia Lodge and their families, the very people you say were the ones you were protecting? Also, have you been up to Tuia Lodge each day to see the fallout from your decision?

President

I haven't been to Tuia Lodge to see what the fallout is but I have heard through the CEO, and I will refer to the CEO. The residents are still being looked after.

Marie Woodley

That is not my question (repeats question).

President

I assume the other four councillors haven't been. I don't believe any of the councillors have been up there.

Marie Woodley

Isn't that a shame? You have made this decision against the majority of people. You have made a mistake and upset the residents and families of Tuia Lodge.

President.

I haven't heard any complaints.

Elsie Woodley

1 At the meeting of 25 November, my question to the President was – did the Shire Council have a hidden agenda to sell Tuia Lodge to a company like Bethanie

Fields? The President replied, No, no, selling it was not even considered. On Thursday night the 26th November I obtained a copy of the minutes of the Special Council Meeting of Thursday 19 November. Only to find 5.1.1, Transition of Tuia Lodge to new body (page 7). Option 3, sell the entire operation on the open market to a residential aged care provider (e.g. company such as Bethanie Nursing Homes, but could be Tuia Lodge inc.). Building (including all fixtures, fittings, furniture etc) would be sold. How would the Shire be able to sell all this when it was built, furnished and fitted out with donations from the residents of the Shire and funding grants? Also options 1 & 2, the remark under 'Advantages - Community perception – no obvious change'. Does this mean all Shire residents are considered by the Council to be mushrooms?

2 I stated that this question was directed to the two new councillors who had voted to dismiss the Tuia Lodge Committee. Could they inform the meeting how much time, money and effort they had put into Tuia Lodge? Both of my questions were not reported correctly and the President's answer to question 1 was not in my opinion truthful.

President

In relation to the sale of Tuia Lodge – what you are reading are recommendations that were put up. There was no consideration to sell Tuia Lodge.

Elsie Woodley

You didn't even tell me it was even an option. The question I ask was whether there is any hidden agendas.

President

That was an option put before us. It was not in our consideration at that time to do anything like that.

Elsie Woodley

My other question was how much work and effort had they (the two new councillors) put into Tuia Lodge. I believe some of them haven't even been to Tuia Lodge.

President

I believe all councillors have been to Tuia Lodge. As to what time and money they have put in, I can't answer. It would have to come from the councillors.

Elsie Woodley

Mr Mills refused to answer and Cr Tan said she was putting time into the investigation there now. They should have at least been to that place and put their time and effort into it.

Alan Swarbrick

Who is actually running Tuia Lodge now that you have sacked the manager?

Cr Bailey

The Manager has not been sacked.

CEO

At the moment the acting manager is Rhonda McBrearty and we have, subject to confirmation, appointed a manager to commence work next Monday.

Alan Swarbrick

We are here for one question – we want to know what is happening to Tuia Lodge? Will you recommend the motion and move forward?

President

I can't answer that question now because it has to go to the vote – you can't have a motion in Public Question Time.

Steve Russell

1) Has any member of Council made contact with the deposed Board to see if they would go back under the conditions proposed in tonight's Agenda?

President

I can only speak for myself and I haven't.

Cr Mitchell

I have spoken to the members of Tuia Lodge Board.

Cr Bailey

I don't think it's appropriate for the Board to be put back in place until the investigation has been completed. There is an issue of cash payments which put Council in a position where we have to answer to the ATO and these need investigating before the Board is reinstated.

Steve Russell

Have any Councillors discussed with the Board whether they would go back. There are three motions proposed. There's not much point unless you have that information from the deposed Board. Yes or no?

Cr Crowley – yes

Cr Tan – No

Cr Van Der Heide – yes

Cr Dilley – yes

Cr Mitchell – yes

Cr Bailey - Lui Tuia came to see me in my office which was interesting. I haven't asked him whether he would comply with the new obligations but I would anticipate probably not.

Cr Mills – no

Cr Loguidice – No, I haven't engaged with the deposed Board.

Cr Tan – yes - I wasn't aware - I had a conversation with someone who I now realise was a member of the Board.

Steve Russell

The Governance and structure of the Tuia Lodge Board is set out in a document that dates back to 2009, including guidelines. If we want to talk about governance and

structure, don't you think this should have been updated before now? This shows poor governance.

President

I totally agree with you. I think these things need to be done on a regular basis. Although this is a delegated authority, we take ultimate responsibility. If we don't do this it shows what can occur. They should be reviewed every two years.

John Hicks

My question is addressed to Cr Tan. In your letter to the Preston Press of a recent date, you state in the preamble you would consider all the information and act independently, etcetera. As a practising lawyer, did you consult with Tuia Lodge before taking this arbitrary action? Why was the basic tenet of British Law ignored by Council?

Cr Tan

If we are acting in the capacity as Council, our actions are dictated by the *Local Government Act 1995*. When a State law is inconsistent with Commonwealth law, the Commonwealth law prevails. The Aged Care Act and the Health Act therefore have authority over the State act. I don't have enough evidence, and I'm a Councillor. I have been asking for full exposure because as a lawyer I like to see all sides of the story. I have only the responses Council has given me - that's the evidence I have before me.

John Hicks

Thank you for your non-answer. It is fundamental that you listen to both sides of the case. When did you approach the Board of Tuia Lodge to find out their side of the story?

Cr Tan

I'm learning my boundaries as a Councillor and if I have any questions to go through the CEO and President. Excuse me if I misunderstood my role as a Councillor.

Liz Alford

I refer to the Financial Report for 2014/15. As Tuia Lodge is not incorporation, just a delegated authority, Council staff will be doing all the book work, including paying all accounts, and receiving all income. I therefore have the following questions/comments. 1) I expected to find the residents bond money to be in trust fund, but there is just a total for Municipal Trust Fund of \$1,348,846. Does this figure include residents bonds?

President

YES, Tuia Bonds currently held \$1,014,417.

Liz Alford

If so how much interest was earned for the year? And what happens to this interest?

President

The interest is \$32,991 and it is retained in the Aged Housing Reserve.

Liz Alford

The Aged Housing Reserve – is this a dedicated reserve fund that council may not use for any other purpose?

President

Yes, the Reserve can only be used for Aged Housing Purposes unless authorised by Council by an Absolute Majority.

Liz Alford

How much of this money is from Tuia Lodge?

President

\$1,682,472

Liz Alford

So you could have a meeting and you could use that \$1.6 million for something else?

President

Technically yes. But we would need to make a decision at Council. Advice is that yes, it could be used but we wouldn't. It would have to be an absolute majority. It hasn't been changed for 40 years.

Liz Alford

We are in a situation now that the community doesn't trust Council. It hasn't happened in 40 years – I have worked in local government and I have they have decided to take money out of reserve funds without ratepayers knowing. There is no obligation that you advertise that you are going to do that.

President

If we were going to change the ruling to make it so we couldn't use that money – would that be possible?

Manager Finance & Administration

It's a provision of the Local Government Act that a reserve is created for a special purpose, but Council can change the purpose to access the funding – not that they have ever done that. We have always used reserve funds for the prescribed purpose and unless the processes of Council change I couldn't see that happening.

Cr Bailey

I would not like to see it happening. We can't change the Act but I wouldn't mind having documentation within Council to ensure that it wouldn't happen.

Liz Alford

It wouldn't have happened before October.

Liz Alford

The \$1.6m - what interest is earned by this money?

President
\$59,613 in 2014/15

Liz Alford
Where is this interest earned spent?

President
The funds are retained in reserve for future needs e.g. capital works, LSL payments, loan repayments etc.

Liz Alford
Specifically for Tuia Lodge?

President
Yes.

Liz Alford
There is nothing in the report to show the ratepayers/community the details of income from all sources, and where the money is spent by category/code for Tuia Lodge, e.g. rent, grants, wages, insurance, food, medical supplies, repairs, improvements, construction, etc. We are entitled to have this information, and if your codes are set up correctly it should be easy to produce this information as a report/s.

President
A separate General Purpose Financial Report is produced annually for Tuia Lodge and is available upon request. This report is audited each year prior to submission to the Department of Aged Care.

Liz Alford
The question being asked by residents and others, are our resident bonds safe? Can you please detail how bonds are handled, and how secure are they?

President
All bonds are held by the Shire in its Trust Fund. Bonds are invested, with reputable banks only, in Term Deposit accounts and are therefore completely secure. Council is required to submit an audited Annual Prudential Compliance return to the Department of Aged Care each year. A copy of this return can be made available upon request.

Liz Alford
If the President has a conflict of interest, how can he vote on the motion at Council? I understood that the whole idea of expressing conflict of interest is to abstain from voting.

President
I declared an Impartiality Interest in the Tuia Lodge matter. An Impartiality Interest does not prevent or permit a Councillor to abstain from voting on a particular matter.

Liz Alford

What does the Local Government Act say?

President

The Local Government Act requires an elected member who declares a Financial Interest to leave the meeting and abstain from voting on the matter.

Liz Alford

In the agenda, is the report 95% of the report, as requested?

CEO

It is not the total report. My comment was that 95 % of the report could probably be released, but I then contacted the author of the report. She prepared it for Council and the Tuia Lodge Board and prior to it being released to the general public she would need to have it vetted by a lawyer. We can expect to have the full report once it's been vetted. There is a cost to get that done, but it would be made available to the public once that's been done.

Liz Alford

Tuia Lodge aren't paying for that?

CEO

It would be from Tuia Lodge or general purpose funds from Council's overall operations.

Liz Alford

In the agenda on page 14 at the top, dot point 7 – how does this apply to a board member who may have a family member as a resident? You might need to look at that.

President

We will take that on board – thank you.

Liz Alford

How much has it cost Tuia Lodge (i.e. us) to date to pay for all these investigations?

President

\$25,000 - \$30,000.

Liz Alford

This question is directed to the President. As a member of the Board and Councillor, why did you not have these issues seen to before?

President

These things build up over a period of time and it's a question of when you are able to act on these things. That's the scenario we are in and we need to deal with it.

Cr Bailey - I believe- (Cr Crowley and Cr Mitchell call point of Order)

Cr Mitchell

Point of order – the questions were answered at the time they were asked.

Cr Bailey (continues)

I believe all confidential items we have had put before us belong to you people. From day one, going over 12 months, I'm appalled that legal advice as been sought to make sure the council is covered from actions taken by the management at Tuia Lodge. I have no problems and I wish that was released.

Tony Scaffidi

Mr Chairman, could you or the CEO explain to the people here – that if one inquiry has been held and the allegations have all been dealt with in the report that was done by Inspire Consulting and the allegations have all been cleared - then the people here want to know why are we still bogged down? The Lodge belongs to the people here in Donnybrook. Council has not put a cent towards it. The residents in there are all different and all need different care. Some of the assumptions that have been made are ridiculous.

President

In relation to what the accreditation people might have said, I'm not able to disclose at this stage because we haven't had their report.

CEO

We have had four accreditation visits in the past six months. They have been very thorough and they have come back with a couple of issues we need to address. Today they finished another three-day accreditation. I'm not aware of all the issues, but 41 or 42 items have been addressed to their satisfaction. It's a process of continuous improvement. They have looked at every record over the past two days. There will be a couple of issues we need to address and we need to do that soon. They will return monthly for the next three months to ensure we do what we've said we will do. I won't be getting that information until just before Christmas. They have done a review of medications and looked at every document we have got – so I'm confident this will bring forward any issues that need to be addressed.

Cr Duncan

I have watched the conduct of Council at the moment. It is not in the Standing Orders for Council to address new material and debate it and present personal opinions?

President

I have tried to avoid any debate based on opinion, but people are passionate so I have allowed some of that to happen. I apologise.

Anne Tomerini

I work as a supervisor. Our job is to keep the residents in a happy, loving environment and safe from harm. In doing so we have to put in incident reports about treatment we think is not correct and how other staff members are treating the residents. The girls that have come forward, they are trying to do their job. They are trying to get it out to you in the community. They are doing their job to the best of their ability, so do blame us when we tell you things are going wrong.

Anthony Haygarth

Have you at any time discussed in Council informally with councillors or confidentially the possibility of replacing the Board with another service provider?

President

No, the only time it was raised was a recommendation when we were looking at options. All councillors agreed not to take that option.

Anthony Haygarth

I take it that at no other time have you discussed replacing the Board with an outside Service Provider

President

No, not at all.

Anthony Haygarth

Did either of the two reports presented to Council so far, the legal and the Inspire report – did either of them recommend a further investigation?

President

I have got a statement on what the two reports have contributed. The legal report dated 20 May 2015 states 'that a decision as to the future management structure needs to be determined as soon as possible and a process needs to be put in place-

Cr Van Der Heide

Point of Order. This confidential information has not been released and may not be released in any way, shape or form.

President

Point of Order taken. I will not proceed with this information.

Anthony Haygarth

I don't know what is in the document, but my understanding is that you are talking about the first document. In the subsequent document, which is the final document so far, is there a recommendation to carry out a further investigation?

President

There is not a recommendation to carry out a further investigation.

John Wringe

It is said that some things haven't been dealt with regarding the staff. A number of complaints made by staff were handed to the Australian Social Security Commission (Aged Care Complaints Scheme?) and all were answered or dismissed and at no stage have you or any other councillor brought that forward. Why are you not making clear this side of the story? The complaints were forwarded to the appropriate authority and deal with but this has never been brought to the surface and I would like to know why.

President

I am not sure what you are referring to, but I do recall something was raised at a Board meeting. I don't recall the process so can we take that question on notice and answer it in due course?

Jo Martella

I ask the President – if he was aware of problems for some time at Tuia Lodge, should he have resigned as a Board member in protest some time ago?

President

I'm not sure it would be correct as a Board member. If you resign as a Board member, what do you achieve? I tried to deal with it from within.

Jo Martella

This question is to the previous president. If there was a problem at Tuia Lodge for some time, why was this not brought to a head and dealt with previously to the satisfaction of all involved?

Cr Dilley

Council became aware of this issue on 26 August last year, but it was a staff matter and the CEO has carriage of that. Over a period of time other incidents came up. Myself as President of the Council, we were satisfied with the action taken. The people concerned were not happy because of the time it took. Council was being careful in obtaining legal advice. One Councillor has often raised the issue of ratepayers being exposed to the risk of litigation – well, we would be exposed to the risk of litigation if people make claims that are not true. They say that nothing has happened – all Councillors were given a confidential briefing paper with a timeline of what has occurred at Tuia Lodge, step by step. Council was fully informed. Yesterday, all councillors were given a document listing all of the allegations along with the actions, findings and outcomes. To say there has been nothing done is an absolute lie. We have tried to do the best we can. Some issues cannot be resolved, but we were going well up to 19 November, making the transition, working towards autonomy – everything was going ahead until two weeks ago.

Megan Baldock

I am one of the original four staff members. To the CEO. You didn't answer Mr Scaffidi. These are serious allegations. We have a duty of care as health care workers we have to report any illegal and unlawful activity that we feel endanger residents. All we have done is our job. We followed protocol, from management right through to Council, all the way along, following the book but we have met a brick wall. Everything has been suppressed. The allegations that we put forward on 6 August 2015 – why haven't we been advised of the outcomes? You have been advised - we have had no responses.

CEO

The original allegations were dealt with and everyone involved was advised of the outcome in November last year. 21 allegations were addressed and you were advised.

Megan Baldock

What about falsifying documents, clinical misconduct, bullying, intimidation if they don't agree with management. We didn't get an answer to the falsified records. None of that has been investigated. The first report was investigated but not the additional allegations– (interrupted by interjections from the gallery) - I rest my case.

Allan Reed

I wish to make a statement. Councillors, Members of the Tuia Lodge Board and Residents of Tuia Lodge and their families, members of the community- During the past few months and in particular during recent weeks much has been said and written in regard to allegations in relation to the Board of Tuia Lodge and the withdrawal of "delegated authority "from the Board .In fact there have been many more questions asked than there have been answers received .

Do I agree with everything that has been said or written? No. Do I disagree with everything that has been said or written? No. What I do believe, is that the welfare of those that the Council and the Tuia Lodge Board (a Committee of the Council) have been entrusted to care for has been put at risk by the actions taken.

The expertise required to manage an Aged Care Facility was on the 19th November 2015 was withdrawn and to date no explanation has been given as to the reasons why.

The comments in the written media by Cr Tan and Cr Bailey do raise two very important issues. Cr Bailey is correct in saying that the Council has in accordance with the Local Government Act, the authority to dismiss/suspend or withdraw delegated authority from a Council Committee or Board. They should have very good reasons for such a decision and should be open and transparent about those reasons. Cr Tan raised the issue in relation to behaviour at a Council Meeting. Question time is part of a properly convened Council Meeting and the Local Government Act outlines the proper and expected behaviour at those meetings. Should there be breaches of that protocol, the President has the authority to suspend or close the meeting or evict persons from the meeting.

Councillors Crowley, Dilley, Mitchell and Van Der Heide have outlined the issues and decisions in the print media and have provided more information and answers than had been received in the past, and it also indicated that on one particular issue the Council voted to ignore its own policy. Is this being accountable? No.

I personally believe, that the decision to withdraw delegated authority from the Board of Tuia Lodge may have been a decision made on the run and could have been handled much better by the Council in a number of areas including:-

- Was the actual decision made on the 19th November 2015 communicated to the Board Members of Tuia Lodge by email? Is it normal practice to suspend or dismiss Staff, Council Boards and/or Committees by email? If so, it shows a complete lack of respect to those concerned.*
- The release of details of the report (excluding reference to names and/or positions of those mentioned in the report so as to maintain privacy and*

confidentiality) relating to the allegations that had been made against the Board and/or individuals, the findings in the report relating to those allegations and the recommendations in the report (if any) to rectify and abnormalities.

- *Did the Council give due consideration to the concern that could be caused to the residents of Tuia Lodge when sending them the letter advising of the action the Council had taken? Were all councillors provided with a copy of the report or at least have the opportunity to read the entire report, its findings and recommendations? If not, Why not? How can an informed decision be made unless you have been provided with all the relevant facts? You cannot.*

If there had been a full and proper liaison with all parties concerned regarding these issues and a full disclosure of the report received by Council, I am sure the current situation would not have arisen.

The result of the decision made by the Council on the 19th November 2015 has:-

- *Left the Aged Care Facility (Tuia Lodge) without the proper and required management of the day to day operations .*
- *Resulted in the loss of a very experienced and respected administrator within the industry and the local community in particular.*
- *Has left the very people that we have committed to care for (the residents and their families) confused and shocked at the decision. They deserve and should be treated much better.*

It also staggers me, that on the 20th October 2015 at a Special Council Meeting to swear in new Councillors and appoint the relevant Boards and Committees for the ensuing year, the Council endorsed the appointment of the new Board Members for Tuia Lodge (same as previous year) yet on the 19th November 2015 (4 weeks after the Special Council Meeting) the same appointed Board had its "delegated authority" withdrawn by the very Council that endorsed their appointment on the 20th October 2015. We could all well ask, why? The Council had the response from Tuia Lodge, but had failed to act on the release of the report, its findings or its recommendations.

Comment in Minutes: The Minutes 19th November 2015 Special Meeting of Council-

- *Council resolved to release the Inspire Report confidentially to the Tuia Lodge Board at the September 2015 Ordinary Council Meeting.*
- *That Council shares the outcomes of this review on a strictly confidential basis with the Board of Tuia Lodge seeking their input and feedback.*
- *The minutes state that the Tuia Lodge Board has considered the report and, in support of transparency and accountability, is keen for a release of information to the general public in the form of a media statement on behalf of the Shire Council and Tuia Lodge.*

Officers Recommendation

- *That Council endorse the release of a media statement in relation to the Inspire Consulting Groups review of the operations of Tuia Lodge.*

No Mover or Seconder.

It should also be remembered, that any actions in relation to allegations on staff matters should have been addressed by the Council, the Staff being employees of the Council not the Board of Tuia Lodge.

Were there any further allegations made about the Board or individuals that had not already been investigated? The answer to this question at the meeting held on the 23rd November 2015 was no.

Did the Council request the Board of Tuia Lodge to implement any changes to Procedures and/or Policies in accordance with recommendations in the report (if any)? If not, why not? The Council had the report well before the meeting held on the 2nd October 2015.

Why did they endorse the re-appointment of the new Board on the 20th October 2015 if they had any concerns? Why did they wait until the 19th November 2015 before withdrawing the delegated authority" of the Board of Tuia Lodge?

Did the Council wait until new Councillors had been elected and sworn in to make their move because they did not have the numbers with the previous members of Council?

How many of the Councillors (new or otherwise) are conversant with the Aged Care Act and its associated regulations under which an Aged Care Facility must operate?

How many of the Councillors (new or otherwise) are conversant with ACFI (Aged Care Funding instrument), the various contractual arrangements with a resident or the Funding of the care by the actual resident and or the Department of Health of Ageing? This being the very life blood of the financial viability of the facility.

I do not believe the Council of the Shire of Donnybrook-Balingup is being completely honest, open, accountable or transparent to the electors and the community in general in regard to disclosing the reasons for their action on the 19th November 2015.

My offer to you. If it is the wish of the Council of the Shire of Donnybrook-Balingup, the Board of Tuia Lodge and the local Community I am willing to offer my services to liaise between all parties and undertake a review to ensure that:-

- (a) all policies and procedures meet all legislative requirements. Policies would be reviewed at all levels (Board, Management, Staff Care, OH & S etc.)*
- (b) new policies and procedures are developed and implemented as/if/when required*
- (c) the organisation managing Tuia Lodge be Incorporated as soon as is practicable.*
- (d) the draft Constitution is approved to enable (c) above to be implemented (special attention being given to address the concerns relating to the Care*

- facility remaining a community amenity in the future.)
- (e) that the structure of the entity be carefully considered looking at not just the present but also the future.
 - (f) There be a smooth transition of Management to the Board of the Incorporated body when all documentation and approvals have been obtained.

This would be done is consultation with Council, Board Members and Staff to ensure that all aspects are addressed. It will take time, however, it should be done.

To alleviate any concerns relating to Tuia Lodge remaining a "community facility" a "Memorandum of Understanding" could be entered into between the relevant parties to address this and/or any other particular concerns. This being a separate legal document to be read in conjunction with the relevant clauses in the adopted Constitution of the Incorporated body.

I make this offer to you on a voluntary basis (i.e. no cost to the Council or the Board of Tuia Lodge except for reimbursement of minor office expenses (computer cartridges, paper etc.) If my offer is accepted, I will not work for the Council or the Board of Tuia Lodge, I will work with them to achieve the desired outcomes. However, after my comments today, some members of the Council may not wish me to be involved in any way, but that is OK. I stand for what I believe is right, I always have and I always will.

Our priority is to the residents of Tuia Lodge, their families and the Staff who care for them, it is not about us as individuals, some of whom, I believe, may have self-inflated egos about their own importance.

REINSTATEMENT OF BOARD (TUIA LODGE):-

To expedite the above mentioned so that we can move on and get Tuia Lodge back to operating in a normal and effective manner to the benefit of all, in particular the residents and their families, I move that:-

- *the Board of Tuia Lodge have their "delegated authority" reinstated immediately by the Council of the Shire of Donnybrook-Balingup.*
- *That the newly appointed Manager of Tuia Lodge have the title of 'Manager Residential Aged Care'. This more accurately describes his/her duties within the Aged Care Facility (he/she is not necessarily the Administrator).*
- *after the release of the report to the public and comments having been received, a meeting be convened between the reinstated Board of Tuia Lodge and the Council to discuss and consider the report and the various issues outlined in the motion moved by Cr Bailey and seconded by Cr Mills at the Special Council Meeting on 19 November 2015.*

In view of comments made by some Councillors:

- *that the Council of the Donnybrook-Balingup conduct a review of their own Policies and Procedures in particular to accountability, openness and transparency.*
- *That the Council of the Shire of Donnybrook-Balingup give all necessary support to the Staff of Tuia Lodge during this time stress and uncertainty*
- *That it be recorded in the Minutes of this meeting, that the Community have registered their extreme disapproval at the manner in which the Council of the Shire of Donnybrook-Balingup have managed these issues over an extended period.*

** 7.40pm - Public Question Time ended

2 APPLICATION FOR LEAVE OF ABSENCE

Nil

3 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Cr Logiudice declared and interest affecting impartiality for Item 5.1.1, Future Management of Tuia Lodge as he is a Tuia Lodge Committee Member.

CEO, John Attwood declared and interest affecting impartiality for Item 5.1.1, Future Management of Tuia Lodge as he is a Tuia Lodge Committee Member.

4 PETITIONS/DEPUTATIONS/PRESENTATIONS

Cr Crowley presented a petition from supporters of Tuia Lodge containing 1325 signatures. The petition reads:

“We the undersigned totally oppose the Council resolution of the Special Council Meeting on 19 November 2015 to withdraw delegated authority from the Tuia Lodge Board. We say that the Council were not justified in taking this action. The Tuia Lodge Board have not been afforded natural justice, due process or proper consultation. We seek:

- *The reinstatement of the Tuia Lodge Board with full delegated authority; effective immediately;*
- *Tuia Lodge Incorporated be provided full autonomy, including absolute transfer of all assets and affairs related to Tuia Lodge, effective 30 June 2016;*

- *No administrators, investigators or consultants to be appointed in any capacity in regards to Tuia Lodge without the formal written approval of the Tuia Lodge Board.*

Your petitioners pray that the Shire of Donnybrook-Balingup will heed the request of the people.”

Council Decision

Moved: Cr Dilley

Seconded: Cr Crowley

That the petition be accepted.

Carried 8/0

Mr Anthony Haygarth made a presentation to Council providing additional information in support of reinstating the Tuia Lodge Board (committee). The presentation commenced 7.45pm and finished at 8.04pm.

***8.04pm informal discussion commenced*

***8.06pm Cr Tan left the room*

***8.09pm Cr Tan returned to the room*

***8.12pm meeting recommenced*

MOTION WITHOUT NOTICE

Cr Crowley requested to put forward a motion without notice. The President advised that he would hear the motion. Cr Crowley then explained the motion proposed a vote of no confidence in the President. Cr Bailey raised a point of order as the proposed motion was not in accordance with the purpose of the special meeting, The President then ruled that he would not accept the motion.

Moved Cr Crowley

Seconded Cr Van Der Heide

That ruling of the President be disagreed with.

Council voted 4/4. The president exercised his casting vote.

Motion Lost 4/5

5 REPORTS OF OFFICERS

5.1 Chief Executive Officer

5.1.1	SUBJECT:	MANAGEMENT OF TUIA LODGE FACILITY
	Location:	Tuia Lodge, Allnutt Street, Donnybrook
	Applicants:	Tuia Lodge Incorporated
	Zone:	N/A
	File Ref:	CSV 01/2
	Author:	John Attwood, Chief Executive Officer
	Report Date:	2 December 2015
	Attachments:	Nil

Background:

At the Special Council Meeting held on 19 November 2015 Council rescinded the motions from the Special Council Meeting held on 9 June 2015 and the Ordinary Council Meeting on 23 September 2015:

9 June 2015:

1. *That Council advise the Board of Tuia Lodge that it continues to support their proposal to move towards independent management of Tuia Lodge.*
2. *That Council defers the proposal for the independent management by the newly incorporated body (Tuia Lodge Inc.) until:*
 - a) *The building contract with the Federal Government is finalised;*
 - b) *Outstanding management and staffing issues are satisfactorily addressed;*
 - c) *Current workers compensation claims are settled or addressed to the satisfaction of both Council and Tuia Lodge Inc.;*
 - d) *An independent review of the current and proposed Governance and Operational Structure is undertaken;*
 - e) *Transitional arrangements are fully assessed and agreed upon.*
3. *That Council's preferred transfer of Tuia Lodge Management is Option 2.*
4. *Upon completion of the items in Point 2 above, Council consider these matters and then determine whether to publicly advertise the proposals.*
5. *That Council will review the decision two years after the initial arrangement date is finalised.*

23 September 2015

That council shares the outcomes of this Review on a strictly confidential basis with the Board of Tuia Lodge seeking their input and feedback, and that the Aged Care Board be advised:

1. *That Council does not support the transfer of the land and buildings as the Tuia Lodge facility should continue to be owned by Council on behalf of all ratepayers.*
2. *To design, develop and implement a 'Governance Transition Plan' that enables the transfer of all affairs related to the management of Tuia Lodge to Tuia Lodge Inc. within a period of two years;*
3. *That recommendations 2, 3, 4 and 5 from the Tuia Lodge Review Report are supported;*
4. *Council will consider the transfer of management of Tuia Lodge to Tuia Lodge Inc. (implementation of Governance Transition Plan) once the resolution made at the June 2015 OCM has been dealt with and recommendations 2, 3, 4 and 5 from the Tuia Lodge Review Report have been implemented.*

At the Special Council Meeting held on 19 November 2015 Council voted for the motion to stand down the Tuia Lodge committee and conduct an inquiry:

That Council withdraw all delegated authority from the Tuia Lodge committee (Board) effective immediately. This action will allow Council to fully review the management, operations and future direction of Tuia Lodge.

Council is to appoint an administrator to oversee the day to day operations of Tuia Lodge and conduct an immediate inquiry into allegations of:

1. *Forgery of Occupational Health and Safety Incident Reports*
2. *The supply of prescribed medication to residents by unqualified personnel*
3. *Breaches of OH&S Policies and Procedures*
4. *Managements handling of concerns from residents and staff*
5. *Resident care*
6. *Issues affecting the care and conditions of the residents and staff*
7. *Potential breaches of the Aged Care Act 1997*

and any other issues affecting the smooth running of Tuia lodge.

At the Ordinary Council Meeting on 25 November 2015 a Special Council Meeting was called for 9 December 2015 to consider the future management of Tuia Lodge. Council resolved to defer the inquiry into allegations until after the Special Council Meeting.

Comment

An Investigation into issues raised by staff members of Tuia Lodge was conducted by Slee Anderson and Associates during April/May 2015. One of the recommendations from this investigation was for the Shire to commission an independent review of Tuia Lodge's management and operational structure. The Donnybrook-Balingup Shire engaged Ms Antonia Stampalija, Director of Inspiring Consulting Group to undertake a governance and organisational review of Tuia Lodge Inc.

The review incorporated a three-phase approach involving:

1. Documentation Review

2. Consultation
3. Findings and Recommendations

The review commenced in July 2015 and concluded in August 2015.

The consultant recommended that the most appropriate governance structure for Tuia Lodge, based on the findings and research of the review, is to be an incorporated association under the Associations Incorporations Act 1987 (WA). This re-affirms the decision already made by Council and the Aged Care Board to incorporate Tuia Lodge.

An appropriate transition process will need to be established and implemented over an agreed timeframe. The consultant has suggested a two year timeframe. Such a transition process will allow for an appropriate *governance framework, systems and policies* to be established and implemented prior to the absolute transfer of all assets from the Shire to the newly *incorporated entity*.

The consultant has provided a list of recommendations to assist with the transition process that will ensure an appropriate governance framework, systems, and policies to be established prior to the transfer of all assets from the Shire to Tuia Lodge Inc.

The consultant's recommendations are as follows:

Recommendation 1

Design, develop and implement a "*Governance Transition Plan*" that enables absolute transfer of all assets and affairs related to Tuia Lodge Inc within a period of no greater than two years.

In order for Recommendation No. 1 to be successfully executed within the agreed timeframe, a series of 'Supplementary Recommendations' are considered critical and require the Shire and Board's consideration. They are as follows:

Item No.	Supplementary Recommendations:
1.	Share the outcomes of this Review on a strictly confidential basis with the Board of Tuia Lodge seeking their input and feedback. <u>With the Shire's approval.</u> Note: Completed
2.	Under the Aged Care Award 2010, Part 2, Consultation and Dispute Resolution, staff must be consulted with regarding major workplace changes. Therefore, post direction from the Shire and feedback from the Tuia Lodge Board, industrial relations advice must be sought and as deemed necessary, a consultation process be designed, implemented and managed. <u>At least two months prior to the consultation process commencing.</u>
3.	Register the business name Tuia Lodge Inc. with the Australian Securities and Investment Commission (ASIC) and make any other consequential changes as required. <u>As soon as practicable.</u> Note: already in place.

Item No.	Supplementary Recommendations:
4.	A project team be established to lead the development, planning, implementation and monitoring of the ' <i>Governance Transition Plan</i> ' and include a Tuia Board representative, Shire representative and an independent project manager. <u>Within one month of Shire's decision.</u>
5.	The project team be provided with clear delegations of authority and a budget to enable the ' <i>Governance Transition Plan</i> ' to be executed, providing for such matters as engaging legal, financial, industrial relations specialists. <u>Within one month of the Shire's decision.</u>
6.	Establish a separate cost centre to track all expenditure incurred related to the transition of the new governance and organisational structures. <u>Within one month of the Shire's decision.</u>
7.	The project team be responsible for developing the ' <i>Governance Transition Plan</i> ' and a ' <i>Communications Plan</i> ' to manage and nurture stakeholder relationships including the Tuia Board and existing staff. <u>Within three months of the project team being established.</u>
8.	Submit an application to the Commonwealth Department of Social Services seeking approval to transfer the ownership and effective control of Tuia Lodge land and buildings from the Shire to Tuia Lodge Inc. subject to the Shire not having to repay all or part of the \$2,600,000 and \$950,000 capital grants.
9.	CONDITION A: Apply to the WA Department of Lands to transfer the Crown Land Title over Lot 502 on Deposited Plan 72099 (i.e. the land upon which Tuia Lodge was built) to Tuia Lodge Inc. as the Primary Interest Holder. <u>Within three months of all recommendations contained in this Report being fulfilled excluding Conditions 'B' and 'C' below.</u>
10.	CONDITION B: Submit an application to the Department of Social Services to gain approval as a provider of aged care under the Aged Care Act, 1997. <u>Once all recommendations contained in this Report have been fulfilled excluding Condition 'C' below.</u>
11.	CONDITION C: Host a special event to mark the handover from the Shire to Tuia Lodge Inc. inviting key stakeholders, residents, families, staff, the Board and Shire, volunteers and the wider Donnybrook-Balingup community. <u>At a mutually convenient time determined by the Shire and Tuia Lodge Inc.</u>

Based on the above, the following recommendation was proposed:

Recommendation 2

Approve and implement the eleven '*Supplementary Recommendations*' within the specified timeframes.

The consultant's review identified a number of weaknesses related to the current governance arrangements. Below, on the right-hand side of the *'Matrix of Governance Improvements'*, a list of recommendations have been identified. These recommendations are designed to improve governance stewardship as Tuia Lodge prepares to become the controlling entity with absolute responsibility for upholding its *'Rules and Statement of Purposes'* as required under the *Associations Act 1987*. The matrix is provided below:

MATRIX OF GOVERNANCE IMPROVEMENTS:

Item	FINDINGS (Taken from compare and contrast matrix)	RECOMMENDATIONS
1.	<ul style="list-style-type: none"> ▪ Outside the 16 December 2009 Council Ordinary Minute and Duties and Responsibilities of Board Members, no other document or governance manual exists that sets out the Board's governing policies, principles and practices. 	<ul style="list-style-type: none"> ▪ Design, develop and implement a governance framework and system with supporting policies and procedures to address matters required under the Tuia Lodge Inc. <i>'Rules and Statements of Purposes'</i> including but not limited to a Board Charter, separation of powers between Board and Management set out in clear delegations of authority. <u>Within eight months of the Shire's decision.</u>
2.	<ul style="list-style-type: none"> ▪ No Board Member with financial or accounting qualifications. However, 5 Board Members run their own business; ▪ Lack of <i>current</i> aged care industry professionals/subject experts; ▪ Upon appointment Board Members receive the Volunteers Induction Package and an overview of the Tuia Lodge Frail Aged Care Facility; and ▪ Average age of Board Members around 70 years. 	<ul style="list-style-type: none"> ▪ Move towards a skills-based board seeking to appoint diverse members with the necessary financial, aged care industry, medical or nursing qualifications and experience ensuring gender and age diversity, and set out in a policy as part of the new governance system described at Item No. 1 above. <u>To be achieved by means of natural attrition;</u> and ▪ Appointment and induction processes to be included as part of Item No. 1 above.
3.	<ul style="list-style-type: none"> ▪ Strategic direction covered under <i>Outcome 3.1 in the Shire of Donnybrook-Balingup Strategic Community Plan; and</i> ▪ No dedicated website or shared platform on the Shire's website to promote Tuia Lodge's existence and purpose. 	<ul style="list-style-type: none"> ▪ The Board undertake an independent strategic planning process and review progress at least six monthly intervals. <u>Once transition 100% finalised;</u> and ▪ Design and establish a dedicated website and social media forums for Tuia Lodge Inc. <u>Go 'live' within twelve months of the Shire's decision.</u>

Item	FINDINGS (Taken from compare and contrast matrix)	RECOMMENDATIONS
4.	<ul style="list-style-type: none"> ▪ Risk management covered under the <i>Shire of Donnybrook-Balingup Organisational Risk Management Action Plan for 2015-16</i>); and ▪ Regular reporting to Board on issues such as: OSH, medication errors, infection control, incident reporting etc. but no analysis, trending, risk assessment or mitigation, or recommendations for improvement. 	<ul style="list-style-type: none"> ▪ Tuia Lodge Inc. to develop a risk management plan under its own auspices. <u>At least three months prior to the absolute handover occurring;</u> ▪ Develop and implement a management reporting regime including KPIs, metric and data analysis, trending, risk mitigation, and recommendations for Board decision or action. <u>Within four months of the Shire’s decision.</u>
5.	<ul style="list-style-type: none"> ▪ Low level operational information flowing to Board inappropriately such as: meal temperatures; fridge cleaning; and repairs and maintenance; ▪ Significant amount of information routinely presented to Board for noting but very few instances of Board discussion reported, decisions or actions being taken; and No metrics or KPIs being monitored. 	<ul style="list-style-type: none"> ▪ New reporting regimes to the Board as mentioned in Item No. 4 above.
6.	<ul style="list-style-type: none"> ▪ Four (4) sub-committees in place; ▪ Format and content of Board Minutes informal and often with many inaccuracies; ▪ No process in place to measure Board performance; and ▪ No succession plan in place. 	<ul style="list-style-type: none"> ▪ Ensure the following policies are incorporated in the new governance system mentioned in Item No. 1 above: <ul style="list-style-type: none"> (i) Board agenda and minute taking; (ii) Measuring board performance; and Succession planning.
7.	<ul style="list-style-type: none"> ▪ No matrix of critical areas to be monitored, metrics or KPIs to assess the performance against agreed goals targets (both financial and non- financial); ▪ Lack of analysed and trended financial information and non-financial information presented to Board with recommendations; ▪ Minutes do not include any commentary regarding financial performance or sustainability; and ▪ Correspondence tabled for “info” but rarely any minuted Board discussions, decisions or actions. 	<ul style="list-style-type: none"> ▪ Incorporated as part of the new governance system and reporting regimes as mentioned in Items No. 1 and No. 4 above; and ▪ The Shire undertake financial modelling to determine financial viability of a 40- bed regional aged care facility over the short to medium term. <u>Within three (iii) months of the Shire’s decision.</u> NOTE: Ideally, outsource to an industry finance specialist to ensure independence.

Item	FINDINGS (Taken from compare and contrast matrix)	RECOMMENDATIONS
8.	<ul style="list-style-type: none"> ▪ Financial, intellectual and human resource needs rely too heavily on outsourcing and the goodwill of the Board and Shire; ▪ Appears to be a lack of clear delegations, accountabilities and performance measures in place to allow for appropriate separation between the operations and the Board and Shire. 	<ul style="list-style-type: none"> ▪ Incorporated as part of the new governance system mentioned in Item No. 1 above.
9.	<ul style="list-style-type: none"> ▪ Lack of team cooperation/conflict; ▪ Seeming divide and mistrust between the Board and Shire; ▪ All training since February 2013 was compliance related – none in relation to team building or culture; and ▪ Code of conduct in place covered under <i>Policy 1.6.9 – Staff Code of Conduct but requires review</i>) 	<ul style="list-style-type: none"> ▪ Ensure education and training Incorporate not only training for compliance purposes but also for building teamwork and organisational culture. <u>Build into annual training schedules</u>; and (iv) Revise existing Policy 1.6.9 Staff Code of Conduct and include as part of the new governance system.

Therefore, in order to protect the best interests of Tuia Lodge as an incorporated association going forward, it is considered prudent to address these matters as part of the '*Governance Transition Plan*'. As such the following recommendation has been proposed by the consultant:

Recommendation 3

The Governance Transition Plan include amongst other matters the improvements identified and contained in the '*Matrix of Governance Improvements*'.

Organisational Structure

The consultant has determined that the most suitable structure for Tuia Lodge is '*functional/cross-functional*'. Put simply, the functional structure is organised around activities or functions such as: clinical care, management, lifestyle, housekeeping etc. The advantage of this structure is that it allows for the gathering of staff of one type, and allows them to transfer ideas and knowledge across other functions. The functional structure also allows for greater scale, specialisation, and standardisation that is exceptionally important when trying to meet common standards, such as Accreditation.

The recommended organisation structure clearly separates the Board and Management so that the Board can *govern*, and Management can *manage*. To do so effectively, this will require the implementation of an appropriate governance system, Board education and training, and an array of organisational systems, metrics and reporting mechanisms to be embedded into the operations.

Whilst the organisational structure is based on cross-functional teams working towards a common vision, shared goals and values, it does rely upon the two most senior positions in the structure to be appropriately qualified and highly skilled individuals ie the Manager and Clinical Care Coordinator. Individually and collectively, they will be required to demonstrate a participatory style of leadership that embraces autonomy and accountability throughout the entire residential aged care facility.

The change in organisational structure can be achieved by way of natural attrition, redundancies or by spilling positions and inviting existing staff to apply for the new roles. However, under the *Aged Care Award 2010*, Part 2, Consultation and Dispute Resolution, staff must be consulted with regarding major workplace changes. Therefore, this matter should be taken under advice with industrial relations or legal advice.

The change in organisational structure is not linked to the incorporation or the transfer of absolute control to Tuia Lodge. The proposed changes are to ensure a match between the resident profile mix and the staff mix, as well as, an adequate growth in rostered hours and availability of appropriately qualified staff 24 hours a day.

A detailed plan to manage the implementation of the new organisational structure is necessary, as well as consideration of other important factors such as recruitment, training and education, police clearances, orientation, team building, advice to insurers, redundancies, budgets, cash flow etc. These matters should be included into the '*Governance Transition Plan*' lead by the Project Team and aligned with the admission of the 14 new residents.

Recommendation 4

Approve the 'Proposed Organisational Structure' and align implementation to the admission of the 14 new residents.

Recommendation 5

Delegate authority to the Project Team to oversee the implementation of the '*Proposed Organisational Structure*' seeking appropriate specialist advice and incorporate all such implementation strategies in the '*Governance Transition Plan*'.

The recommendations from the Tuia Lodge Review Report will see a solid governance and operational foundation established to ensure alignment with the Commonwealth Governments Aged Care Reforms and cater for the facilities growth. In considering Council's position in relation to the future management of Tuia Lodge, options for consideration could include:

1. Appoint a temporary/permanent manager with the appropriate managerial and clinical aged care background to manage Tuia Lodge operations, reporting to the CEO. The Manager would be responsible for the gradual intake of new residents, residential aged care accreditation, ACFI and other reporting requirements;
2. Assess the operational and governance structure of Tuia Lodge in alliance with the Inspire Report;

3. Proceed with the implementation of the recommendations from the Inspire Report with the view of having the facility ready for handover to the incorporated body by 30 June 2016;
4. Reinstate the existing committee with a defined delegation which excludes involvement in all staff arrangements and the direct care of the residents of Tuia lodge. The role of the committee would include:
 - Administering all governance functions of Tuia Lodge committee;
 - Overseeing the rental processes for Langley Villas and Minninup Cottages;
 - Preparing annual budgets for consideration and adoption by Council for Tuia Lodge and the Well Aged Units
 - Assessing future needs of the Shire's aged community and providing input to Council.
 - Assisting with transition arrangements with the view of having the facility ready for handover to the incorporated body by 30 June 2016;
5. Appoint an interim committee with defined delegation. Nominations to be community-based. The committee will have the same responsibilities as those listed above;
6. Dissolve the current committee, review the composition and structure of the committee and appoint new committee members using skills-based criteria;
7. Lease the operation to an independent aged care provider.

It should be noted that Council has undergone the following investigations and processes:

1. Slee Anderson and Pidgeon conducted an investigation into concerns expressed by Shire employees. Recommendations arising from this investigation have been implemented.
2. An independent review of the management of Tuia lodge has been undertaken with most recommendations accepted by Council and the Tuia Lodge Board.
3. A transition committee was in the process of being established with membership from Tuia Lodge Board and Council staff.
4. Accreditation conducted an unannounced audit at Tuia Lodge on 18 August 2015. The formal report indicated that all areas audited complied with industry-standard requirements. Accreditation recently conducted an unannounced audit at Tuia Lodge on 25 November 2015. The formal report has not yet been received.
5. Workwise Advisory Services have been appointed to manage the Human Resources at Tuia Lodge and undertake extensive training.
6. Local Government Insurance Services (LGIS) have provided initial training for staff at Tuia Lodge and all Council staff.

7. LGIS have conducted a risk audit at Tuia Lodge which achieved a rating of 86% and are in the process of organising an evacuation drill.

Consultation

The CEO and Manager of Finance and Administration met with Ms Antonia Stampalija, Inspire Consulting Group on the 17th July 2015 for initial discussions on the governance and operational arrangements for Tuia Lodge and to receive the documentation required to undertake the Review.

The consultant interviewed the members of the Tuia Aged Care Board either via phone or in person.

The consultant also interviewed key personnel from Tuia Lodge

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Absolute Majority.

Financial Implications

Financial implications of this matter will depend on the option taken.

Strategic Implications

Outcome 3.1 - Improve and increase the range of aged care and disability services, facilities and housing.

Council's Decision

(Officer's Recommended Resolution)

Moved: Cr Dilley

Seconded: Cr Bailey

That the CEO, as a matter of priority, appoint a temporary/permanent Manager for the Tuia Lodge facility.

**Carried 8/0
Absolute Majority Required**

Cr Logiudice proposed that the second motion lay on the table until a consultation with Alan Reed is held to further discuss his proposal and that this be dealt with at the December meeting of Ordinary Council.

Motion

Moved: Cr Dilley

Seconded: Cr Bailey

That the following resolutions be deferred until the Ordinary Council Meeting on 16 December 2015.

Carried 8/0

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council reinstate the existing Tuia Lodge committee with members agreeing to undertake the one-day Institute of Australia Company Director's Course, and endorse the following operating guidelines:

- **Administer all governance functions of Tuia Lodge Committee;**
- **Oversee the rental processes for Langley Villas and Minninup Cottages;**
- **Prepare annual budgets for consideration and adoption by Council for Tuia Lodge and the well aged units;**
- **Assess future needs of the Shire's aged community and providing input to Council;**
- **Assist with transition arrangements with the view of having the facility ready for handover to the incorporated body by 30 June 2016;**
- **Be strictly prohibited from direct involvement in any staff-related matter;**
- **Be strictly prohibited from involvement in any activity that relates to the direct care of residents of Tuia Lodge where direct care refers to activities ordinarily carried out by a qualified staff member;**
- **Be strictly prohibited from direct involvement with the management of Tuia Lodge operations.**

Absolute Majority Required

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council

- 1. Reaffirms its position to the Board (committee) of Tuia Lodge that it continues to support their proposal to move towards the independent management of Tuia Lodge**
- 2. Defers the proposal for the independent management by Tuia Lodge Inc. until:**
 - a) The building contract with the Federal Government is finalised;**
 - b) Outstanding management and staffing issues are satisfactorily addressed;**
 - c) Transitional arrangements are fully assessed and agreed upon.**
 - d) Does not support the transfer of the land and buildings as the Tuia Lodge facility should continue to be owned by Council on behalf of all ratepayers.**
 - e) Design, develop and implement a 'Governance Transition Plan' that enables the transfer of all affairs related to the management of Tuia Lodge to Tuia Lodge Inc. within a period of two years;**
 - f) That recommendations 2, 3, 4 and 5 from the Tuia Lodge Inc. Review Report are supported;**
 - g) Will consider the transfer of management of Tuia Lodge to Tuia Lodge Inc. (implementation of Governance Transition Plan) once the resolution made at the June 2015 OCM has been dealt with and recommendations 2, 3, 4 and 5 from the Tuia Lodge Inc. Review Report have been implemented.**

Absolute Majority Required

6 CLOSURE OF MEETING

The Shire President advised that the next Ordinary Council Meeting will be held on Wednesday 16 December 2015, commencing at 5.00pm, at the Shire of Donnybrook-Balingup Council Chambers.

The Shire President declared the meeting closed at 8.20pm.