

Council Meeting Minutes

2 August 2021

Our Vision

*A City which values its heritage, cultural diversity,
sense of place and natural environment.*

*A progressive City which is prosperous, sustainable
and socially cohesive, with a strong community spirit.*

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

Telephone 8366 4555
Facsimile 8332 6338
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au



City of
Norwood
Payneham
& St Peters

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VENUE Council Chambers, Norwood Town Hall

HOUR 7.00pm

PRESENT

Council Members Mayor Robert Bria
Cr Kester Moorhouse
Cr Evonne Moore
Cr Garry Knoblauch
Cr John Minney
Cr Carlo Dottore
Cr Kevin Duke
Cr Connie Granozio
Cr Mike Stock
Cr Scott Sims
Cr Fay Patterson
Cr Sue Whittington
Cr John Callisto
Cr Christel Mex

Staff Mario Barone (Chief Executive Officer)
Peter Perilli (General Manager, Urban Services)
Lisa Mara (General Manager, Governance & Community Affairs)
Sharon Perkins (General Manager, Corporate Services)
Isabella Dunning (Manager, Governance, Legal & Property)
Eleanor Walters (Manager, Urban Planning & Sustainability)
Emily McLuskey (Senior Urban Planner)
Scott Dearman (Project Manager, Assets)
Tina Zullo (Administration Officer, Governance & Community Affairs)

APOLOGIES Nil

ABSENT Nil

1. KAURNA ACKNOWLEDGEMENT

2. OPENING PRAYER

The Opening Prayer was read by Cr Garry Knoblauch.

3. CONFIRMATION OF THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 12 JULY 2021

Cr Dottore moved that the minutes of the Special Council meeting held on 12 July 2021 be taken as read and confirmed. Seconded by Cr Sims and carried unanimously.

4. MAYOR'S COMMUNICATION

Monday, 5 July	<ul style="list-style-type: none">• Attended meeting with the Manager, Organisational Development, Mayor's Office, Norwood Town Hall.
Monday, 5 July	<ul style="list-style-type: none">• Presided over a Council meeting, Council Chamber, Norwood Town Hall.
Wednesday, 7 July	<ul style="list-style-type: none">• Attended a meeting with the General Manager, Governance & Community Affairs and Ms Natasha Jones (Kelledy Jones Lawyers), Adelaide.

Friday, 9 July	<ul style="list-style-type: none">• Radio interview with Ali Carle and Spence Denny, ABC 891.
Friday, 9 July	<ul style="list-style-type: none">• Radio interview with Mark Bickley and Amelia Mulcahy, Fiveaa.
Monday, 12 July	<ul style="list-style-type: none">• Presided over a Citizenship Ceremony, Norwood Concert Hall.
Monday, 12 July	<ul style="list-style-type: none">• Presided over a Special Council meeting, Council Chamber, Norwood Town Hall.
Monday, 12 July	<ul style="list-style-type: none">• Attended Briefing Session: <i>CityPlan</i> 2030 Targets, Mayor's Parlour, Norwood Town Hall.
Wednesday, 14 July	<ul style="list-style-type: none">• Attended a meeting with Cr Kevin Duke; Chief Executive Officer; General Manager, Governance & Community Affairs; Manager, Economic Development & Strategic Projects; Manager, Governance, Property & Legal and Ms Natasha Jones (KelledyJones Lawyers), Meeting Room 2, Norwood Town Hall.
Saturday, 17 July	<ul style="list-style-type: none">• Attended the pre-match function followed by the Norwood versus Woodville/West Torrens football match, Norwood Oval.

Mayor Bria sought leave of the meeting to make a Personal Explanation in relation to the recent incorrect removal of a street tree.

The meeting granted leave for Mayor Bria to make a Personal Explanation.

Mayor Robert Bria's Personal Explanation

On Wednesday, 7 July 2021 an 8-metre high healthy street tree in front of my property was mistakenly removed by a Council contractor.

The removal of the tree has not only been a very distressing and embarrassing experience for me personally, but it has also resulted in a loss of amenity and highly-valued shade for this section of Annesley Avenue, Trinity Gardens.

Notwithstanding this unfortunate outcome, upon reflection, I acknowledge that I could have and *should* have, reacted to and handled, this incident differently.

To Council Staff, I am sorry if my reaction to this incident in our conversations on 7 July was in any way unprofessional.

I appreciate how quickly staff responded to find out how this error occurred.

I am also sorry if any Elected Member, staff member or member of the Norwood Payneham & St Peters community believes the subsequent media coverage related to this incident was harmful to the Council's reputation or standing in the local government sector.

I acknowledge the circumstances which led to the removal of the tree was an honest mistake and I have every confidence that the administrative process associated with the preparation of documentation for the removal of dead street trees will be improved.

Cr Sims moved:

That Mayor Bria's Personal Explanation be recorded in the minutes in its entirety.

Seconded by Cr Whittington and carried unanimously.

5. DELEGATES COMMUNICATION

- Cr Stock advised that on Thursday 22 July 2021, he attended via electronic communication, a meeting of the East Waste Board of Management.
- Cr Minney advised that on Friday 30 July 2021, he attended an informal meeting with Members of ERA Water Board where Mr Jeff Tate was introduced as the new Independent Chairperson of the Board.

Cr Minney also advised that on Thursday 29 July 2021, he attended a meeting with the Chief Executive Officer and Mr James Stevens MP, Federal Member for Sturt.

6. QUESTIONS WITHOUT NOTICE

Nil

7. QUESTIONS WITH NOTICE

7.1 QUESTIONS WITH NOTICE - CONFIDENTIAL ITEM – COUNCIL RELATED MATTER

Refer to Confidential Item 14.2 of these Minutes.

8. **DEPUTATIONS**
Nil

9. **PETITIONS**
Nil

10. **WRITTEN NOTICES OF MOTION**
Nil

11. **STAFF REPORTS**

Section 1 – Strategy & Policy

Reports

[No Items listed under this Section]

Section 2 – Corporate & Finance
Reports

11.1 MONTHLY FINANCIAL REPORT – JUNE 2021

REPORT AUTHOR: Financial Services Manager
GENERAL MANAGER: General Manager, Corporate Services
CONTACT NUMBER: 8366 4585
FILE REFERENCE: qA64633/A189895
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to provide the Council with information regarding its financial performance for the year ended June 2021.

BACKGROUND

Section 59 of the *Local Government Act 1999* (the Act), requires the Council to keep its resource allocation, expenditure and activities and the efficiency and effectiveness of its service delivery, under review. To assist the Council in complying with these legislative requirements and the principles of good corporate financial governance, the Council is provided with monthly financial reports detailing its financial performance compared to its Budget.

RELEVANT STRATEGIC DIRECTIONS AND POLICIES

Nil

FINANCIAL AND BUDGET IMPLICATIONS

Financial sustainability is as an ongoing high priority for the Council. Given the COVID-19 pandemic, the Council adopted a Budget which included measures to minimise the impact on ratepayers and support local business. As a result, the Council adopted a Budget which forecasts an Operating Deficit of \$798,455 for the 2020-2021 Financial Year. The Third Budget update reports an Operating Deficit of \$168,575 for the 2020-2021 Financial Year an improvement of \$629,880.

For the year ended June 2021, the Council's Operating Surplus is \$1,533,000 against a budgeted Operating Surplus of \$150,000, excluding Joint Ventures resulting in a favourable variance of \$1,383,000.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

Not Applicable.

COVID-19 IMPLICATIONS

As Elected Members are aware, the development of the 2020-2021 Budget, was undertaken during an unprecedented time where the on-going health, social and economic impacts of the COVID-19 Pandemic were relatively unknown and the future impacts of the physical distancing measures introduced to address the health impacts remained uncertain and were changing rapidly.

For the period ended June 2021, in addition to the financial support package which was endorsed as part of the Adopted budget, the Council has spent in the order of \$200,000 on its response to the COVID-19 pandemic. This includes additional cleaning services across all Council facilities and the purchase of materials to ensure that appropriate physical distancing and other protective measures are in place to assure both staff and users of Council Services.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
Responsible Officers and General Managers.
- **Other Agencies**
Not Applicable.

DISCUSSION

For the year ended June 2021, the Council's Operating Surplus is \$1,733,000 against a budgeted Operating Surplus of \$150,000 excluding Joint Ventures resulting in a favourable variance of \$1,582,000.

Statutory Charges are \$188,000 (12%) favourable to Budget as at the end of June 2021. The variance is being driven by development and property sales, in particular development fees (\$100,000) which are highly variable given the size and nature of the proposed development, Hoarding Permits (\$41,000) and Rates & Property Searches (\$16,000).

Employee Expenses are \$156,000 (1%) favourable to Budget as at the end of June 2021. The variance represents a timing difference of Annual Leave which has been taken as compared to budget expectations. Annual Leave when taken is costed to against the Annual Leave provision on the Balance Sheet.

Whilst Contracted Services (\$651,000, 6%) Materials (\$185,000, 31%), Consumables (\$144,000, 16%) and Sundry Expenses (\$385,000, 9%) are all favourable to Budget. The primary drivers of these variances are:

- The delivery of the Council's Public Art program being impacted by COVID-19 and therefore not being able to be delivered as anticipated (\$40,000).
- Parking infringements withdrawn from enforcement were lower than anticipated (\$30,000) over the year with the number of infringement issued being slightly higher than anticipated.
- The cost of delivering the Council's Line Marking Program were reduced this year with continued refinement of the works being undertaken and integration of ad-hoc work requests into the Program (\$85,000). In part, this was offset by an increase in the replacement of street signs (\$16,000) to complement the line marking works.
- The Council's electronic documents management systems was upgraded during the year. The Budget anticipated this to be performed by the software provider however, staff successfully delivered this upgrade, thereby avoiding planned upgrade cost of \$60,000. In addition, the Council did not require to purchase additional consulting hours to resolve operational issues that arose.

- The engagement of consultant arborists to provide advice on tree management issues were lower than budgeted resulting in a favourable variance of \$49,000.
- SA Power Network maintenance tariff on public lighting was lower than anticipated due to a price reduction that was anticipated during the 2020-2021 budget process.
- Due to the constraints of COVID-19, the Council's Cultural Heritage contractor hours were reduced resulting in a favourable variance (\$40,000).
- Costs associated with the Councils vehicle fleet were lower than anticipated due to lower leases charges (\$15,000), fuel costs (\$15,000) and Fringe Benefits Tax being paid (\$21,000).
- HACC services for Home Maintenance & Long Term Cleaning were delivered at a lower cost than anticipated in the Budget (\$59,000).

A number of the Councils Operating Projects have a favourable variance which were not anticipated to be carried forward as part of the 2021-2022 Budget, these projects include:

• Councils transition to the SA Planning Portal	\$50,000
• Data capture and input of Councils art collection into eHive software	\$50,000
• Footpath defect rectification works	\$60,000
• Emission reduction plan development	\$25,000

As part of the 2021-2022 Budget, the Council anticipated to carry forward operating projects to the value of \$203,000.

The residual variances are the result of a number of minor variances which are not individually significant.

The Monthly Financial report is contained in **Attachment A**.

OPTIONS

Nil

CONCLUSION

Nil

COMMENTS

Nil

RECOMMENDATION

That the June 2021 Monthly Financial Report be received and noted.

Cr Stock moved:

That the June 2021 Monthly Financial Report be received and noted.

Seconded by Cr Whittington and carried unanimously.

**Section 3 – Governance & General
Reports**

11.2 LOCAL GOVERNMENT ASSOCIATION (LGA) 2021 ANNUAL GENERAL MEETING – APPOINTMENT OF COUNCIL DELEGATE

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2219
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the Local Government Association of South Australia's (LGA) 2021 Annual General Meeting and the requirement, in accordance with the LGA Constitution, to appoint a Council Delegate to represent the Council and vote at the Annual General Meeting.

BACKGROUND

The Local Government Association of South Australia's (LGA) 2021 Annual General Meeting, will be held on Friday, 29 October 2021, at the Adelaide Entertainment Centre. The agenda will be issued to all Councils in the near future.

Pursuant to the LGA Constitution, councils are required to appoint a Council Delegate to represent the Council and vote at the LGA Annual General Meeting, if the Council wishes to be represented and have voting rights at the 2021 Annual General Meeting. The Council may also appoint a Deputy Council Delegate in the event the Delegate is unable to attend the Annual General Meeting.

A Council Officer cannot be appointed as a Delegate.

Traditionally, the Mayor has been appointed as the Delegate for the LGA Annual General Meeting.

It is considered appropriate that the Council also appoints a Deputy Council Delegate in the event that the appointed Delegate is unable to attend the Annual General Meeting.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

RECOMMENDATION

1. That Mayor Robert Bria be appointed as the Council Delegate for the Local Government Association 2021 Annual General Meeting.
 2. That Councillor _____ be appointed as the Deputy Council Delegate for the Local Government Association 2021 Annual General Meeting.
-

Cr Whittington moved:

That Mayor Robert Bria be appointed as the Council Delegate for the Local Government Association 2021 Annual General Meeting.

Seconded by Cr Minney and carried unanimously.

Cr Minney moved:

That Councillor Evonne Moore be appointed as the Deputy Council Delegate for the Local Government Association 2021 Annual General Meeting.

Seconded by Cr Moorhouse and carried unanimously.

11.3 LOCAL GOVERNMENT ASSOCIATION (LGA) 2021 ANNUAL GENERAL MEETING – ITEMS OF BUSINESS

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2219
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the Local Government Association of South Australia's (LGA) 2021 Annual General Meeting and the invitation from the LGA to submit *Items of Business* for consideration at the Ordinary General Meeting.

BACKGROUND

The Local Government Association (LGA) 2021 Annual General Meeting, will be held on Friday, 29 October 2021, at the Adelaide Entertainment Centre.

The purpose of the AGM is to consider items of strategic importance to Local Government and the LGA, as recommended by the Board of Directors, the South Australian Region Organisation of Councils (SAROC) or the Greater Adelaide Region of Councils (GAROC).

Items of Business must be submitted to either the LGA Board of Directors, or in the case of this Council, GAROC, for consideration prior to being referred to the AGM for consideration. It is however at the discretion of the Council to determine if the Notice of Motion is to be submitted to either the Board of Directors or GAROC.

The role of the Board of Directors is to oversee the corporate governance of the LGA and provide strategic direction and leadership.

The role of GAROC is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the region(s).

Whilst not strictly specified, the logical approach is to refer the *Item of Business* to the relevant body in accordance with its role.

Pursuant to the LGA Constitution, Councils are invited to submit Items of Business for consideration at the Annual General Meeting. Items of Business must be received by the by Friday 6 August 2021, if they are to be considered at the 2021 Annual General Meeting.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

DISCUSSION

A requirement of the LGA in respect to Items of Business, is that Items of Business submitted by Councils, should highlight a relevant reference to the LGA Strategic Plan.

A copy of the LGA 2021-2025 Strategic Plan is contained within **Attachment A**.

A memorandum, dated 8 July 2021, was forwarded to Elected Members, inviting Members wishing to submit an Item of Business for consideration at the LGA Ordinary General Meeting, to contact the Council's General Manager, Governance & Community Affairs, prior to this Council meeting, for advice and assistance in the formulation of an appropriate Notice of Motion.

At the time of writing this report, the General Manager, Governance & Community Affairs has not been contacted by any Elected Member wishing to submit An Item of Business.

RECOMMENDATION

That the report be received and noted.

Cr Moorhouse moved:

That the report be received and noted.

Seconded by Cr Dottore and carried unanimously.

11.4 LOCAL GOVERNMENT FINANCE AUTHORITY OF SOUTH AUSTRALIA (LGFA) ANNUAL GENERAL MEETING

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2181
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of the report is to advise the Council that the Local Government Finance Authority of South Australia (LGFA), is holding its Annual General Meeting (AGM) on Friday, 29 October 2021.

BACKGROUND

The Annual General Meeting of the Local Government Finance Authority of South Australia, will be held on Friday, 29 October 2021, at the Adelaide Town Hall. This meeting will again coincide with the Local Government Association of South Australia Annual General Meeting. The commencement time of the LGFA AGM is yet to be advised.

The LGFA requires that a number of procedural matters must be attended to in order to ensure compliance with the LGFA Rules.

DISCUSSION

Appointment of Council Representative

Section 15 (1) of the *Local Government Finance Authority of South Australia Act 1983* (the Act), provides that:-

“Every Council is entitled to appoint a person to represent it at a general meeting of the Authority.”

Traditionally, the Mayor has been appointed as the Council Representative.

The LGFA will be notified of the City of Norwood Payneham & St Peters representative, via the appropriate documentation (**Attachment A**), by 20 August 2021, in accordance with the prescribed timeframes.

Notices of Motion

The Rules of the LGFA in relation to the Annual General Meeting procedures, require that a Notice of Motion specifying the resolution which is to be proposed must be given to the Chief Executive Officer not less than forty two days prior to the meeting. To comply with this rule, it is necessary for any Notices of Motion to be submitted to the LGFA no later than Friday, 20 August 2021.

Notices of Motion must be lodged stating the following:

- the Notice of Motion;
- the reason for the Notice of Motion; and
- the suggested action.

Any Notices of Motion submitted by the Council, will be forwarded to the LGFA via the appropriate documentation (**Attachment B**).

OPTIONS

The Council is entitled to appoint a person to represent it at the LGFA AGM.

It is at the discretion of the Council as to whether or not it forwards a Notice of Motion/s to be considered at the Annual General Meeting.

CONCLUSION

All relevant information must be forwarded to the Local Government Finance Authority for inclusion with the Agenda for the LGFA AGM, by Friday, 20 August 2021.

COMMENTS

Nil.

RECOMMENDATION

Appointment of Council Representative

1. The Council appoints Mayor Bria as the City of Norwood Payneham & St Peters Representative at the Local Government Finance Authority Annual General Meeting to be held in October 2021.
2. The Council appoints _____ as the City of Norwood Payneham & St Peters Proxy Representative at the Local Government Finance Authority Annual General Meeting to be held in October 2021.

Notices of Motion

1. The Council notes the report and declines the invitation to submit a Notice of Motion to the Local Government Finance Authority Annual General Meeting.

OR

2. The Council forwards a Notice of Motion to the Local Government Finance Authority Annual General Meeting in relation to the following item:
-

Cr Sims moved:

Appointment of Council Representative

The Council appoints Mayor Bria as the City of Norwood Payneham & St Peters Representative at the Local Government Finance Authority Annual General Meeting to be held in October 2021.

Seconded by Cr Knoblauch and carried unanimously.

Cr Patterson moved:

Notices of Motion

The Council notes the report and declines the invitation to submit a Notice of Motion to the Local Government Finance Authority Annual General Meeting.

Seconded by Cr Moore and carried unanimously.

11.5 PLANNING AND DESIGN CODE – CODE AMENDMENTS

REPORT AUTHOR: Senior Urban Planner
GENERAL MANAGER: Urban Planning & Environment
CONTACT NUMBER: 8366 4561
FILE REFERENCE: qA58634
ATTACHMENTS: A - F

PURPOSE OF REPORT

The purpose of this report is to provide the Council with information regarding amendments to the *Planning and Design Code* and present the draft *Responding to Code Amendments and Code Amendment Requests Policy* to the Council for consideration and adoption.

BACKGROUND

The *Planning and Design Code* is a key element of the new planning system, which replaced all Council Development Plans with this single State-wide planning policy document on 19 March 2021.

The *Planning Development and Infrastructure Act*, together with the Regulations and a Practice Direction, outline the process for amending the Code. While some aspects of the Code Amendment process are similar to the former Development Plan Amendment process there are also substantial differences, notably the limitations on 'Council led' Code Amendments and the flexibility for private proponents to undertake their own Code Amendment to change how the Code affects their land. The new Code Amendment process requires the Council to consider how it will respond to requests for comment on third party Code Amendments and whether it will consider undertaking privately funded Council Code Amendments, as well as its strategic priorities for future zone and policy changes.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

An inclusive, connected, accessible and friendly community

Objective:

- 1.1 *Convenient and accessible services, information and facilities.*
- 1.2 *A people-friendly, integrated and sustainable transport network*
- 1.3 *An engaged and participating community*
- 1.5 *A strong, healthy, resilient and inclusive community*

Outcome 2: Cultural Vitality

A culturally rich and diverse city, with a strong identity, history and sense of place

Objective:

- 2.3 *A City which values and promotes its rich cultural and built heritage*
- 2.4 *Pleasant, well designed, and sustainable urban environments*

Outcome 3: Economic Prosperity

A dynamic and thriving centre for business and services

Objective:

- 3.1 *A diverse range of businesses and services.*
- 3.2 *Cosmopolitan business precincts contributing to the prosperity of the City.*
- 3.5 *A local economy supporting and supported by its community.*

Outcome 4: Environmental Sustainability

A leader in environmental sustainability

Objective:

4.1 *Sustainable and efficient management of resources.*

4.2 *Sustainable streets and open spaces*

4.4 *Mitigating and adapting to the impacts of a changing climate*

FINANCIAL AND BUDGET IMPLICATIONS

The financial implications of a Code Amendment will vary depending on the Council's involvement in the process. Responding to Code Amendments which are prepared by other councils are likely to have low to no financial impact. However, should the Council undertake a Code Amendment, there will be costs involved.

EXTERNAL ECONOMIC IMPLICATIONS

One of the key objectives of the State Government's reform agenda is to drive investment and economic development in the State through removing barriers, 'perceived barriers' and 'inefficiencies' in the planning system. The Commission anticipates that the Code Amendment process will facilitate policy and zoning changes more efficiently than the former Development Plan Amendment process, which combined with enabling private proponent Code Amendments, is reflective of the intent of driving investment and economic development. This has yet to be substantiated both in terms of any efficiencies that may be achieved and more importantly the consequent impacts of what can essentially be described as a 'spot rezoning' process.

SOCIAL ISSUES

Unlike the former Development Plan Amendment process, the new Code Amendment process does not have prescriptive requirements for community consultation (with a few exceptions for listing new heritage places, identifying new historic areas, and infrastructure schemes). While the Council would make community consultation a priority in any Council-led Code Amendments, the Council cannot control the extent of engagement undertaken as part of third party Code Amendments. The State Planning Commission typically only reviews the engagement undertaken at the end of all Code Amendment processes and while it can require that additional consultation be undertaken if the engagement is deemed inadequate, there is still a lack of certainty for the community regarding the extent of consultation associated with Code Amendments.

With respect to any privately funded Council Code Amendments, Council will need to carefully manage the potential strategic benefits of the Code Amendment in balance with potential negative community perception resulting from the privately funded process.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Opportunities for improved environmental and sustainability policies will be recommended to the State Planning Commission in response to a request for policy improvements as part of the Commission's inaugural review of Code policy.

RESOURCE ISSUES

Responding to third party Code Amendments will require varying degrees of staff resourcing, depending on the extent of the Amendment and its potential impact on the City of Norwood Payneham & St Peters. Responding to third party Code Amendments will also occur on an ad-hoc basis, as compared to any Council-led Code Amendments which will be strategically scoped, prioritised and budgeted for.

RISK MANAGEMENT

The Council's role in third party Code Amendments is limited by the legislative process and therefore, the Council's role in minimising risk associated with these Code Amendments is limited. For example, the Council has a limited ability to object to a private party Code Amendment which the Council considers could lead to poor development outcomes. The adoption of a clear and transparent policy will assist Council in managing risks associated with any privately funded Council Code Amendments.

COVID-19 IMPLICATIONS

Not Applicable.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
Manager, Urban Planning & Sustainability
- Manager, Development Assessment
- **Other Agencies**
Nil

DISCUSSION

Regional Plans and Strategic Planning

The Planning Development and Infrastructure Act (PDI Act) requires the preparation of Regional Plans which provide a long-term strategic plan for the different planning regions across the State. A key role of a Regional Plan is to provide recommendations about the application of the *Planning and Design Code*. The transitional provisions in the PDI Act allow the existing Regional Plans, including the *30 Year Plan for Greater Adelaide*, to continue to apply until new regional plans under the PDI Act are developed. Ideally these should have been prepared prior to writing the Code and prior to the ability for landowners to initiate Code Amendments, to assess these Code Amendments for strategic alignment or support. Based on the State Planning Commission's current schedule for the preparation of Regional Plans, it is expected that the new Greater Adelaide Regional Plan will not be developed until the deadline of 2023.

The PDI Act also anticipates that a subregion can be established within a planning region. For example, a subregion consisting of Eastern Region Alliance group of councils (or any other configuration). This would facilitate a subregional plan to be developed to provide a greater level of detail and guidance for future zone and policy changes. Subregional plans are unlikely to be pursued until after the new regional plan for Greater Adelaide has been established.

It is disappointing that the planning reform program resulted in the *Planning and Design Code* being developed prior to the completion of Regional Plans. The *30 Year Plan for Greater Adelaide* does not provide a sufficient level of detail to guide how the Code should be applied, particularly in respect to requests for 'spot zoning' from private proponents. In previous submissions to the Commission, the Council recommended that private proponent Code Amendments not be enabled until Regional Plans were completed, however this has not occurred (for reasons best known to the Commission) and a number of private Code Amendments have now been initiated within the metropolitan area.

Code Amendment Process

The PDI Act establishes the State Planning Commission as the entity responsible for preparing and maintaining the *Planning and Design Code*. The PDI Act also sets out the entities which are able to initiate amendments to the Code, including:

- (a) the Commission acting on its own initiative or at the request of the Minister for Planning and Local Government; or
- (b) with the approval of the Minister, acting on the advice of the Commission –
 - (i) the Chief Executive of the Attorney-General's Department; or
 - (ii) another agency or instrumentality of the Crown; or
 - (iii) a joint planning board; or
 - (iv) a council; or
 - (v) a provider of essential infrastructure; or
 - (vi) an infrastructure scheme coordinator; or
 - (vii) a person who has an interest in land and who is seeking to alter the way in which the Planning and Design Code or a design standard affects that land (e.g. a land owner)

By comparison, under the former *Development Act 1993*, the Minister and councils were the only parties able to undertake Development Plan Amendments.

The extent of change to the Code that each of the above designated entities can propose varies, but in most cases, is limited to how the Code affects a particular area or property such as the rezoning of a property (swapping one Code zone for another Code zone). The Commission's *Code Amendment Toolkit* indicates that a council can create a zone or sub-zone in '*exceptional circumstances*' but otherwise the creation of entirely new zones or overlays as well as amending existing policies will be the responsibility of the Commission or the Department. These limitations are a symptom of the standardised nature of the Code. For example, the City of Norwood Payneham & St Peters cannot amend the wording of the demolition policy in the Historic Area Overlay because this would affect numerous other Councils. To influence improved policy content, affected councils would need to come together to jointly advocate for the State Planning Commission to agree to review a particular policy, theme or issue. This in itself is problematic in terms of all councils agreeing to a proposed change and is again a symptom of how Local Government is viewed in the planning system.

The Code Amendment Process is determined by the PDI Act, Regulations and *Practice Direction 2 – Preparation and Amendment of Designated Instruments* which is contained in **Attachment A** and a summary of the Code Amendment Process is contained in **Attachment B**.

The process commences with the proponent (e.g. the person or agency undertaking the Amendment) preparing a '*Proposal to Initiate*' which sets out the scope of the Amendment. Private proponents are required to consult with the Chief Executive Officer of the council affected by their Code Amendment prior to preparing a '*Proposal to Initiate*', however after this step is undertaken the Council's role is limited to being entitled to provide a submission during the public consultation period. The Commission and the Department are not required to undertake the same early consultation with a Council for State-led Code Amendments.

Consultation for a draft Code Amendment must be undertaken in accordance with the *Community Engagement Charter*. The Charter anticipates that consultation will vary depending on the scope of the proposed Amendment, however the Charter does not prescribe specific requirements other than in a few specific circumstances (such as listing heritage places or introducing historic areas). This differs from the former Development Plan Amendment process which had prescribed minimum consultation requirements. In some cases, the Minister may set conditions on the *Proposal to Initiate* to review and approve the Engagement Plan prior to consultation, but the standard practice is for the engagement to be undertaken by the proponent without prior review or approval from the Commission or the Minister. Although the Department reviews the engagement as part of the final Code Amendment approval process and can require additional consultation to be carried out if deemed required by the Department, it is concerning that in some circumstances a private proponent (eg land owner) will undertake consultation on the Code Amendment without any independent oversight from the Department or Commission. This is another important omission.

As was previously the case with the Development Plan Amendment process, the Code Amendment is approved by the Minister and after it is placed on operation, the Environment Resources and Development Committee of Parliament has the opportunity to suggest amendments or object to the Amendment.

With the new opportunities under the Act for multiple entities to prepare Code Amendments, there is a need for greater awareness and visibility of the extent and location of these proposed changes, at any given time. The PlanSA online planning portal has recently been updated with a 'Code Amendment Mapping Tool' which enables anyone to view the location and basic information regarding Code Amendments which have been initiated, are on consultation or are awaiting approval. The Mapping Tool can be accessed via the following web-link: https://plan.sa.gov.au/have_your_say/general_consultations

State Planning Commission and Department Code Amendments

At its meeting on 24 June 2021, the Commission considered the criteria for circumstances when the Commission and Department would undertake Code Amendments. Unfortunately, the criteria has been kept confidential, however Council staff have been advised that generally the Commission will focus on State-wide strategic matters such as changes affecting multiple councils or introduction of new zones or overlays. Prior to the release of the first draft of the Code, the Commission released a series of Discussion Papers which outlined key policy issues which would be addressed in the 'first generation', 'second generation' or beyond of the Code. While the Department has provided a brief timeline of future State-led Code Amendments (contained in **Attachment C**) a longer-term strategic program has not yet been shared with Local Government. As such, it is not yet clear when the policy issues identified for the 'second generation' of the Code will be addressed.

The Commission has indicated it will undertake strategic reviews of the Code on a periodic basis and while it is not yet clear how often these reviews will be undertaken, the Commission has announced it will be commencing a *Miscellaneous Technical Enhancement Code Amendment* to improve the general performance, interpretation and consistency of the Code. A letter sent by the Commission to key stakeholders requesting feedback to inform the scope of the Code Amendment is contained in **Attachment D**. As the Commission is seeking preliminary comments only on its Code Amendment at this stage (prior to formal consultation) staff will prepare a response which outlines a range of issues and improvements which are summarised in **Attachment E**. It is clear from the Commission's correspondence that this first Commission led Code Amendment will not be a comprehensive strategic review. Notwithstanding this, it is likely that councils will raise a broader range of issues for the Commission's attention, particularly issues which were not adequately resolved during the Phase 3 Code drafting and consultation. For example, the City of Norwood Payneham & St Peters together with a number of other councils remain concerned about the policies applicable to historic areas (formerly Historic Conservation Zones). The Greater Adelaide Region of Councils (GAROC) recently raised concerns regarding Historic Area Overlay policy with the Commission, however the Commission has recently responded, advising that the current policies are adequate and that it is premature to consider such amendments.

Council Code Amendments

Although the Code is still in the early days of operation in metropolitan Adelaide, Councils are now in a position to consider strategic priorities for future Code Amendments, noting that Council led Code Amendments will typically be limited to changes in the spatial application of zones, overlays and some numeric policies such as minimum site areas.

Priorities for the City of Norwood Payneham & St Peters may include investigations into:

- a more suitable zone for the former Light Industry Zoned land at Glynde. This area is currently located in the Employment Zone which anticipates a broader range of commercial uses than was previously the case under the Development Plan;
- rezoning opportunities for the 'Stepney Triangle' area bordered by Magill Road, Nelson Street and Payneham Road to facilitate an appropriate mix of land uses and development opportunities;

- improvements to Historic and Character Area Statements, which are currently a narrow reflection of previous policies contained in the Development Plan. Unfortunately, the structure of the Statements is very rigid, however it is hoped that a Code Amendment may facilitate a refinement and improvement of the content of the Statements;
- a review of Technical and Numeric Variations to ensure these are the best fit for the applicable areas in the context of the Code policy. A number of TNVs were determined while the Code policy was still being drafted so it was unclear how they would fit into the policy framework, however now the Code has been implemented and it is clearer how various layers of policies work together, there is an opportunity for some improvements; and
- a rationalisation of zones along arterial roads. Portions of arterial roads such as Magill Road, Payneham Road and Portrush Road, have a piecemeal application of zones, typically covering small groups of parcels. These zones have not been reviewed in many years, so there is an opportunity to consider consolidating the zoning in a way that provides a suitable fit for future development without compromising the existing character of the localities and taking into account scale and design of development and its impact on adjoining residential zones.

Council staff will continue to review these opportunities and will present priorities and opportunities for future Code Amendments to the Council.

The impacts of a Code Amendment prepared for adjoining Local Government Areas, on the City of Norwood Payneham & St Peters, are likely to be limited to where the affected sites are in close proximity to the City of Norwood Payneham & St Peters or if there are broader impacts on infrastructure or the environment, such as rezoning for high density residential development in a neighbouring council and the potential effect on traffic or stormwater management. Under the former Development Plan Amendment process, councils were required to consult with neighbouring councils. This requirement does not exist under the new Community Engagement Charter, however it is likely that a council would still be notified if it was potentially affected by the proposed Code Amendment.

Given the limitations on Code Amendments which are undertaken by individual councils (to essentially swap one zone for another or small technical and numeric variation adjustments), the Local Government Association of South Australia (LGA) is facilitating discussions between staff of various councils to determine key common areas of interest and concern. The intent is to consolidate requests for Commission Code Amendments, or perhaps coordinate a combined Council Code Amendment to rectify common issues, which may be less likely to be supported by the Department if only requested by a single council.

Establishing a Joint Planning Board is another option for councils who wish to collaborate on planning issues or projects, including Code Amendments. However, given the extensive resourcing requirements and likely costs associated with Joint Planning Boards this is not a practical option for addressing isolated policy issues. Councils may, however, consider establishing Joint Planning Boards in order to develop a subregional plan.

Private Proponent Code Amendments

Process for Private Code Amendments

The ability for private proponents to undertake Code Amendments is one of the most significant and indeed controversial changes in the new planning system which has been introduced without justification. Under the former *Development Act 1993* process, a land owner or developer was required to request that the Council or Minister undertake a Development Plan Amendment on their behalf. Under the PDI Act, although private Code Amendments require Ministerial approval to proceed and the land owner can still request a council or the State Government to undertake the amendment on their behalf, they are no longer dependent on another agency to undertake the process for them. The options for a land owner or developer who wishes to initiate a Code Amendment is outlined in **Figure 1** below.

FIGURE 1 – PRIVATE CODE AMENDMENTS

<u>Option 1</u> Developer requests that Council undertake a Code Amendment to rezone their land	This may be a privately funded Code Amendment, or if the Council sees strategic merit in undertaking the Amendment, it may be Council funded
<u>Option 2</u> Developer requests that the Chief Executive of the Attorney-General's Department undertake a Code Amendment to rezone their land	The developer will prepare specialist investigations (e.g. traffic studies) and fund the cost of the Department undertaking the remainder of the process
<u>Option 3</u> Developer proposes to fully undertake their own Code Amendment process	The developer must: <ul style="list-style-type: none">• provide declaration of their interest in the land (they cannot undertake an Amendment which affects land they do not have an interest in)• obtain services from a suitably qualified planner• consult with the affected council prior to preparing their proposal

A land owner or developer may choose Option 1 or Option 2 if they do not wish to undertake the whole process themselves or if they wish to rezone a property they do not have an interest in. For example, a developer may own four (4) out of five (5) properties but proposes to rezone all five (5) properties. Where a private proponent is undertaking their own Code Amendment (as per Option 3) they are responsible for undertaking community consultation and the proponent is able to request from the Council a list of names and postal addresses associated with properties which will be notified. Pursuant to Section 174(2) of the *Local Government Act 1999*, the person making the request is entitled to this information but may be required to pay a fee fixed by the council.

Private Code Amendments will inevitably involve spot-rezoning (an outcome which has never been a feature of the South Australian planning system but is associated with practices which have been in place in the eastern States), and indeed this is what is enabled under the new Act. There is significant concern amongst Local Government about the independence and lack of strategic direction of these amendments, particularly with respect to coordinated land use planning, infrastructure provision and built form outcomes (e.g. if the Code Amendment results in a substantially increased maximum building height for a single site). A robust regional and subregional plan that provides clear spatial priorities would assist in guiding what and where private rezonings occur. It is clear that the lessons learnt from the practice in the eastern states have not been taken into consideration.

19-29 Glynburn Road, Glynde Code Amendment

A number of private Code Amendments have already been initiated across the State, including one within the City of Norwood Payneham & St Peters. Aldi Stores has submitted a draft Code Amendment for 19-29 Glynburn Road, Glynde, seeking to change the existing *Housing Diversity Neighbourhood* and *Employment Zones* to *Suburban Activity Centre Zone* to allow for retail activity greater than 1000m² in floor area. This Code Amendment is yet to commence public consultation and a draft submission will be presented to Council for consideration during consultation. A brief summary of this draft Code Amendment can be accessed by the following weblink:

https://plan.sa.gov.au/have_your_say/general_consultations#19-29_Glynburn_Road_Glynde_Code_Amendment

Policy for Responding to Third Party Code Amendments

At its meeting held on 7 September 2015, the Council resolved to adopt a procedure for responding to Development Plan Amendments (DPAs) being pursued by adjoining Councils or the Minister which did not propose any changes to the City of Norwood Payneham & St Peters Development Plan. This resolution is set out below:

That the following procedure in respect to reporting to Elected Members on Development Plan Amendments (DPAs), which do not propose any changes to the Norwood Payneham and St Peters (City) Development Plan, be endorsed:

- a) *Any notification that the Council receives from an adjoining Council or the Minister, consulting on a draft DPA, which does not propose changes to the Norwood Payneham & St Peters Development Plan, will be briefly summarised in a memorandum and included in the Elected Members Weekly Communique, within two (2) weeks of receipt of the notification. If the DPA is very brief, the document will be provided in full in the Communique, otherwise for larger DPAs, an electronic link to the draft DPA will be provided for Members to view the document in full.*
- b) *In relation to a DPA prepared by an adjoining Council, if the DPA does not affect land adjacent to the boundary of the Norwood Payneham & St Peters Local Government Area and staff consider that there are no other policy implications arising from the proposed amendments, the memorandum to Elected Members will indicate this and include for information, a copy of the staff response, advising that the Council has no specific comment to make on the draft DPA.*
- c) *In relation to all other Ministerial DPAs or DPAs prepared by adjoining Councils, where the General Manager, Urban Planning & Environment (or his/her delegate) considers that there are no significant implications for the Norwood Payneham & St Peters Local Government Area, which would warrant formal consideration by the Strategic Planning & Development Policy Committee, the memorandum to Elected Members will provide a brief summary of the draft DPA, outline any potential policy implications and include a draft response prepared by staff (which may or may not indicate that the Council has any comments to make on the draft DPA).*

If, after discussion with the General Manager, Urban Planning & Environment (or his/her delegate) two (2) or more Elected Members disagree with the draft response, or consider that the Strategic Planning & Development Policy Committee should formally respond on behalf of the Council, then a Strategic Planning & Development Policy Committee meeting will be convened. In this respect, the memorandum to Elected Members will include a two (2) week timeframe within which Elected Members may raise any concerns, or request a Committee meeting to discuss and prepare a response to the relevant DPA. This is in order to ensure that there is sufficient time to schedule a Committee meeting and provide a written submission, before the closing date for submissions.

- d) *If the General Manager, Urban Planning & Environment (or his/her delegate) considers that a Ministerial DPA or a DPA prepared by an adjoining Council could have significant implications for the Norwood Payneham & St Peters Local Government Area, then the memorandum to Elected Members will advise that a Strategic Planning & Development Policy Committee meeting will be convened to consider the draft DPA.*

This procedure involved a scaled approach to responding to the DPAs based on the level of impact on the Council. For example, a staff response was required where the DPA would have no impact, whereas the (former) Strategic Planning & Development Policy Committee would meet to consider a DPA which could have significant implications for the Council.

Given that under the new system, third party Code Amendments may range from minor technical changes, to the rezoning of land on the other side of the State, to a significant rezoning within the City of Norwood Payneham & St Peters, a Council policy would assist in setting a consistent and transparent process for dealing with a range of situations and avoid the need for minor or inconsequential Code Amendments being presented to Council. A draft Policy to deal with responding to Code Amendments and Code Amendment Requests has been prepared for Council endorsement and is contained in **Attachment F**.

Policy for Privately Funded Council Code Amendments

As outlined above, the PDI Act enables a private land owner or developer to request a Council to undertake a Code Amendment to change how the Code applies to their property. Although a similar process was available under the *Development Act*, the Council at the administration level, did not (for obvious reasons) support privately funded Development Plan Amendments. Given that many Councils and developers have not pursued site-specific rezoning proposals for the past few years in light of the transition to the new Code, there is potentially an increased appetite from private land owners to undertake a Code Amendment. Although private proponents can now undertake their own amendments, it is considered prudent for the Council to be prepared for requests for privately funded Code Amendments. The existence of such a Policy does not commit the Council into entering into a privately funded Code Amendment arrangement, indeed a Policy could be a transparent tool for establishing the criteria under which Council may not wish to enter into such an arrangements.

There are various factors for the Council to consider in determining whether to enter into an agreement for a privately funded Council-led Code Amendment. Firstly, the Council could consider how the proposed amendment would align with Council and State strategic documents, the net 'triple-bottom-line' benefit of the proposal, any benefits in the Council undertaking the amendment rather than a private proponent, and the ability or otherwise for the proponent to undertake the amendment independently. Secondly, the Council could consider the administrative and governance arrangements which may be involved. The draft Policy contained in **Attachment F** outlines the process for privately-funded Council Code Amendments including the principles the Council will use to consider the merits of any proposed Code change and the steps which will be followed should the Council determine to proceed with the Code Amendment. With the Policy as drafted, it is unlikely Council would enter into an agreement for a privately funded Council Code Amendment unless it clearly aligns with the Council's strategic interests or projects, where these have been set out in the *CityPlan 2030*, Business Plan or other strategic projects such as the *Kent Town Urban Design Framework*.

OPTIONS

The Council can endorse the draft *Responding to Code Amendments and Code Amendment Requests Policy* contained in **Attachment F**.

Alternatively, the Council can amend, omit or propose further changes to the draft Policy and subject to these amendments being included, endorse the document.

The Council could also determine to not adopt the Policy and instead respond to Code Amendments and Code Amendment requests on an ad-hoc basis.

For the reasons outlined in this report, it is recommended that the Council endorse the *Responding to Code Amendments and Code Amendment Requests Policy* as contained in **Attachment F**.

CONCLUSION

The introduction of the State-wide Code and the subsequent Code Amendment process, have significantly changed the State's planning policy governance arrangements and framework. Local Government now has a reduced capacity for introducing new zones and locally specific policies, as well as less oversight over third party Code Amendments which occur within the Local Government Area, particularly with respect to private proponent Code Amendments. This is a significant change and has been pursued without justification and without any consideration of the consequent impacts of what will essentially become 'spot rezoning' opportunities. It is hoped that new Regional Plans and potentially Subregional Plans, may assist in regulating the potentially ad-hoc approach to private re-zonings however it is unlikely a new Regional Plan for Greater Adelaide will be established for some time. This increases the importance of having a transparent and consistent policy outlining how the Council will respond to any Code Amendments.

In light of this new environment, the Council will need to consider and implement its own strategic planning priorities as well as establishing how it will respond to Code Amendments and requests for Code Amendments from third parties. The adoption of the attached draft Council Policy is considered an appropriate means of mitigating the impacts and risks associated with the new system.

COMMENTS

Nil

RECOMMENDATION

1. That the draft *Responding to Code Amendments and Code Amendments Requests Policy* as contained in Attachment F to this report be endorsed.
 2. That the Chief Executive Officer be authorised to make editorial changes to the draft Policy to make the document suitable for publication and final release.
 3. That the Council note the summary of issues contained in Attachment E which will be the basis of preliminary feedback to the Commission in relation to the *Miscellaneous Technical Enhancement Code Amendment*, noting that a formal submission will be prepared during consultation at a later date.
-

Cr Duke left the meeting at 7.32pm.

Cr Duke returned to the meeting at 7.36pm.

Cr Minney moved:

1. *That the draft Responding to Code Amendments and Code Amendments Requests Policy as contained in Attachment F to this report be endorsed.*
2. *That the Chief Executive Officer be authorised to make editorial changes to the draft Policy to make the document suitable for publication and final release.*
3. *That the Council note the summary of issues contained in Attachment E which will be the basis of preliminary feedback to the Commission in relation to the Miscellaneous Technical Enhancement Code Amendment, noting that a formal submission will be prepared during consultation at a later date.*

Seconded by Cr Dottore and carried unanimously.

11.6 EXECUTION OF COUNCIL SEAL – FUNDING DEED UNDER 2021-2022 STATE BICYCLE FUND

REPORT AUTHOR: Project Manager Assets and Manager, Traffic & Integrated Transport
GENERAL MANAGER: General Manager, Assets and General Manager, UPE
CONTACT NUMBER: 8366 4517
FILE REFERENCE: qA72172
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval to sign and seal two (2) copies of the one funding deed (*the Deed*) between the Council and the Minister for Infrastructure and Transport.

The Deed facilitates the Council's receipt of a grant from the State Bicycle Fund (*the Fund*), for

- widening, fencing and lighting of River Torrens Linear Park between Battams Road and Oaklands Avenue, Royston Park, including a new staircase incorporating a cycling wheeling ramp; and
- widening and lighting of 110m of River Torrens Linear park including a new shared path connection from Torrens Street (through Twelftree Reserve) and a new stair case with cyclist wheeling ramp.

Concept plans depicting the proposed works are contained in **Attachment A** and a copy of the Deed is contained in **Attachment B**.

BACKGROUND

1. Shared path between Battams Road and Oaklands Avenue, Royston Park (along the OBahn Bridge)

This 815 metre long section of path will abut the recently upgraded shared path east of Battams Road. This section of path is currently narrow and unlit, with poor connections to the external street network.

The proposed works include the widening of the path, installation of lighting, barrier fencing along the steep embankments, improved access to Bide Street, Tenth Avenue and Oaklands Avenue, and a new staircase incorporating a cyclist wheeling ramp for improved access over the river bridge.

2. Shared path in College Park, near Twelftree Reserve

The existing shared path in this location, terminates due to steep embankments and private land ownership at the bridge river crossing that directs cyclists into the Walkerville Local Government Area. Therefore, City-bound cyclists currently must either exit onto the busy road network (Richmond Street), or cross the River Torrens into the Walkerville Local Government Area to continue along the off-road path. The shared path approach to the bridge is narrow, has a steep downhill grade and meets the bridge at a sharp angle. Other access to the bridge is via a steep set of stairs.

The proposed works include the widening and lighting of 110 metres of the shared path on the approach to the bridge, including realignment to improve safety for all path users. It also includes a new shared path connection from Torrens Street (through Twelftree Reserve) and a new staircase with cyclist wheeling ramp.

The proposed upgrades to the path will improve physical and personal safety, as well as accessibility between the path and the adjacent street network.

The Department of Infrastructure and Transport and (DIT) has recently advised that the Council has been successful in receiving a grant via *the Fund. The Deed* which facilitates receipt of the funding is required to be signed and sealed by the Council (two copies).

FINANCIAL AND BUDGET IMPLICATIONS

As part of the 2021-2022 Budget, the Council has allocated \$590,000 for the construction of the shared path between Battams Road and Oaklands Avenue, Royston Park and \$135,000 for the construction of the shared path in College Park, near Twelftree Reserve. A total of \$725,000 has been allocated to the River Torrens Linear Park Shared Path in the 2021-2022 budget.

Grant funding of \$200,000 for the shared path between Battams Road and Oaklands Avenue, Royston Park and \$67,500 for the shared path in College Park, near Twelftree Reserve, has been awarded to the Council by DIT, making a total of \$267,500 in Grant funding.

It is a condition of the grant that the works are completed by 30 June 2022. The detailed design and documentation process has commenced and is expected to be completed in August, allowing consultation and construction to be completed within the required timeframe.

RECOMMENDATION

That the Mayor and Chief Executive Officer be and are hereby authorised to sign and seal the Funding Deed under the 2021-2022 State Bicycle Fund, for:

- Widening of the path and installation of fencing and lighting of River Torrens Linear Park between Battams Road and Oaklands Avenue, Royston Park, including a new staircase incorporating a cycling wheeling ramp; and
 - widening of the path and installation of lighting along 110m of River Torrens Linear park including a new shared path connection from Torrens Street (through Twelftree Reserve) and a new stair case with cyclist wheeling ramp.
-

Cr Sims moved:

That the Mayor and Chief Executive Officer be and are hereby authorised to sign and seal the Funding Deed under the 2021-2022 State Bicycle Fund, for:

- *Widening of the path and installation of fencing and lighting of River Torrens Linear Park between Battams Road and Oaklands Avenue, Royston Park, including a new staircase incorporating a cycling wheeling ramp; and*
- *widening of the path and installation of lighting along 110m of River Torrens Linear park including a new shared path connection from Torrens Street (through Twelftree Reserve) and a new stair case with cyclist wheeling ramp.*

Seconded by Cr Moorhouse and carried unanimously.

11.7 NORWOOD TENNIS CLUB INC – EXECUTION OF LEASE

REPORT AUTHOR: Manager, Governance, Legal & Property
GENERAL MANAGER: General Manager, Governance & Community Affairs
CONTACT NUMBER: 8366 4507
FILE REFERENCE: qA2036
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to present the Lease Agreement between the Council and the Norwood Tennis Club Inc for the BATTERY Reserve Tennis Courts to the Council for its approval for execution.

BACKGROUND

As Elected Members will recall, the redevelopment of the BATTERY Reserve Tennis Courts has recently been completed. Following the completion of these works, it was the intention of the Council to enter into a new Lease Agreement with the Norwood Tennis Club Inc ('the Club'). Until this occurred, the Council and the Club agreed to enter into an Agreement to Lease, to formalise the proposed arrangements between the parties.

The Council last considered the proposed lease arrangements between the Council and the Norwood Tennis Club Inc at its meeting held on 2 March 2020 and resolved the following:

2. *That the Council agrees to enter into the draft Agreement to Lease with the Norwood Tennis Club Inc as contained in Attachment A, and authorises the Chief Executive Officer to make any minor amendments required to finalise this document.*
3. *That the Council endorses the draft Agreement to Lease as set out in point 2 above, for the purpose of community consultation in accordance with Section 202(2) of the Local Government Act 1999.*

Community consultation on the draft Agreement to Lease was conducted from Wednesday 11 March to Friday 3 April 2020 and no responses were received.

The Agreement to Lease was subsequently executed by the Council and the Club on 29 September 2020.

Since that time, the redevelopment of the BATTERY Reserve Tennis Courts has been completed, including reconstruction of the four (4) tennis courts, new court lighting and fencing, and landscaping of the entrance area from Portrush Road, with practical completion achieved on 18 June 2021.

As such, clause 4.1.5 of the Agreement to Lease between the Council and the Club has now been satisfied and the Council and the Club can proceed to enter into the final Lease Agreement.

The Lease Agreement provides for a Lease of the Tennis Courts and Clubrooms to the Club for a term of twenty (20) years commencing on 1 July 2021 and expiring on 30 June 2041. The Lease also provides for repayment of the Club's contribution to the court upgrade works on an annual basis over the Lease term. The Lease has been finalised and signed by the Club and can now be executed by the Council.

A copy of the Lease Agreement is contained within **Attachment A**.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

Pursuant to the terms of the Lease, the Club is required to pay the Council the 'Lessee's Contribution' by way of annual repayments over the 20-year Lease term, subject to a fixed review of 2% per annum. The Contribution comprises 50% of the costs paid by the Council for the upgrade works to the courts, less the grant funding received for the project. Grant funding of \$450,000 was received towards the project from the State Government.

Following completion of the project, the total cost of the court upgrade works was \$508,735.20 (GST exclusive). This was a reduction from the initial estimated cost of the court upgrade works (which includes new courts, new fencing and lighting) at \$695,700 (GST exclusive). The total project costs (including the court upgrade works and upgrades to the entrance and common areas, new paving and landscaping) also saw a reduction from the total budget estimate of \$1,010,000.00 to an actual cost of \$786,294.70.

Due to the reduction in the total project cost and the provision of the grant funding on a 50/50 contribution basis, clarification is being sought regarding acquittal of the grant funding which has been received by the Council. The final contribution required to be paid by the Club under the Lease will be finalised once this is confirmed. Based upon application of the full \$450,000 in grant funding, the Club's final contribution to the court upgrade works is estimated to be \$21,323.85 (GST exclusive). This is a significant reduction from the initial estimated contribution of the Club at \$127,000 (GST exclusive).

COVID-19 IMPLICATIONS

Not Applicable.

RECOMMENDATION

That the Mayor and Chief Executive Officer be authorised to sign and seal the Lease Agreement between the Council and the Norwood Tennis Club Inc as contained in **Attachment A**, and the Chief Executive Officer be authorised to make any amendments required to finalise the Lease in a form suitable for execution.

Cr Mex moved:

*That the Mayor and Chief Executive Officer be authorised to sign and seal the Lease Agreement between the Council and the Norwood Tennis Club Inc as contained in **Attachment A**, and the Chief Executive Officer be authorised to make any amendments required to finalise the Lease in a form suitable for execution.*

Seconded by Cr Callisto and carried unanimously.

11.8 CHURCH AVENUE, NORWOOD – RIGHT OF WAY – PROPOSED CONVERSION TO PUBLIC ROAD

REPORT AUTHOR: Manager, Governance, Legal & Property
GENERAL MANAGER: General Manager, Governance & Community Affairs
CONTACT NUMBER: 8366 4507
FILE REFERENCE: qA65051
ATTACHMENTS: A - D

PURPOSE OF REPORT

The purpose of this report is to present to the Council the proposed declaration of a portion of Church Avenue, Norwood, comprising a private Right of Way, as Public Road pursuant to Section 210 of the *Local Government Act 1999*.

BACKGROUND

It has come to the attention of Council staff that a portion of Church Avenue, Norwood is comprised within a private Right of Way and is not vested in the Council as Public Road. The parcel of land in question is in the middle 'bend' of the Road, directly adjacent to the property located at 35 Church Avenue and the Council-owned Reserve.

A map showing the location of the Right of Way land is contained within **Attachment A**.

Despite this, this parcel of land is already sealed and maintained as a Public Road by the Council and used by the community as a Public Road. In order to remedy this situation and transfer ownership of this parcel to the Council, Council staff commenced the process under Section 210 of the *Local Government Act 1999* ('the Act') to convert this private Right of Way to Public Road.

This process was undertaken outside the Council's *Private Laneways Policy & Procedure* in order to rectify the land tenure and ownership of this section of Church Avenue.

Following completion of the research required to determine the legal status and ownership of the Right of Way land, written notice was provided to the two (2) adjoining property owners with registered rights of access over the Right of Way in February 2021 of the proposed conversion of the Right of Way to Public Road. No concerns were raised by the property owners with this proposal.

A public notice was also published in the SA Government Gazette, the Advertiser and on the Council's website of the proposed conversion of the Right of Way to Public Road. The required three (3)-month statutory notice period was completed over March-June 2021. No responses were received during the notice period.

A copy of the Gazette notice is contained within **Attachment B**.

The Council can now proceed to declare the Right of Way as Public Road pursuant to Section 210 of the Act.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

Objective 1.2 A people-friendly, integrated and sustainable transport network.

1.2.2 Provide safe and accessible movement for people of all abilities.

Objective 1.3 An engaged and participating community.

1.3.2 Provide opportunities for community input in decision-making and program development.

FINANCIAL AND BUDGET IMPLICATIONS

The costs of converting the Right of Way land to Public Road are confined to the legal and administrative costs of undertaking the conversion to Public Road under Section 210 of the Act – no capital upgrades are required to the road itself. The legal and administrative costs are not extensive and will be covered by the Council in full in order to rectify the land tenure and ownership of this section of Church Avenue.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

By converting the private Right of Way to Public Road under Section 210 of the Act, the Council can formalise its responsibility for the ongoing maintenance and upkeep of the Road, rather than responsibility and liability for the condition of this section of Church Avenue remaining unclear due to private ownership of this parcel by a deceased estate.

COVID-19 IMPLICATIONS

Not Applicable.

CONSULTATION

- **Elected Members**
Not Applicable.

- **Community**
The two (2) adjoining property owners with registered interests over the Right of Way land (33 and 35 Church Avenue) were notified of the Council's proposal to convert the Right of Way to Public Road in February 2021, as required by Section 210(2) of the Act.

A public notice was also published in the SA Government Gazette and on the Council's website on 25 February 2021 and in the Advertiser on 1 March 2021 regarding the proposed conversion of the Right of Way to Public Road, as required by Section 210(2) of the Act. The three (3)-month statutory notice period was therefore conducted from 1 March 2021 to 1 June 2021. No responses were received during the notice period from members of the public or the executors or administrators of the deceased estate.

- **Staff**
General Manager, Governance & Community Affairs
General Manager, Urban Services
Acting Manager, City Assets
Project Officer, Assets
- **Other Agencies**
Not Applicable.

DISCUSSION

A parcel of land in the centre of Church Avenue, Norwood is comprised within a private Right of Way and is not vested in the Council as Public Road. The parcel of land in question is in the middle 'bend' of the Road, directly adjacent to the property located at 35 Church Avenue and the Council-owned Reserve.

The land is described as Allotment 16 in Deposited Plan 798 and is comprised in Certificate of Title Volume 398 Folio 245. According to research undertaken into Lands Titles Office records, this land has remained in the private ownership of the estate of Horace Stanhope Cowan since 1908.

Despite this, this section of Church Avenue is already sealed, maintained and used as Public Road by the Council. As such, once this anomaly was brought to the Council's attention, Council staff commenced the process to convert this section of Church Avenue to Public Road pursuant to Section 210 of the *Local Government Act 1999* (SA) ('the Act'). Conversion to Public Road will formally and legally transfer ownership of this section of Road to the Council and will enable the Council to assume responsibility for its ongoing maintenance and upkeep.

This process was undertaken outside the Council's *Private Laneways Policy & Procedure* in order to rectify the land tenure and ownership of this section of Church Avenue. In addition, the Right of Way is not a 'Private Laneway' in the same capacity as the Private Laneways which are converted to Public Road under that Policy – it is a small parcel of land comprised within and forming part of a larger Public Road which directly adjoins only one (1) residential property. As such, it is considered appropriate that this is dealt with outside of the Policy.

The required public notification of the proposed conversion of the Right of Way to Public Road has now been completed and no responses were received from members of the public or the executors or administrators of the deceased estate during the three (3)-month statutory notice period. With respect to the two (2) adjoining property owners who hold registered rights of access over the Right of Way, it should be noted that these rights of access are already effectively redundant as the whole of Church Avenue is maintained and freely accessible as Public Road. Although their registered rights of access will be formally extinguished upon conversion of the Right of Way to Public Road, they will gain all the usual rights of public access along this section of Church Avenue as Public Road.

As such, the Council can now proceed to declare the Right of Way as Public Road pursuant to Section 210 of the Act.

In undertaking the required research into the status and ownership of the Right of Way, it is worth noting that several other unusual ownership arrangements were also identified in the remainder of Church Avenue. These arrangements are shown on the plan contained within **Attachment C** and Deposited Plan 798, which is contained within **Attachment D**.

Further details are set out below:

- **Church Avenue North** – the section of Church Avenue from The Parade to the Right of Way land is vested in the Council as Public Road (as per CT 6213/118), and is shown in yellow on DP 798 as contained within Attachment D.
- **Church Avenue South** – the section of Church Avenue from the Right of Way land to William Street is included within the Council's Public Road Register, but is shown as 'Private Road' on Deposited Plan 798. This land is shown in green on DP 798 as contained within Attachment D. Further research is required to determine the status and ownership of this land, following which a Section 210 conversion process may also be required to convert this section of Road to Public Road vested in the Council.
- **Reserve Right of Way** – there is a second parcel of land which is a private Right of Way directly adjoining the Council Reserve in the centre of Church Avenue. This land is comprised in CT 280/146 and is shown in blue on DP 798 contained within Attachment D. This land is used and maintained by the Council predominantly as Reserve, but a small portion at the top left-hand corner forms part of the Public Road as the Road turns the corner in this location. Further research is required to determine the status and ownership of this land and possible options for vesting this land in the Council as Reserve and Public Road.

- **Triangle land** – there is a small remainder of land located between the Right of Way the subject of this report and Church Avenue South, which likely remains in private ownership. This land forms part of the Public Road as the Road turns the corner in this location. Further research is required to determine the status and ownership of this land and options to vest this land in the Council as Public Road.
- **1-Foot Reserve** – there is a very small parcel of land located directly adjacent to the Right of Way and the Reserve which is referred to as a ‘1 foot wide’ reserve and comprised in Allotment 15 in DP 798. This parcel is shown in pink on DP 798 contained within Attachment D. It is likely that this 1-Foot Reserve is no longer maintained on the ground in this location and has simply been subsumed into the adjoining land. This parcel may be an extension of the private Right of Way at the bend and is likely a remainder of land which was never brought under the *Real Property Act 1886*. Further research is required to determine the status and ownership of this land and possible options for vesting this land in the Council.
- **Corner cut-off** – there is a small corner cut-off at the corner of Church Avenue South and William Street, directly adjoining the property at 79 William Street, which forms part of the Public Road reserve and is comprised within Partially Cancelled CT 3210-11. This parcel is maintained as a small grassed area with signage and mail boxes erected upon it for use by the adjoining property. This parcel can be left as it is or could be transferred to the adjoining property owner to resolve their existing encroachment on this land.

Council staff are progressing research into the abovementioned parcels of land comprising Church Avenue, with a view to formalising their status as Public Road and Reserve respectively, and vesting ownership in the Council. This will formalise the Council’s responsibility for ongoing maintenance of the entire length of Church Avenue and the Reserve and provide greater assurance from a risk management and liability perspective, if a claim were to be made in relation to property damage or personal injury in this location. At present, the Council is effectively maintaining and assuming liability for privately owned land, which is not advisable.

Further reports will be presented to the Council in due course to action these matters. There is no detriment to the Council in proceeding with declaring the Right of Way the subject of this report as Public Road, while these other matters are finalised, as this may take several months.

OPTIONS

It is recommended that the Council proceeds with the proposed conversion of the Right of Way land in Church Avenue, Norwood to Public Road under Section 210 of the Act, to formalise the ownership and responsibility for ongoing maintenance of this section of Road with the Council.

Alternatively, the Council can determine to leave this section of Church Avenue in the private ownership of a deceased estate. However, for the reasons set out in this report and from a risk management perspective, this is not recommended.

CONCLUSION

A portion of Church Avenue, Norwood is comprised within a private Right of Way and is not vested in the Council as Public Road. This land has remained in private ownership of a deceased estate since 1908, however, it is sealed, maintained and used as Public Road by the Council. In order to rectify this, the process to convert this Right of Way to Public Road pursuant to Section 210 of the *Local Government Act 1999* (SA) has been commenced. Conversion to Public Road will transfer ownership of the Right of Way to the Council and will formalise the Council’s responsibility for ongoing maintenance of the entire length of Church Avenue.

COMMENTS

Nil.

RECOMMENDATION

1. That pursuant to Section 210(1) of the *Local Government Act 1999*, the Council declares the Private Road comprised in Certificate of Title Volume 398 Folio 245 and comprising Allotment 16 in Deposited Plan 798, and which is a Private Road commonly known as 'Church Avenue' in the area of Norwood, to be Public Road.
 2. That the Chief Executive Officer be authorised to give public notice of this declaration in the Government Gazette pursuant to Section 210(5) of the *Local Government Act 1999*.
-

Cr Whittington moved:

1. *That pursuant to Section 210(1) of the Local Government Act 1999, the Council declares the Private Road comprised in Certificate of Title Volume 398 Folio 245 and comprising Allotment 16 in Deposited Plan 798, and which is a Private Road commonly known as 'Church Avenue' in the area of Norwood, to be Public Road.*
2. *That the Chief Executive Officer be authorised to give public notice of this declaration in the Government Gazette pursuant to Section 210(5) of the Local Government Act 1999.*

Seconded by Cr Patterson and carried unanimously.

11.9 GRANT FUNDING FOR STRATEGIC PROJECTS

REPORT AUTHOR: Economic Development & Strategic Projects Officer
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4512
FILE REFERENCE: qA58753
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of this report is to advise the Council of the current grant funding programs available and to seek the Council's endorsement of projects which are recommended to be submitted.

BACKGROUND

As Elected Members may recall, at its meeting held on 7 December 2020, the Council considered a report which outlined the grant funding programs available under the Federal Government's *Local Road and Community Infrastructure Extension Program*, the State Government's *Local Government Infrastructure Partnership Grant Funding Program*, the *Open Space Grant Funding Program*, the *Places for People Grant Funding Program* and the *Grassroots Facilities Grant Funding Program*.

The intent of the report was to obtain the Council's endorsement of projects which could be submitted as part of the various grant programs. Following consideration of the report the Council resolved the following:

1. *That the St Peters Street Streetscape Upgrade Project be submitted for funding under the Federal Government's Local Road and Community Infrastructure Extension Program.*
2. *That the Payneham Memorial Swimming Centre be endorsed for submission under the State Government's Local Government Infrastructure Partnership Grant Funding Program.*
3. *That the following projects be endorsed for submission under the State Government's Open Space Grant Funding Program:*
 - *Burchell Reserve Redevelopment;*
 - *Dunstan Adventure Playground; and*
 - *River Torrens Linear Park Shared Path Upgrade Stage 2.*
4. *That The Parade Masterplan Stage 1 Upgrade be endorsed for submission under the State Government's Places for People Grant Funding Program.*
5. *That the Cruickshank Reserve Unisex Facilities Project be endorsed for submission under the Grassroots Facilities Grant Funding Program.*

Subsequently all seven (7) grant funding applications were prepared by staff and submitted. Of the seven (7) grant funding applications, which were endorsed by the Council and submitted, the Council was successful in receiving grant funding for four (4) of the projects.

More specifically, the Council was successful in obtaining grant funding for the following major strategic projects (monetary value of grant contribution presented in brackets):

- *St Peters Street Streetscape Upgrade (\$1,270,347);*
- *Payneham Memorial Swimming Centre (\$5,600,000);*
- *Dunstan Adventure Playground Redevelopment (\$450,000); and*
- *River Torrens Linear Park Shared Path Enhancement – Stage 2 (\$1,350,000).*

The Council was unsuccessful in obtaining grant funding for the following major strategic projects:

- *Burchell Reserve Redevelopment;*
- *The Parade Masterplan Stage 1 Upgrade; and*
- *Cruickshank Reserve Unisex Facilities Project.*

It is noted that despite the Council not receiving funding for these three (3) projects, the Council has allocated sufficient funding through its 2021-2022 to deliver the Burchell Reserve Redevelopment Project and sufficient funding to deliver the detail design and the first stage of construction documentation for The Parade Masterplan Project. There is no budget allocation for the Cruickshank Reserve Unisex Facilities Project as this has not been identified as a priority in the Council's *Long Term Financial Plan 2021-2031*.

On 1 July 2021, the State Government opened the *Open Space Grant Funding Program*, which is a consolidation of the former *Open Space* and *Places for People Grant Funding Programs*. Submissions close Friday 27 August 2021.

The *Grassroots Facilities Grant Funding Program* has also been opened for applications to be submitted with the closing date of Wednesday 18 August 2021.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

CityPlan 2030: Mid Term Review 2020

The ongoing identification and delivery of projects which implement the Council's strategic vision set out in *CityPlan 2030: Mid Term Review* reinforces the Council's commitment to its primary objective of community well-being.

The relevant Outcomes, Objectives and Strategies in the Council's Strategic Management Plan, *CityPlan 2030: Shaping Our Future*, which support the projects being considered as part of this report, are outlined below:

Social Equity: A connected, accessible and pedestrian-friendly community.

Objective 1.1 Convenient and accessible services, information and facilities.

Strategy 1.1.3 Design and provide safe, high quality facilities and spaces for all people.

Objective 1.2 A people friendly, integrated and sustainable transport network.

Strategy 1.2.1 Enable sustainable and active transport modes.

Strategy 1.2.2 Provide safe and accessible movement for all people.

Objective 1.4 A strong, healthy, resilient and inclusive community.

Strategy 1.4.1 Encourage physical activity and support mental health to achieve healthier lifestyles and well-being.

Strategy 1.4.3 Encourage the use of spaces and facilities for people to meet, share knowledge and connect with each other.

Cultural Vitality: A culturally rich and diverse City, with a strong identity, history and sense of place.

Objective 2.3 A City which values and promotes its rich cultural and built heritage.

Strategy 2.3.1 Protect and enhance places, streetscapes, precincts and landmarks which reflect the built and cultural history of our City.

Objective 2.4 Pleasant, well designed, and sustainable urban environments.

Strategy 2.4.3 Maximise the extent of green landscaping provided in new development and in public realm.

Objective 2.5 Dynamic community life in public spaces and precincts.

Strategy 2.5.2 Create and provide interesting and vibrant public spaces to encourage interaction and gatherings.

Environmental Sustainability: A leader in environmental sustainability.

Objective 4.1 Sustainable and efficient management of resources.

Strategy 4.1.1 Make better use of water resources including the harvesting and re-use of stormwater.

Strategy 4.1.5 Improve the water quality in our City's watercourses.

Strategy 4.1.6 Manage stormwater to reduce the risks of flooding.

Objective 4.2 Sustainable streets and open spaces.

Strategy 4.2.5 integrate green infrastructure into streetscapes and public spaces.

FINANCIAL AND BUDGET IMPLICATIONS

As a result of being successful in obtaining grant funding for four (4) major strategic projects, the Council has brought forward capital expenditure to deliver these four (4) projects, which will achieve a mix of social, cultural and environmental benefits to the community. From a financial perspective the grant funding will offset the actual cost of the projects. This means that the four (4) projects that were successful in receiving grant funding, have all now been included within the 2021-2022 Annual Budget and within the Council's *Long Term Financial Plan 2021-2031*.

Notwithstanding this, the *Burchell Reserve Redevelopment Project* and *The Parade Masterplan Stage 1 Upgrade Project*, whilst unsuccessful in obtaining grant funding through the previous round of grant funding, are currently in the Council's current budget and within the *Long Term Financial Plan 2021-2031*, as major strategic projects and will continue to be progressed.

The only exception is the *Cruickshank Reserve Unisex Facilities Project*, which has neither a current budget allocation or identified within the Council's *Long Term Financial Plan 2021-2031*.

EXTERNAL ECONOMIC IMPLICATIONS

Once again the focus on these grant funding programs is to support Local Government in delivering local projects in order to stimulate the economy and where possible, provide long term economic benefits.

All successful projects that received grant funding must ensure that they commence in a timely manner and are reported on appropriately as per the timeframe and requirements specified in the specific Grant Deed.

SOCIAL ISSUES

In evaluating the projects to present to the Council for consideration on whether to proceed with a grant application, the social benefits, together with the cultural, economic and environmental benefits anticipated for the community were strongly taken into consideration and evaluated.

CULTURAL ISSUES

As above.

ENVIRONMENTAL ISSUES

As above.

RESOURCE ISSUES

The *Burchell Reserve Redevelopment Project* and *The Parade Masterplan Stage 1 Upgrade Project*, which are the two (2) projects proposed for grant funding as part of the current grant funding programs, will be project managed by Council staff. Additional staff resources (on a contract basis) may be required to undertake the management of these projects and/or some of the Council's other projects (should the Council be successful in obtaining additional grant funding).

RISK MANAGEMENT

In respect to the grant funding, there is always a risk that the construction may not be completed on time, particular given the current demands on the construction industry. This risk will be managed by scheduling the works to ensure that works are completed within the specified timeframes. There is also a risk that the Council may in the current market be paying a premium due to the increased demand on the construction industry and the shortage of associated contractors and consultants.

COVID-19 IMPLICATIONS

Not Applicable.

CONSULTATION

- **Elected Members**

At its meeting held on Monday 7 December 2021, the Council considered a report which outlined a list of projects which were proposed to be submitted for grant funding. At that meeting, the Council resolved to submit seven (7) applications. The applications for these projects were subsequently submitted. Four (4) of the seven (7) projects nominated received grant funding. It is now proposed that two (2) of the three (3) unsuccessful projects, ie *Burchell Reserve Redevelopment* and *The Parade Masterplan Stage 1 Upgrade*, be re-submitted for grant funding. These two (2) projects have been presented to the Council as part of its considerations regarding the *Long Term Financial Plan 2021-2031* and as part of the 2021-2022 Budget.

- **Community**

Not Applicable.

- **Staff**

General Manager, Corporate Services
Manager, Economic Development & Strategic Projects
Acting Manager, City Assets
Financial Services Manager
Project Manager, Urban Design & Special Projects
Project Manager, Assets

- **Other Agencies**

Following notification that the *Cruickshank Reserve Unisex Facilities Project* grant application was unsuccessful, Council Staff sought feedback from the Office of Recreation, Sport & Racing (ORSR) to better understand the deficiencies of the application. Council Staff now have a clear understanding of what is required should another application be submitted as part of a future round of the *Grassroots Facilities Grant Funding Program*.

DISCUSSION

As outlined in this report, the State Government recently re-opened the *Open Space Grant Program* and the *Grassroots Facilities Grant Funding Program*. The change in the timing of these grant programs is to enable councils to better align the grant funding with annual budgets.

Open Space Grant Program

The newly created *Open Space Grant Program*, combines the former *Open Space Grant Program* and the *Places for People Grant Funding Program* into one (1) grant program. The objectives of the Grant Program are to:

- improve the conservation, enhancement and enjoyment of public open spaces to provide communities access to quality green public open space for positive health and wellbeing outcomes;
- provide a range of unstructured recreation opportunities compatible with the surrounding environment;
- support innovative engagement processes and creative design outcomes to create unique, well-designed and sustainable public spaces; and
- create or revitalise public spaces that are important to the social, cultural and economic life of the community.

In summary, the Grant Program supports projects that:

- facilitate the integrated delivery of quality public open space particularly in areas of growth and renewal;
- provide a diverse range of high-quality public open spaces that offer a range of active and passive uses;
- improve the way places function, making them more sustainable, more accessible, safer and healthier;
- promote urban greening and climate change resilience; and
- create an interconnected network of high-quality green spaces that join destinations, public transport and growth areas.

Through the *Open Space Grant Program*, Councils may apply for funding for the following types of projects:

1. **Development projects** to enhance and revitalise such as:

- reserves and parks;
- linear parks;
- coastal reserves;
- trails and strategic open space linkages;
- foreshore and riverfront precincts;
- civic plazas;
- town squares; and
- main street precincts.

2. **Land purchases** to support future open space opportunities.

On the basis that the *Burchell Reserve Redevelopment Project* is one of the Council's key projects for 2021-2022 and 2022-2023 financial years and that the detail design and documentation for the *The Parade Masterplan Stage 1 Upgrade Project* is underway, which will subsequently lead to the construction stage of the project, it is recommended that grant applications be submitted again for both the *Burchell Reserve Redevelopment* and *The Parade Masterplan Stage 1 Upgrade* projects. Both of these projects align with at least one (1) of the primary objectives of the Grant Program.

In the event that the Council is successful in receiving grant funding for the *Burchell Reserve Redevelopment Project*, the grant funding will offset the Council's current financial commitment for this project which is \$2.6million. Whilst the construction of the Stage 1 upgrade to The Parade is not scheduled to occur in the Council's Long Term Financial Plan until the 2024-2025 financial year, any grant funding which is received for this project, will require the Council to bring this project forward and realign its priorities in the 2022-2023 Budget.

Given that these two (2) projects have continued to be progressed since the determination of the previous grant funding submissions, it is hopeful that this will better position the Council to receive funding, which will assist with the delivery of these two (2) major strategic projects.

Grassroots Facilities Grant Funding Program – Round 2

The stated objective of the *Grassroots Facilities Grant Funding Program (GFP)* is to increase participation in sport and improve gender equality to support healthier, happier and safer communities. The *GFP* will assist eligible organisations to develop core infrastructure that directly impacts participation through the rational development of good quality, well designed and utilised facilities.

The budget for this round of the GFP is \$10,000,000, entirely sourced from State Government appropriation.

The *Cruickshank Reserve Unisex Facilities Project* was submitted through Round 1 of *Grassroots Facilities Grant Funding Program* but unfortunately was unsuccessful in obtaining grant funding. Whilst the feedback received from the Office for Recreation, Sport and Racing (ORSR), was generally positive and that re-applying with an application that considers and applies the advice received from the ORSR could potentially lend itself to a more positive outcome, this is not recommended at this time, as the Council is already extensively committed both financially and from a human resource perspective to the delivery of a large number of projects. To this end, the successful outcome of the previous round of grant funding applications, has resulted in a large number of major strategic projects being brought forward and are currently being progressed. In addition, whilst the upgrade of the Cruickshank Reserve Facilities is required, it has not been identified in the Council's *Long Term Financial Plan 2021-2031*.

This decision does not preclude the Council from applying for funding under any subsequent funding programs.

OPTIONS

The Council has the following three (3) options available to it in respect to this matter:

1. Resolve to re-apply for grant funding under the State Government's *Open Space Grant Program*, for the *Burchell Reserve Redevelopment* and *The Parade Masterplan Stage 1 Upgrade* Projects and not to reapply for grant funding under the Grassroots Facilities Grant Funding Program for the *Cruickshank Reserve Unisex Facilities Project*.

This is the **recommended** option.

2. Resolve to re-apply for grant funding for all three (3) unsuccessful strategic projects (ie *Burchell Reserve Redevelopment Project*, *The Parade Masterplan Stage 1 Upgrade Project* and the *Cruickshank Reserve Unisex Facilities Project*). This is **not the recommended** option on the basis that this option will have financial impacts.
3. Re-solve to not re-apply for grant funding for any of the three (3) unsuccessful strategic projects (ie *Burchell Reserve Redevelopment Project*, *The Parade Masterplan Stage 1 Upgrade Project* and the *Cruickshank Reserve Unisex Facilities Project*). This is **not the recommended** option, given that the Burchell Reserve Redevelopment Project is currently totally funded by the Council and any grant funding will offset the cost of the project.
4. Re-solve to only apply for the Burchell Reserve Redevelopment Project on the basis that the Council has already allocated a budget for the construction of this project and that any grant funding will simply offset the Council's existing financial commitment. Whilst this is a viable option, not applying for The Parade is a missed opportunity given that this project is within the scope of the endorsed *2021-2031 Long Term Financial Plan* and funding has been allocated for the preparation of detailed design and documentation. This option is therefore **not recommended**.

CONCLUSION

In respect to the grant funding which has been received from a number of Federal and State programs earlier in 2021, the City of Norwood Payneham & St Peters was successful in obtaining a total of \$8,670,347 for four (4) of the seven (7) projects that the Council submitted.

Given the Council's previous success and the significant financial and human resource commitment to deliver these projects, it is recommended that the Council take a more strategic and financially prudent approach to the projects in which it chooses to seek grant funding.

COMMENTS

Whilst the most recent round of grant funding programs yielded positive outcomes for the Council, in terms of both the number of projects that were successful in obtaining funding and also the quantum of grant funding received, it has placed a significant amount of pressure on the Council's resources, both financial and human.

In addition to the four (4) projects that received grant funding the Council is continuing to progress two (2) of the other projects (ie Burchell Reserve and The Parade Redevelopment) despite not receiving grant funding. Obtaining grant funding for these two (2) projects will simply assist the Council financially in their delivery. Whilst all six (6) projects are at different stages of commencement, nonetheless this indicates a substantial infrastructure asset investment which will result in significant benefits for the community.

RECOMMENDATION

1. That grant funding applications be submitted for the *Burchell Reserve Redevelopment Project* and *The Parade Masterplan Stage 1 Upgrade Project*, as part of the current round of the State Government's *Open Space Grant Program*.
2. That a grant funding application for the *Cruickshank Reserve Unisex Facilities Project* not be submitted as part of this round (Round 2) of the *Grassroots Facilities Grant Funding Program*.

Cr Sims moved:

- 1. That grant funding applications be submitted for the Burchell Reserve Redevelopment Project and The Parade Masterplan Stage 1 Upgrade Project, as part of the current round of the State Government's Open Space Grant Program.*
- 2. That a grant funding application for the Cruickshank Reserve Unisex Facilities Project be submitted as part of this round (Round 2) of the Grassroots Facilities Grant Funding Program.*

Seconded by Cr Stock and carried unanimously.

12. ADOPTION OF COMMITTEE MINUTES

Nil

13. OTHER BUSINESS

13.1 East Waste

Cr Stock moved:

That pursuant to Section 90(2) and (3) of the Local Government Act, 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Services, General Manager, Corporate Services, Manager, Governance, Legal & Property and Administration Officer, Governance & Community Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which –*
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
 - (ii) would, on balance, be contrary to the public interest;*

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Patterson and carried.

Cr Minney moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the discussion and minutes be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Seconded by Cr Patterson and carried.

13.2 Council Related Matter

Cr Duke moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Services, General Manager, Corporate Services, Manager, Governance, Legal & Property and Administration Officer, Governance & Community Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (h) legal advice*

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Stock and carried.

Cr Sims left the meeting at 8.40pm.
Cr Sims returned to the meeting at 8.41pm.

Cr Minney moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the discussion and minutes be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

Seconded by Cr Granozio and carried unanimously.

14. CONFIDENTIAL REPORTS

14.1 RESIDUAL & HARD WASTE DISPOSAL CONTRACT

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the Council staff present, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

Under Section 91(7) and (9) of the *Local Government Act 1999*, the Council orders that the report and discussion be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Cr Minney moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [Chief Executive Officer, General Manager, Governance & Community Affairs, General Manager, Urban Services, General Manager, Corporate Services and Administration Officer, Governance & Community Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which –
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
 - (ii) would, on balance, be contrary to the public interest;**

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Knoblauch and carried unanimously.

Cr Moore moved:

Under Section 91(7) and (9) of the Local Government Act 1999, the Council orders that the report and discussion be kept confidential for a period not exceeding five (5) years and that this order be reviewed every twelve (12) months.

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the minutes be kept confidential until the contract has been entered into by all parties to the contract.

Seconded by Cr Patterson and carried unanimously.

14.2 COUNCIL RELATED MATTER

RECOMMENDATION 1

That pursuant to Section 90(2) and (3) of the *Local Government Act 1999* the Council orders that the public, with the exception of the General Manager, Governance & Community Affairs, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

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

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

RECOMMENDATION 2

Under Section 91(7) and (9) of the *Local Government Act 1999* the Council orders that the question and the response be kept confidential for a period not exceeding five (5) years after which time the order will be reviewed.

Cr Stock moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the General Manager, Governance & Community Affairs and Administration Officer, Governance & Community Affairs, be excluded from the meeting on the basis that the Council will receive, discuss and consider:

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

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed by the need to keep the receipt/discussion/consideration of the information confidential.

Seconded by Cr Callisto carried unanimously.

Cr Sims left the meeting at 9.23pm.
Cr Sims returned to the meeting at 9.24pm.

Cr Callisto moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the question and the response be kept confidential for a period not exceeding five (5) years after which time the order will be reviewed.

Seconded by Cr Granozio and carried unanimously.

15. CLOSURE

There being no further business, the Mayor declared the meeting closed at 9.30pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)