

# Council Meeting Minutes

**6 September 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.*

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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)  
Carlos Buzzetti (General Manager, Urban Planning & Environment)  
Lisa Mara (General Manager, Governance & Community Affairs)  
Sharon Perkins (General Manager, Corporate Services)  
Isabella Dunning (Manager, Governance, Legal & Property)  
Skye Grinter-Falzun (Executive Assistant to Chief Executive Officer & Mayor)

**APOLOGIES** Nil

**ABSENT** Nil

**1. KAURNA ACKNOWLEDGEMENT**

**2. OPENING PRAYER**

The Opening Prayer was read by Cr John Minney.

**3. CONFIRMATION OF THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 18 AUGUST 2021**

*Cr Whittington moved that the minutes of the Special Council Meeting held on 18 August 2021 be taken as read and confirmed. Seconded by Cr Stock and carried unanimously.*

**4. MAYOR'S COMMUNICATION**

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Monday, 2 August	<ul style="list-style-type: none"><li>Presided over a Council meeting, Council Chamber, Norwood Town Hall.</li></ul>
Monday, 9 August	<ul style="list-style-type: none"><li>Attended a Training Session: Conflict of Interest, Mayor's Parlour, Norwood Town Hall.</li></ul>
Tuesday, 10 August	<ul style="list-style-type: none"><li>Attended an Audit Committee meeting, Mayor's Parlour, Norwood Town Hall.</li></ul>

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Tuesday, 10 August	<ul style="list-style-type: none"><li>• Attended a meeting with the Chief Executive Officer, Mr Anthony Giordano and Mr Paul Giordano (Adelaide Blue Eagles Soccer Club), Mayor's Office, Norwood Town Hall.</li></ul>
Thursday, 12 August	<ul style="list-style-type: none"><li>• Attended a meeting of Eastern Region Alliance (ERA) Mayors and Chief Executive Officers, Town of Walkerville offices, Walkerville.</li></ul>
Friday, 13 August	<ul style="list-style-type: none"><li>• Attended a meeting with the Chief Executive Officer, Cr Kevin Duke, Mr Stan Chapley and Mr Tom Game (Botten Levinson Lawyers).</li></ul>
Friday, 13 August	<ul style="list-style-type: none"><li>• Attended the pre-match function followed by the Norwood versus West Adelaide football match, Norwood Oval.</li></ul>
Sunday, 15 August	<ul style="list-style-type: none"><li>• Attended the Vietnam Veterans Day commemoration service, Payneham RSL, Payneham.</li></ul>
Wednesday, 18 August	<ul style="list-style-type: none"><li>• Presided over a Special Council Meeting, Council Chamber, Norwood Town Hall.</li></ul>
Monday, 23 August	<ul style="list-style-type: none"><li>• Attended an Information Session: ERA Water, Mayor's Parlour, Norwood Town Hall.</li></ul>
Monday, 23 August	<ul style="list-style-type: none"><li>• Attended an Information Session: Waste Management Policy, Mayor's Parlour, Norwood Town Hall.</li></ul>
Wednesday, 25 August	<ul style="list-style-type: none"><li>• Tour of the Norwood Town Hall for Year 4 students, St Joseph's Memorial School (Norwood), Norwood Town Hall.</li></ul>
Tuesday, 31 August	<ul style="list-style-type: none"><li>• Attended a meeting with the Chief Executive Officer and representatives of the Trinity Garden Bowling Club, Norwood Town Hall.</li></ul>
Friday, 3 September	<ul style="list-style-type: none"><li>• Attended the Eastern Regional Alliance (ERA) Mayors' Monthly Breakfast, Adelaide.</li></ul>
Saturday, 4 September	<ul style="list-style-type: none"><li>• Attended the pre-match function followed by the Norwood versus Adelaide SANFL football match, Norwood Oval.</li></ul>

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**5. DELEGATES COMMUNICATION**

- Cr Knoblauch advised that on Monday 23 August 2021, he attended the Marden Senior College Governing Council's monthly meeting.
- Cr Minney advised that on Friday 20 August 2021, he attended a Special Meeting of the ERA Water Board.

**6. QUESTIONS WITHOUT NOTICE**

Nil

**7. QUESTIONS WITH NOTICE**

Nil

**8. DEPUTATIONS**

Nil

**9. PETITIONS**

## 9.1 PETITION – AVENUE ROAD, PAYNEHAM – TRAFFIC MANAGEMENT

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**REPORT AUTHOR:** General Manager, Governance & Community Affairs  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 8366 4549  
**FILE REFERENCE:** qA76306  
**ATTACHMENTS:** A - C

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### PURPOSE OF REPORT

The purpose of this report is to table a petition which has been received regarding traffic management issues associated with Avenue Road, Payneham.

### BACKGROUND

The petitioners are requesting that the Council consider the following matters in relation to Avenue Road, Payneham:

- *reduce the speed limit from 50kph to 40kph to decrease the risk of a vehicle collision and pedestrian accident;*
- *increase speed limit signage;*
- *implement speed humps and or slow points to physically reduce motorist speed (as seen on Devitt Road);*
- *implement safe pedestrian crossing/walkway; and*
- *reduce/restrict entry/exit into Avenue Road via Payneham Road and/or Marian Road.*

A copy of the petition is contained in **Attachment A**.

The petition was provided to signatories in hard copy and this has been signed by a total of ten (10) people, including the convenors of the petition.

The petition was also provided as an electronic online petition which has been “signed” by 99 people (including one anonymous person). A copy of the online petition is contained within **Attachment B**.

In accordance with the *Local Government (Procedures at Meetings) Regulations 2013*, a petition to the Council must:

- be legibly written, typed or printed;
- clearly set out the request or submission of the petitioners;
- include the name, address and signature of each person who signed or endorsed the petition; and
- be addressed to the Council and delivered to the Principal Office of the Council.

On this basis, the online petition is not a valid petition.

The Council’s website clearly set outs the process associated with petitions and includes a template which citizens can use when wanting to present a petition to the Council. In respect to the petition which has been submitted to the Council, the template which is provided on the website is the template which the convenors of the petition have provided to the Council. The petition contained within Attachment A constitutes a valid petition to the Council.

In addition to the petition, the convenors of the petition have provided a document containing various photographs highlighting the issues. A copy of the photographs is contained within **Attachment C**.

In accordance with the Council’s *Privacy Policy*, the personal information of the petitioners, (ie the street addresses) have been redacted from the petition. The names of the signatories and the suburb which have been included on the petition have not been redacted from the petition.

## RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Goals contained in *CityPlan 2030* are:

### **Outcome 1: Social Equity**

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

### **Strategy:**

*1.2.4 Provide appropriate traffic management to enhance residential amenity.*

## DISCUSSION

The petitioners are requesting that the Council considers options to address the issues associated with the speed of traffic in Avenue Road, Payneham.

In addition, the petitioners have requested that the Council consider installing a pedestrian crossing and restricting access into Avenue Road via Payneham Road and/or Marian Road.

The Council's *Local Area Traffic Management Policy* sets out the following process in respect to petitions which are received regarding traffic management issues:

### **Petitions**

*Petitions regarding traffic management issues which are received by the Council, will be referred to the Committee for consideration.*

*The Committee shall acknowledge the petition and note that Council staff will then investigate the issues which are raised through the petition. The process which will be used by Council staff in addressing the matter shall be the same as that which is set out in the Traffic Management Investigations Section of this Policy.*

## RECOMMENDATION

That the petition which has been received regarding the traffic management issues associated with Avenue Road, Payneham be referred to the Council's Traffic Management & Road Safety Committee, in accordance with the Council's *Local Area Traffic Management Policy*.

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*Cr Duke moved:*

*That the petition which has been received regarding the traffic management issues associated with Avenue Road, Payneham be referred to the Council's Traffic Management & Road Safety Committee, in accordance with the Council's Local Area Traffic Management Policy.*

*Seconded by Cr Dottore and carried unanimously.*

**10. WRITTEN NOTICES OF MOTION**

## 10.1 CREATIVE HOARDINGS POLICY – SUBMITTED BY MAYOR ROBERT BRIA

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**NOTICE OF MOTION:** Creative Hoardings Policy  
**SUBMITTED BY:** Mayor Robert Bria  
**FILE REFERENCE:** qA1039  
**ATTACHMENTS:** Nil

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Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Mayor Robert Bria.

### NOTICE OF MOTION

That staff investigate the merits of introducing a Creative Hoardings Policy and prepare a report for Council's consideration.

### REASONS IN SUPPORT OF MOTION

Increasingly, large building sites are using art as part of their hoarding as opposed to cyclone fencing with hessian cloth or plain wooden boards. In Adelaide, a recent example of extensive hoarding with art is the former Royal Adelaide Hospital site and Lot Fourteen on North Terrace.

Given there are currently large developments taking place in our City, such as the Coles Norwood site and Beulah Road, Norwood, it may be worth Council investigating whether it should adopt a policy that provides clear guidelines for the use of art and creative image on hoardings.

While such a policy may not apply to current developments, it may be a useful reference point for any future Council re-development (parks, libraries, etc.) as well as privately funded commercial or residential developments.

There are a number of councils in other jurisdictions across Australia that have a Creative Hoardings Policy.

The options for images on creative hoardings could vary depending on location or the type of structure that is being built. For example, the Woollahra Municipal Council's (Sydney) Creative Hoarding Policy provides options for:

- Licensed artwork – artwork selected and licenses by Council;
- Historic images - local historic photographs sourced from Council archives; and
- Bespoke artwork – developer may commission their own artwork with Council approval.

If supported by the Council, the introduction of a Creative Hoardings Policy will provide the following benefits:

- Provide visual interest to the community at construction sites within the council area;
- Give opportunities to local artists and designers to publicly display their work (over extended periods of time); and
- Creates or enhances 'place making' in Norwood Payneham & St Peters.

Links to *CityPan 2030*:

#### Cultural Vitality

##### *Objective 2.1 (An artistic, creative and visually interesting City)*

2.1.1 – Use the arts to enliven public spaces and create a 'sense of place'

2.1.2 - Provide opportunities and places for creative expression for all people

2.1.3 – Attract and support cultural and creative organisations, businesses and individuals



**STAFF COMMENT**  
**PREPARED BY GENERAL MANAGER, URBAN PLANNING & ENVIRONMENT**

A report, as requested, will be provided to the Council.

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*Cr Minney moved:*

*That staff investigate the merits of introducing a Creative Hoardings Policy and prepare a report for Council's consideration.*

*Seconded by Cr Whittington and carried unanimously.*

## 10.2 ADDITIONAL FUNDING FOR URBAN GREENING PROGRAM – SUBMITTED BY CR SCOTT SIMS

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**NOTICE OF MOTION:** Additional Funding for Urban Greening Program  
**SUBMITTED BY:** Cr Scott Sims  
**FILE REFERENCE:** qA1039 qA74835  
**ATTACHMENTS:** Nil

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Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Cr Scott Sims.

### NOTICE OF MOTION

That the Council's 2021-2022 operational budget be amended to provide \$9,600 in additional funding for the planting of a further 120 new trees, as part of the Council's Urban Greening Program.

### REASONS IN SUPPORT OF MOTION

There has been overwhelming community support and positive feedback for Council's 2021 Urban Greening Program. In just over a week, the trial funding was exhausted and 120 vouchers have been issued to residents to procure and plant new trees.

Many residents in suburbs with 20% or less green canopy have been requesting vouchers and wanting to plant trees on their property to assist with creating a greener City.

There is currently a wait list for further properties and vouchers.

This motion essentially doubles the trial to result in the planting of 240 new trees by residents across the Council area.

### STAFF COMMENT

#### PREPARED BY GENERAL MANAGER, URBAN PLANNING & ENVIRONMENT

The intent of the Council's Urban Greening Program was to trial an alternative to the Council's traditional approach to the planting of new trees across the Council area and to understand the level of community interest in planting trees on private land, where the Council is providing a financial contribution and guidance on what trees to plant. The supply of trees was not intended to match the likely demand, as the demand could be many times more than the funding allocated to the Program. The number of trees planted is not of major relevance in the first year of the Program. Whilst the 'over subscription' is a strong indicator that the program is well received by the community, more analysis of the value of the Program needs to be undertaken. For instance, whilst the take-up rate is strong, we need to understand how many of the trees are actually planted throughout the year and of those, how many survived and thrived as that will provide a true indication of the value of the alternative approach.

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*Cr Sims moved:*

*That the Council's 2021-2022 operational budget be amended to provide \$9,600 in additional funding for the planting of a further 120 new trees, as part of the Council's Urban Greening Program.*

*Seconded by Cr Moorhouse and carried.*

### 10.3 ARTS STRATEGY REVIEW – SUBMITTED BY CR SCOTT SIMS

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**NOTICE OF MOTION:** Arts Strategy Review  
**SUBMITTED BY:** Cr Scott Sims  
**FILE REFERENCE:** qA1039  
**ATTACHMENTS:** Nil

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Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Cr Scott Sims.

#### NOTICE OF MOTION

1. That a new Public Arts Strategy be developed and presented to Council this financial year, with a scope covering (but not limited to) reviewing and integrating the Thinking Through the City Strategic Plan (which has now lapsed), the Public Art Program, Art on Parade, and the Quadrennial Public Art major art commissions.
2. The Public Art Policy be updated to align with the newly developed Public Art Strategy.
3. Council delay this year's planned commissioning of another Quadrennial Public Art project until the new Strategy has been completed.
4. That a portion of the funding currently allocated to the Public Arts Officer Salary Budget be re-allocated towards the review and development of a new the Public Art Strategy.
5. This year's Quadrennial Public Art Assessment Panel be disbanded by the Council.

#### REASONS IN SUPPORT OF MOTION

The motion has been put forward for Council to seriously consider and look at reviewing our approach to public art.

Currently, Council has a number of art-related programs and projects, however no clear vision has been articulated regarding their aims, there is little obvious coordination between the elements, or reporting on program and project implementation.

We need a broader, integrated Strategy that delivers bang for our buck as well as demonstrating support for local artists, effective activation of a variety of public spaces and community engagement.

Since 2006, the Council has commissioned three major art projects: Spectrum (Osmond Terrace, Norwood), Fallow (St Peters Street), and Perpetual Sun (Corner Magill Road and Nelson Street). However, it is not clear that these installations have met the original intent of placemaking, positioning of the Council in regard to arts, or creating an Arts Trail for residents and visitors to enjoy. The public art commissioned in Kent Town as part of the Thinking Through the City Strategic Plan has arguably been more effective in achieving these goals, at a small fraction of the cost of these major art projects.

Meanwhile, contrary to the current Public Arts Policy, public art has not been included in major projects such as the Norwood Oval redevelopment or the proposed Burchell Reserve project, from which the budgeted public art element was in fact removed.

It is also arguable that our current approach to public art excludes several types of practice that Council should be supporting, such as literature, architecture, cinema, music and theatre.

**STAFF COMMENT**  
**PREPARED BY GENERAL MANAGER, GOVERNANCE & COMMUNITY AFFAIRS**

The Council has two (2) documents relating to Arts.

The first is the document titled *Thinking Through the City*, which is ostensibly the Council's endorsed Strategic Plan for public artworks.

This Plan is a 10 year Plan which covers the period 2009 to 2019.

The Plan is scheduled for review and subject to the outcome of the review, the preparation of a new Strategic Plan. Due to other priorities which have been endorsed by the Council and workload over the last twelve (12) months and the implications of COVID-19, work on a new document was scheduled to commence in the second half of this financial year with a review of work to date and a subsequent funding submission for consideration as part of the 2022-2023 Budget to engage a suitably qualified consultant to assist in preparing a new Plan.

The second relevant document is the Council's *Public Art Policy*.

This Policy was originally endorsed by the Council in 2007 and has been reviewed in 2011, 2016 and most recently in 2019. It is scheduled to be reviewed again in 2023.

The Policy identifies that there are three (3) categories of public art each forming separate components of a dynamic and integrated public art program.

1. *Integrated Art - art incorporated into infrastructure projects such as paving, gates, lighting, signage, street furniture, playground equipment, railings, landscaping etc. This is often referred to as 'site specific', as it is designed and made for the specific place in which it is installed. Production of such art involves collaboration between planners, architects, artists and engineers at an early stage in the development of a project.*
2. *Community Art – art involving a high degree of community consultation and participation. Crucial to this form of public art is the process of skill development and the connections this process fosters within and between communities. Community Art often communicates a message of social, historic or environmental importance to those involved in the design and making of the work. Its processes are usually facilitated by an artist and can involve **all forms of visual and performing arts**. The completed work is referred to as public art.*
3. *Stand Alone Art - art commissioned for particular sites or a series of sites which may be permanent or temporary and includes hired works and works on loan. This can range from iconic works marking gateways to the City, to interpretive work which comments on or describes issues or events. Examples of interpretive work might be murals, signage, performance or sculpture. Stand Alone Art can also include ephemeral works for short term display such as projection art.*

The Council's Public Art Policy includes the commissioning of a major public artwork (ie. the Quadrennial Public Artwork), once in every term of the Council.

The Policy currently includes the full spectrum of the arts including public art, music, visual and performing arts.

These various components are funded based on the funds available and the various priorities which are agreed to by the Council – noting that funds are always limited and there will always be competition for funds.

As set out above, a review of the current Public Art Strategy (Thinking Trough the City), is scheduled to be reviewed. This review can include discussion on whether the Strategy should include all forms of "art" as this would seem a sensible approach.

Whilst the Council can, if it wishes, revoke any policy, including the *Public Art Policy*, there does not appear to be any justification to do so "mid-stream", given the Budget allocations over the last four (4) years to complete the commissioning of the next Quadrennial Public Art instalment.

Proceeding on the basis of reviewing the Council's Arts Strategy and its Policy in the 2022-2023, would seem a logical course of action, given that a program and funding has only recently been endorsed by the Council.

#### Recommended Approach

As it is not considered at this stage to be urgent, this matter should be considered as part of the Council's 2022-2023 Budget and if endorsed by the Council, completed as part of the 2022-2023 Budget.

This would also provide the Council with adequate time to adjust, if required, any budgetary allocations towards public art programs generally and in particular, the Quadrennial Public Art component of the Policy, as this timeframe reflects the first year of the term of the new Council.

Deferring (essentially cancelling) the commissioning of the Council's Quadrennial Public Art for the term of this Council, does not align with both *CityPlan 2030* or the Council's *Public Art Policy*.

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*Cr Sims moved:*

1. *That a new Public Arts Strategy be developed and presented to Council this financial year, with a scope covering (but not limited to) reviewing and integrating the Thinking Through the City Strategic Plan (which has now lapsed), the Public Art Program, Art on Parade, and the Quadrennial Public Art major art commissions.*
2. *The Public Art Policy be updated to align with the newly developed Public Art Strategy.*
3. *That up to \$30,000 of the funding currently allocated to the Public Arts Officer Salary Budget be re-allocated towards the review and development of a new Public Art Strategy.*

*Seconded by Cr Minney.*

#### Amendment

*Cr Stock moved:*

1. *That a new Public Arts Strategy be developed and presented to Council this financial year, with a scope covering (but not limited to) reviewing and integrating the Thinking Through the City Strategic Plan (which has now lapsed), the Public Art Program, Art on Parade, the Quadrennial Public Art major art commissions and the possible employment of a Public Arts Officer.*
2. *The Public Art Policy be updated to align with the newly developed Public Art Strategy.*
3. *That up to \$30,000 of the funding currently allocated to the Public Arts Officer Salary Budget be re-allocated towards the review and development of a new Public Art Strategy.*

*Seconded by Cr Dottore.*

*The amendment was put and carried and on becoming the motion was again put and carried.*

**10.4 WEBBE STREET CAR PARK – TRAFFIC FLOWS – SUBMITTED BY CR JOHN MINNEY**

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**NOTICE OF MOTION:** Webbe Street Carpark – Traffic Flows  
**SUBMITTED BY:** Cr John Minney  
**FILE REFERENCE:** qA1039  
**ATTACHMENTS:** Nil

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Pursuant to Regulation 12(1) of the *Local Government (Procedures at Meetings) Regulations 2013*, the following Notice of Motion has been submitted by Cr John Minney.

**NOTICE OF MOTION**

Staff to prepare a report to Council on the pros and cons of reversing the traffic flows in Webbe Street and Harris Street.

**REASONS IN SUPPORT OF MOTION**

With the proposed new lights arrangement at the intersection of George Street and The Parade, it may be advantageous to have left turn from George Street into Webbe Street to assist with the movement of vehicles and to help with congestion.

It may also assist with the traffic movement into and out from the Norwood Place underground car park.

**STAFF COMMENT**

**PREPARED BY GENERAL MANAGER, URBAN PLANNING & ENVIRONMENT**

As this matter relates to traffic management issues, if this Motion is supported, the matter will be referred to the Council's Traffic Management & Road Safety Committee.

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*Cr Minney moved:*

*That staff prepare a report to the Council's Traffic Management & Road Safety Committee regarding the traffic movements in and around Webbe Street, Edward Street, George Street and Harris Street, Norwood.*

*Seconded by Cr Duke and carried unanimously.*

**10.5 WRITTEN NOTICES OF MOTION – CONFIDENTIAL ITEM - COUNCIL RELATED MATTER**

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Refer to Confidential Item 14.3 of these Minutes.

**11. STAFF REPORTS**



## **Section 1 – Strategy & Policy**

### **Reports**

## 11.1 REVIEW OF COMMUNITY LAND MANAGEMENT PLANS

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**REPORT AUTHOR:** Manager, Governance, Legal & Property  
**GENERAL MANAGER:** General Manager, Governance & Community Affairs  
**CONTACT NUMBER:** 8366 4507  
**FILE REFERENCE:** fA5005 qA76691 qA2030  
**ATTACHMENTS:** A - C

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### PURPOSE OF REPORT

The purpose of this report is to present to the Council proposed amendments to the Council's *Community Land Management Plans* for the Council's consideration and endorsement for community consultation.

### BACKGROUND

All Councils are required to prepare and adopt Community Land Management Plans for Community Land within their respective area pursuant to Section 196 of the *Local Government Act 1999* (the Act).

At its meeting held on 1 June 2020, the Council adopted the following *Community Land Management Plans* pursuant to Section 196(1) of the Act:

- *Strategic Overview – Community Land Management Plan;*
- *Parks & Reserves – Community Land Management Plan;*
- *Sporting Facilities – Community Land Management Plan;*
- *Civic & Community Facilities – Community Land Management Plan;* and
- *Operational & Other Community Land – Community Land Management Plan.*

A copy of the *Community Land Management Plans* is contained within **Attachment A**.

A review of the Plans has been undertaken following one (1) year of operation. A number of amendments are proposed to correct minor administrative errors and to update the Plans in accordance with other Council strategic plans and legislative changes. In addition, some changes have been made to the leasing and licensing provisions in the Plans to accommodate existing arrangements entered into with tenants since the adoption of the Plans in June 2020 and proposed arrangements moving forward.

The proposed amendments to the Plans are contained within **Attachment B** and **Attachment C** for the Council's consideration and endorsement for community consultation.

### RELEVANT STRATEGIC DIRECTIONS & POLICIES

#### Social Equity

#### Objective 1.3 An engaged and participating community.

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

### FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

### EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

### SOCIAL ISSUES

Not Applicable.

## CULTURAL ISSUES

Not Applicable.

## ENVIRONMENTAL ISSUES

Not Applicable.

## RESOURCE ISSUES

Not Applicable.

## RISK MANAGEMENT

Regular review of the Council's *Community Land Management Plans* is necessary to ensure consistency and compliance with other Council strategic plans, operational requirements and relevant legislation. A failure to do so risks exposing the Council to liability for non-compliance with its Plans in the management of Community Land in the City.

## COVID-19 IMPLICATIONS

Not Applicable.

## CONSULTATION

- **Elected Members**

The Council last considered the Council's *Community Land Management Plans* at its meetings held on 2 March 2020 and 1 June 2020.

- **Community**

Prior to adopting a proposal for amendment of a *Community Land Management Plan*, the Council is required to undertake community consultation and give public notice with respect to the proposed amendment of the Plan pursuant to Section 198(2) of the Act.

Consultation is proposed to be conducted for a period of three (3) weeks with public notices to be placed on the Council's website and in the Advertiser newspaper. Copies of the amended Plans will be available for inspection at the Norwood Town Hall and online on the Council's website for the duration of the consultation period.

- **Staff**

General Manager, Governance & Community Affairs  
Manager, Economic Development & Strategic Projects  
Manager, Urban Planning & Sustainability

- **Other Agencies**

Pursuant to Section 196(4) of the Act, the Council is required to consult with the owner of any community land that is not in the Council's ownership, but which falls under the Council's care, control and management, with respect to a proposal for amendment of a *Community Land Management Plan*. As such, the following entities and persons will be consulted on the amended Plans: the Department for Environment and Water; the Commissioner of Highways and Perpetual Corporate Trust Ltd.

## DISCUSSION

Following adoption of the Council's *Community Land Management Plans* in June 2020, a comprehensive review of the Plans has been undertaken and a number of amendments are proposed. In addition to correcting minor administrative errors that have been identified in the Plans since their adoption, a number of amendments are also proposed to ensure the Plans are consistent with recent updates to the Council's key strategic plans.

In particular, the Management Strategies tables attached as Appendix B to each of the Plans have been reviewed and updated to reflect the updated Objectives, Strategies and Performance Targets in *CityPlan 2030*, following the review of the Council's Strategic Plan in December 2020. This will ensure that the Council's management of Community Land is consistent with the Council's broader strategic objectives across the City.

In addition, the Strategic Management Proposals included in each of the Plans have been amended to reflect any updates to strategic projects in the Council's *Long-Term Financial Plan 2021-2031* and the Council's *Annual Business Plan 2021-2022*. Amendments have also been made to the *Strategic Overview – Community Land Management Plan* to refer to the updated *Planning, Development & Infrastructure Act 2016* and the *Planning and Design Code*, which commenced operation after the Plans were first adopted.

A number of changes have also been made to the leasing and licensing provisions in the *Community Land Management Plans* to accommodate existing arrangements entered into with tenants since the adoption of the Plans in June 2020 and proposed arrangements moving forward.

For example, the provisions relating to the former 'Brick + Mortar' premises located at 49 George Street have been amended to permit the leasing of this premises on a commercial basis, consistent with the Council's recent Expression of Interest process and resolution to enter into negotiations with a tenant to lease this premises on a commercial basis. Similarly, the provisions relating to Patterson Sportsground have been amended to permit the Council to enter into licence agreements over the sportsground for a term of 10 years, consistent with the term length for lease agreements over the clubrooms. This reflects the recent arrangements entered into with the East Torrens Baseball Club and the East Torrens Payneham Lacrosse Club for this facility.

A provision has also been included in each of the Plans to enable the Council to enter into lease arrangements for car parks on Community Land with providers of publicly accessible electric vehicle charging stations for a term of up to 15 years, consistent with the Council's recent Request for Tender process which sought proposals from operators to provide electric vehicle charging stations throughout the City.

The description of facilities at Norwood Oval and Payneham Oval in the *Sporting Facilities – Community Land Management Plan*, has also been updated to reflect the recent upgrades to these facilities.

A provision has also been included in the *Parks & Reserves – Community Land Management Plan* to provide that organised sport is not permitted at Felixstow Reserve, on the basis of comments and issues which have been raised by Elected Members and the local community over the past year, which indicated that use of the Reserve for organised sport on several occasions had a detrimental impact on the availability of this public space for use by the broader community for informal recreation and community activities.

A table which outlines the proposed amendments to the each of the Plans is contained within **Attachment B**. This should be read with the current version of the Plans contained within **Attachment A**.

An additional table which outlines the proposed amendments to the Management Strategies table attached to each of the Plans (with amendments marked in red) is contained within **Attachment C**.

Although Section 198(3) of the Act provides that public consultation on a proposed amendment to a *Community Land Management Plan* is not required for minor amendments that have '*no impact or no significant impact on the interests of the community*', due to the proposed amendments to the leasing and licensing provisions in the Plans and the more substantial amendments to the Management Strategies tables to ensure consistency with the recent update to *CityPlan 2030*, it is proposed to conduct community consultation on the entirety of the proposed amendments to the Plans pursuant to Section 198(2) of the Act.

If the Council resolves to proceed with the proposed amendments, the Plans will be updated with the proposed amendments and copies of the amended Plans will be made available for inspection during the consultation period.

A subsequent report will be presented to the Council following completion of the consultation period to present the amended Plans to the Council for adoption.

## OPTIONS

The Council can determine not to proceed with the proposed amendments to the *Community Land Management Plans*, however, this is not recommended. To ensure that the Plans remain up-to-date and consistent with other Council strategic plans, operational requirements and relevant legislation, it is recommended that the Council determines to proceed with the proposed amendment of the Plans and endorses the amended Plans for community consultation.

## CONCLUSION

At its meeting held on 1 June 2020, the Council adopted four (4) *Community Land Management Plans* pursuant to Section 196(1) of the *Local Government Act 1999*. Following one (1) year of operation, a comprehensive review of the Plans has now been completed and a number of proposed amendments are presented to the Council for its consideration and endorsement for community consultation. The amendments are proposed to correct minor administrative errors, to update the Plans in accordance with other Council strategic plans and legislative changes, and to reflect recent and proposed leasing and licensing arrangements over a number of Council facilities.

## COMMENTS

Nil.

## RECOMMENDATION

That the Council resolves to amend the Council's *Community Land Management Plans* contained within **Attachment A**, as per the documents contained in **Attachment B** and **Attachment C**, and endorses the amended Plans for the purpose of undertaking community consultation in accordance with Section 198(2) of the *Local Government Act 1999*.

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*Cr Patterson moved:*

*That the Council resolves to amend the Council's Community Land Management Plans contained within Attachment A, as per the documents contained in Attachment B and Attachment C, and endorses the amended Plans for the purpose of undertaking community consultation in accordance with Section 198(2) of the Local Government Act 1999.*

*Seconded by Cr Sims and carried unanimously.*

Cr Sims left the meeting at 8:25pm.

Cr Dottore left the meeting at 8:25pm.

Cr Sims returned to the meeting at 8:26pm.

Cr Dottore returned to the meeting at 8:26pm.

Cr Sims left the meeting at 8:27pm.

Cr Granozio left the meeting at 8:27pm.

Cr Sims returned to the meeting at 8:28pm.

Cr Granozio returned to the meeting at 8:29pm.

**Section 2 – Corporate & Finance**  
**Reports**

## 11.2 MONTHLY FINANCIAL REPORT – JULY 2021

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**REPORT AUTHOR:** Financial Services Manager  
**GENERAL MANAGER:** General Manager, Corporate Services  
**CONTACT NUMBER:** 8366 4585  
**FILE REFERENCE:** qA78171  
**ATTACHMENTS:** A

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### **PURPOSE OF REPORT**

The purpose of this report is to provide the Council with information regarding its financial performance for the year ended July 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. The Council adopted a Budget which forecasts an Operating Surplus of \$471,000 for the 2021-2022 Financial Year.

For the period ended July 2021, the Council's Operating Surplus is \$951,000 against a budgeted Operating Surplus of \$724,000, resulting in a favourable variance of \$227,000.

### **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.

## CONSULTATION

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

## DISCUSSION

For the period ended July 2021, the Council's Operating Surplus is \$951,000 against a budgeted Operating Surplus of \$724,000, resulting in a favourable variance of \$227,000.

Employee expenses are \$140,000 to the adopted budget which is the result of the following:

- vacancies anticipated to be filled in the adopted budget which have not yet been filled (\$40,000);
- vacancies anticipated to be filled in the adopted budget which are being back filled (\$6,000);
- cancelation of events in July at the Norwood Concert Hall as a result of COVID-19 restrictions resulted in reduction in the hours casual staff were engaged (\$11,000); and,
- timing variance related to the timing of leave actually being taken as compared to budget expectations.

The residual variance to budget is primarily due to expenditure timings compared to actual expenditure which is not uncommon for the beginning of the Financial Year. There are no individually significant variances. The Monthly Financial report is contained in **Attachment A**.

## OPTIONS

Nil

## CONCLUSION

Nil

## COMMENTS

Nil

## RECOMMENDATION

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

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*Cr Stock moved:*

*That the July 2021 Monthly Financial Report be received and noted.*

*Seconded by Cr Minney and carried unanimously.*



### 11.3 AUDIT COMMITTEE ANNUAL REPORT TO COUNCIL

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**REPORT AUTHOR:** General Manager, Corporate Services  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 8366 4585  
**FILE REFERENCE:** qA63320/A225587  
**ATTACHMENTS:** A - B

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#### **PURPOSE OF REPORT**

The purpose of the report is to present the Audit Committee's Annual Report for the year ended 30 June 2021.

#### **BACKGROUND**

The Audit Committee's 2020-2021 Work Program, requires an Annual Report to be provided to the Council which addresses the following:

- *outlining outputs relative to the audit committee's work program and the results of a self-assessment of performance for the preceding period including whether it believes any changes to its Terms of Reference are appropriate;*
- *outlining any identified training needs;*
- *advising future work program proposals; and*
- *invite comment from the Council on all of the above.*

At its meeting held on 10 August 2021, the Audit Committee considered and approved the Annual Report for the year ended 30 June 2021 and the 2021-2022 Work Program.

#### **RELEVANT POLICIES & STRATEGIC DIRECTIONS**

Not Applicable.

#### **FINANCIAL IMPLICATIONS**

Nil.

#### **SOCIAL ISSUES**

Nil.

#### **CULTURAL ISSUES**

Nil.

#### **ENVIRONMENTAL ISSUES**

Nil.

#### **RESOURCE ISSUES**

Nil.

#### **RISK MANAGEMENT**

Nil.

## CONSULTATION

- **Elected Members**  
Mayor Bria, Cr Minney (Presiding Member) and Cr Stock are Members of the Council's Audit Committee.
- **Community**  
Not Applicable.
- **Staff**  
Not Applicable.
- **Other Agencies**  
Not Applicable.

## DISCUSSION

The Audit Committee's 2020-2021 Annual Report which details the activities that have been undertaken by the Committee during the year and the proposed 2021-2022 Audit Committee Work Program is contained in **Attachment A**.

The Annual Report to the Council also requires the Audit Committee to determine whether its Terms of Reference remain appropriate. The *Statutes Amendment (Local Government Review) Bill 2020*, recently passed both Houses of Parliament, with assent to the *Statutes Amendment (Local Government Review) Act 2021* (the Act) being provided on 17 June 2021. The Act will have a number of impacts on the operations of Audit Committees in Local Government and as a consequence the *Terms of Reference* for Audit Committees. While it is still unclear when the provisions of the Act will come into effect, it is anticipated that the reforms that require minimal or moderate implementation or supporting regulation will commence once proclaimed. Given the reforms which relate to the operations of Audit Committees, it is expected that the proclamation will occur early in the transition period. As the timing is unclear, there are no recommended changes to the *Terms of Reference* at this stage. A copy of the Terms of Reference is contained in **Attachment B**.

## OPTIONS

Not Applicable.

## CONCLUSION

Nil.

## COMMENTS

If Elected Members have any questions or require clarification in relation to specific items, and/or any issues arising from this report, do not hesitate to contact the General Manager, Corporate Services, Sharon Perkins on 8366 4585, prior to the meeting.

## RECOMMENDATION

That the report be received and noted and that the Audit Committee be thanked for its oversight of the Council's Financial Governance Framework.

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*Cr Patterson moved:*

*That the report be received and noted and that the Audit Committee be thanked for its oversight of the Council's Financial Governance Framework.*

*Seconded by Cr Minney and carried unanimously.*

Cr Whittington left the meeting at 8:44pm.

Cr Moore left the meeting at 8:44pm.

Cr Whittington returned to the meeting at 8:45pm.

Cr Moore returned to the meeting at 8:47pm.

**Section 3 – Governance & General  
Reports**

## 11.4 EASTERN HEALTH AUTHORITY CHARTER REVIEW

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**REPORT AUTHOR:** General Manager, Urban Planning & Environment  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 8366 4501  
**FILE REFERENCE:** qA69175  
**ATTACHMENTS:** A - C

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### PURPOSE OF REPORT

The purpose of this report is to advise the Council of proposed amendments to the Eastern Health Authority (EHA) Charter and to seek the Council's position on the proposed amendments, to assist in finalising the current Charter review process.

### BACKGROUND

Pursuant to Clause 19 of Schedule 2 of the *Local Government Act 1999*, a Regional Subsidiary is required to have a Charter which is prepared by the Subsidiary's Constituent Councils. The Charter is required to be reviewed every four (4) years. The last review of the Eastern Health Authority Charter was finalised in May 2016. A review of the current Charter commenced in June 2020.

An initial review of the current EHA Charter was undertaken by the Authority's Administration, including seeking advice in relation to what aspects of the Charter need to be amended from a legal and best practice perspective. The proposed changes were considered by the EHA Board, at meetings held on 2 December 2020 and 25 February 2021.

On 11 March 2021, the Authority's Chief Executive Officer sought feedback from the Constituent Councils regarding the proposed changes to the Charter and invited Constituent Councils to provide any additional comments or suggestions in relation to the review of the Charter that they would like considered.

The changes proposed to the Charter by the Authority's Administration primarily relate to governance matters. Of these, two of the proposed changes are considered noteworthy.

Firstly, if the Authority's Chief Executive Officer proposes to undertake an activity outside of the area of the Constituent Councils, the current Charter provisions require the Chief Executive Officer to obtain unanimous approval from the EHA Board and all of the Constituent Councils. This is a time consuming process that can lead to EHA missing opportunities to undertake an activity that could benefit the Constituent Councils. In this context, it is proposed to amend the Charter to allow for approval of an activity outside of the area of the Constituent Councils to be obtained, following unanimous endorsement from the EHA Board and the concurrence of the Chief Executive Officers (CEOs) of the Constituent Councils. The proposed change to the Charter would not affect the current allied requirement that any activity presented for approval would need to align with the Public Health Services currently detailed in the EHA Annual Business Plan to ensure that the Authority only undertakes 'extra' activities that align with its core business functions and that would be of benefit to the Constituent Councils.

The second matter relates to the Chairperson of the EHA Board. The Authority's Audit Committee has suggested that the Chairperson should be an Independent Member. The EHA Board considered the feedback from its Audit Committee and were of the collective opinion that the current arrangement where the Chair is elected from Constituent Council Board Members is suitable when considering the size and structure of EHA and the nature of business transacted at Board meetings. As such, no change to this aspect of the Charter has been recommended by the Authority's Administration.

A copy of the Current EHA Charter is contained in **Attachment A**. A table summarising all of the proposed changes to the EHA Charter and a 'marked up' copy of the Charter including the proposed changes, is contained in **Attachment B**.

The Authority's Chief Executive Officer was advised by letter dated 17 March 2021, that a staff level, the City of Norwood Payneham & St Peters has no objections to the proposed changes to the EHA Charter.

On 6 July 2021, the Authority's Chief Executive Officer sent further correspondence to the Constituent Councils summarising the initial comments which were received from all Constituent Councils regarding the proposed changes to the EHA Charter. As a number of the changes have not received unanimous endorsement from the Constituent Councils, the amendments require further clarification and consideration.

Amendments to the EHA Charter can only be made by unanimous resolution of the Constituent Councils and it is therefore necessary for the Council to consider and endorse any proposed amendments to the Charter.

A copy of correspondence from the Authority's Chief Executive Officer dated 6 July 2021, including a summary of the proposed changes to the EHA Charter and discussion on the unresolved issues, is contained in **Attachment C**.

#### **RELEVANT STRATEGIC DIRECTIONS & POLICIES**

Not Applicable.

#### **FINANCIAL AND BUDGET IMPLICATIONS**

Not Applicable.

#### **EXTERNAL ECONOMIC IMPLICATIONS**

Not Applicable.

#### **SOCIAL ISSUES**

Not Applicable.

#### **CULTURAL ISSUES**

Not Applicable.

#### **ENVIRONMENTAL ISSUES**

Not Applicable.

#### **RESOURCE ISSUES**

Not Applicable.

#### **RISK MANAGEMENT**

The requirement for the Charter to be reviewed is a legislative compliance issue and the review has been undertaken within the timeframes prescribed in the *Local Government Act 1999*.

#### **COVID-19 IMPLICATIONS**

Not Applicable.

#### **CONSULTATION**

- **Elected Members**  
Cr Sue Whittington and Cr Garry Knoblauch are the Council's appointees on the Authority's Board of Management and have been involved with the various stages of the Charter review process.
- **Community**  
Not Applicable.
- **Staff**  
Not Applicable.

- **Other Agencies**  
Not Applicable.

## **DISCUSSION**

A review of the EHA Charter has been undertaken and the affected clauses and their current status are set out below:

### **Clause 1.7 – Area of Activity**

The suggested change enables the Authority to undertake an activity outside of the Constituent Council areas, subject to obtaining unanimous endorsement from the EHA Board Members and the concurrence of the Chief Executive Officers of the Constituent Councils. Currently, unanimous approval is required to be obtained from the EHA Board and the Constituent Councils rather than the Constituent Council Chief Executive Officers. The lengthy timeframes associated with obtaining endorsement from the five (5) EHA Constituent Councils could result in the Authority missing out on an opportunity to undertake an 'extra' activity that could benefit the Constituent Councils. For example, if a Council (other than an EHA Constituent Council) calls for Expressions of Interest to provide vaccination services to local businesses in their council area, the Authority's Chief Executive might be interested in tendering for EHA to provide the service on the basis that it aligns with EHA's core functions and could provide the Authority with additional revenue that in turn could offset some of the annual financial contributions that Constituent Councils make to EHA. However, the current need to obtain unanimous endorsement from the EHA Board Members and all of the Constituent Councils could take a significant amount of time to obtain and this could comprise the Authority's ability to submit a tender within the required timeframe.

The City of Burnside has requested some re-drafting of the suggested amendment to make it clear that any 'extra' activity that the Authority seeks to undertake outside of the Constituent Council areas is not at the detriment of the Constituent Councils and to include principles and factors that would be considered when assessing a proposal to undertake an activity outside of the Constituent Council areas.

The Campbelltown City Council has suggested that the revised clause should require the unanimous support of the Chief Executive Officers of the Constituent Councils to align with the requirement to obtain the unanimous endorsement of the EHA Board Members.

The Town of Walkerville does not support the proposed clause amendment on the basis that the Authority has provided no evidence to suggest that the current process had delayed or prevented an activity outside of the Constituent Council areas from being considered or advanced.

The Campbelltown City Council's suggestion that the revised clause should require the unanimous support of the Chief Executive Officers of the Constituent Councils to align with the requirement to obtain the unanimous endorsement of the EHA Board Members is supported. The need to obtain unanimous endorsement from the Chief Executive Officers of the Constituent Councils provides an extra 'check and balance' in the approval process for the Authority to undertake an 'extra' activity outside of the Constituent Council areas and the additional requirement is not considered too burdensome on the Authority.

The City of Burnside's suggestion that the revised Clause make it clear that any 'extra' activity that the Authority seeks to undertake outside of the Constituent Council areas is not at the detriment of the Constituent Councils and to include principles and factors that would be considered when assessing a proposal to undertake an activity outside of the Constituent Council areas is considered unnecessary. As each proposal is unique, issues that require consideration would necessarily be included in the Authority's business case that would be considered by the EHA Board and the Chief Executive Officers of the Constituent Council's. In addition, part of existing Clause 1.7 (that is not proposed to be amended) states that EHA may only undertake an activity outside of the area of the Constituent Councils where it is necessary or expedient to the performance by EHA of its functions and that the activity reflects activities included in EHA's Annual Business Plan. In this context, it is considered that the changes the City of Burnside are seeking for Clause 1.7 have no work to do. That said, if the other Constituent Councils agree with the City of Burnside's suggested change, then it is recommended that the Council accept the suggested amendment in the interest of achieving consensus and expediting the Charter Review process.

### **Clause 1.8 – Common Seal**

Clause 1.8 of the EHA Charter relates to the use of the Common Seal to authenticate corporate documents. It is proposed to delete parts (b) and (c) of the Clause as they replicate existing requirements stipulated in the *Local Government Act 1999* in relation to the circumstances in which a common seal should be used and who should affix the common seal.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 2.1 – Board of Management - Functions**

Clause 2.1 of the EHA Charter prescribes the functions of the EHA Board of Management. It is proposed to amend subclause (f) to remove the reference to the Board assisting with the Development of the Regional Public Health Plan and the Authority's Annual Business Plan. The amendment is proposed on the basis that the EHA Board (in its capacity as the governing body of EHA) must adopt the Authority's Annual Business Plan and therefore it is not necessary for the Clause to refer to Board assisting in the development of the Plan. In addition, the Regional Public Health Plan is considered to be a plan of the Constituent Councils that is adopted by each of the Constituent Councils rather than EHA. The elements of the Regional Public Health Plan that are directly relevant to EHA are reflected in EHA's Annual Business Plan, which is endorsed by the EHA Board. This rationale for the suggested changes to Clause 2.1 is based on legal advice obtained by EHA's Administration.

The Campbelltown City Council has requested the reinstatement of subclause (f) to enable Board participation in the development of the Regional Public Health Plan and the Authority's Annual Business Plan.

The Campbelltown City Council's position is not supported on the basis that the suggested change to the Charter correctly distinguishes the role of the EHA Board in considering and either endorsing or rejecting the proposed Business Plan rather than formally contributing to the early stages of its development. Nothing in the suggested change to Clause 2.1 prevents the Board from having early informal input into the development of the Annual Business Plan.

That said, if the other Constituent Councils agree with the Campbelltown City Council's suggested change, then it is recommended that the Council accept the suggested reinstatement of subclause (f) of Clause 2.1 in the interest of achieving consensus and expediting the Charter Review process.

### **Clause 2.2 – Membership of the EHA Board**

It is proposed to amend Clause 2.3 of the EHA Charter to clarify that Board Members can either be Elected Members or a member of a Council's Administration. Other minor wording changes are proposed that have no effect on the meaning or effect of the Clause.

The suggested changes are unanimously supported by the Constituent Councils.

### **Clause 2.4 – Board Policies and Codes**

It is proposed to amend Clause 2.4 of the EHA Charter to remove references to the EHA Board being consulted or involved on the development of policies and codes. The rationale for this is that the EHA Board (in its capacity as the governing body of EHA) must adopt policies, codes etc. and therefore Board Members provide their input by discussing, debating and ultimately adopting or not adopting and policies and codes when they are presented to the Board for endorsement.

It is also proposed to amend the Clause to reflect that EHA has developed its own Code of Conduct for Board Members.

The suggested changes are unanimously supported by the Constituent Councils.



### **Clause 2.5 – Chair of the Board**

It is proposed to amend several parts of Clause 2.4 of the EHA Charter.

Firstly, it is proposed to amend the Clause to clarify that in circumstances where resignation of the Chairperson occurs or the Chairperson is absent, the Deputy Chairperson will act as the Chairperson until the election of the a new Chairperson or in the case of absenteeism, until the Chairperson returns. The suggested change is unanimously supported by the Constituent Councils.

The Authority's Audit Committee has suggested a further change to the Clause to the effect that the Chairperson should be an Independent Member. The Committee's rationale for this request is that:

- it is best practice and good governance;
- an Independent Chairperson is primarily free of Conflicts of Interest (Risk Management);
- able to act as a conciliatory element when and if elements of the Board differ; and
- the Independent Chairperson is best placed to manage other Board Members' Conflicts of Interest.

The current wording of the Clause prohibits Board Members from receiving remuneration for attendance at meetings. It is unlikely that an Independent Chairperson would consider taking on such a role without remuneration. As such, if the Constituent Councils endorse the suggested change, the market would need to be tested in this regard and it is anticipated that the sitting fee for this role would be in the order of \$450 to \$600 per meeting.

The EHA Board considered the feedback from its Audit Committee and are of the collective opinion that the current arrangement where the Chair is elected from Constituent Council Board representatives is suitable when considering the size and structure of EHA and the nature of business transacted at Board meetings. As such, no change to the Charter has been recommended by EHA's Administration. The Board's position is supported.

The Town of Walkerville is the only Constituent Council to date that supports the Audit Committee's recommendation, namely that the Chairperson should be an Independent Member.

### **Clause 3.2 – Special Meetings**

It is proposed to amend Clause 3.2 of the EHA Charter to require the provision of four (4) hours of notice to convene a Special meeting of the EHA Board, rather than the current requirement of one (1) hour notice.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 3.3 – Telephone or Video Conferencing**

Clause 3.3 of the EHA Charter sets out the circumstances in which Special Meetings of the EHA Board can occur by telephone or video conference. It is proposed to delete the descriptive parts of this Clause and include them in meeting procedure document to be adopted by the Authority's Chief Executive.

The Campbelltown City Council and the Town of Walkerville have suggested that procedures relating to the conduct of Board Meetings should be determined by the EHA Board and not the Chief Executive. This feedback has been agreed to by the Authority's Administration and it is suggested that the Clause be further re-drafted to reflect that the EHA Board will determine Board Meeting procedure documents. This approach is supported.

### **Clauses 3.6 & 3.8 – Quorum and Voting**

It is proposed to amend Clauses 3.6 and 3.8 of the EHA Charter to clarify that a quorum is required for business to be transacted and that Board Members attending meetings by electronic means must vote on a question arising from a decision at the meeting.

The suggested changes are unanimously supported by the Constituent Councils.

### **Clause 3.9 – Circular Resolutions**

It is proposed to simplify Clause 3.9 of the EHA Charter by including the requirements for circular resolutions (resolutions passed without the need for a Board meeting) in a procedure document that is to be adopted by the Board.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 4.3 – Functions of the Chief Executive Officer**

It is proposed to change some minor wording of Clause 4.3, none of which changes the meaning or effect of the Clause.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 4.4 – Acting Chief Executive Officer**

It is proposed to change Clause 4.4, to clarify that the Chief Executive Officer may appoint a suitable person to act as Chief Executive Officer and remove the ability for the Board to revoke the appointment.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 5 – Staff of EHA**

It is proposed to change Clause 5, to reflect provisions in the *Local Government Act, 1999*. The changes do not affect the meaning or effect of the Clause.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 6 – Regional Public Health Plan**

It is proposed to change Clause 6, to reflect the current state of the Regional Public Health Planning review and reporting process.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 7 – Insurance & Superannuation Requirements**

Some minor wording changes are proposed to Clause 7, none of which affect the meaning or effect of the Clause.

The suggested change is unanimously supported by the Constituent Councils.

### **Clause 8 – Business Plan**

Clause 8(c) states:

*8.1 Contents of the Business Plan ....*

*(c) A draft of the Business Plan will be provided to the Constituent Councils ~~on a date to be determined~~ for the endorsement of the majority of those councils.*

EHA's Administration is proposing to delete the reference to the date to tidy up any ambiguity about the meaning of the Clause.

The Town of Walkerville has considered the proposed amendment and have advised that it supports the unanimous endorsement of the Constituent Councils, not the majority. The Town of Walkerville was the only Council to provide comment on Clause 8(c).

The proposed change to Clause 8 is supported on the basis that the current inclusion of the words ‘on a date to be determined’ add no value to the meaning of the Clause. The remainder of the wording requires the draft Business Plan to be provided to the Constituent Councils for endorsement, which by implication requires the Business Plan to be forwarded on for endorsement. The date on which this occurs is of no relevance.

Clause 8(b) of the EHA Charter requires the Authority to submit its Annual Report to the Constituent Councils by 30 September each year. It is proposed to amend the Clause to require the submission by 15 October each year to allow the Authority additional time to compile the report. The Town of Walkerville and Campbelltown City Council have raised concerns with the suggested timeline change as the longer timeframe will impact Council operations and approval processes for the Constituent Council Annual reports.

In light of the concerns which have been raised and the impacts on the Constituent Councils from an operational perspective of the proposed amendment, the Authority’s Administration has suggested retaining the current date of 30 September to submit its Annual Report to the Constituent Councils. This position is supported.

**Clause 12.3 – Alteration & Review of Charter**

Some minor wording changes are proposed to Clause 12.3, to reflect revised *Local Government Act* requirements for the publishing of the EHA Charter.

The suggested change is unanimously supported by the Constituent Councils.

**Additional Matter – Membership of the Board**

The Town of Walkerville has suggested reducing the number of Board Members from two (2) per Constituent Council to one (1) per Constituent Council, with an Independent Chairperson. The Town of Walkerville considers the current arrangements too unwieldy.

No other Constituent Council has raised a similar concern during the current Charter Review process and the Town of Walkerville has not provided any evidence (or reasons in support) that the current arrangements are unwieldy. As such, their suggestion is not supported.

A number of grammatical changes to the EHA Charter have also been suggested by EHA’s Administration.

**Next Steps**

It is necessary to consider how the Constituent Councils can gain consensus on the clauses that have not been unanimously agreed. Table 1 below sets out the outstanding clauses for which a unanimous position has yet to be reached among the Constituent Councils, albeit recognising that some of the ‘agreed clauses’ have only been agreed to date at Administration level.

**TABLE 1: REVISED EHA CHARTER CLAUSES YET TO BE UNANIMOUSLY ENDORSED**

Clause	Name	Summary Content
2.1	Board Functions	Discussion/re-drafting if required likely to obtain consensus position
3.3	Telephone & Video Conferencing	Re-drafting likely to obtain consensus position
8.2(b)	Business Plan	Retention of existing submission date likely to obtain consensus position
1.7	Area of Activity	Town of Walkerville have singular position. Re-drafting likely to obtain consensus position of four Councils.
2.2	Membership of Board	Town of Walkerville have singular position
2.5	Chairperson of Board	Town of Walkerville have singular position
8.1(c)	Business Plan	Town of Walkerville have singular position.

The Authority's Chief Executive Officer is of the opinion that unanimous consensus of the Constituent Councils can be achieved in relation to Clauses 2.1, 3.3 and 8.2(b) of the EHA Charter with some further clarification of the suggested changes and/or some re-drafting of the wording of the Clauses. The same applies for Clause 1.7 with the exception of the Town of Walkerville. The view of the Authority's Chief Executive Officer is supported for the reasons stated in this report. In addition, it is clear that, subject to this Council's consideration of the suggested changes to the EHA Charter, the Town of Walkerville has a singular position with respect to the suggested changes to Clauses 1.7, 2.2, 2.5 and 8.1(c).

In this context, given that the Town of Walkerville has recently provided notice of its intention to withdraw from EHA, effective from 30 June 2022 and that their position in respect to Clauses 1.7, 2.2, 2.5 and 8.1(c) is not supported by any of the other Constituent Councils, it is considered unnecessary to address their outstanding concerns.

## **OPTIONS**

The Council can either resolve to approve or reject the proposed changes to the EHA Charter.

If the Council resolves to approve the proposed changes to the EHA Charter, it is important to note that any amendments to the Charter can only be made by the unanimous resolution of the Constituent Councils and therefore the Town of Walkerville's concerns and objections to proposed changes to Clauses 1.7, 2.2, 2.5 and 8.1(c), would prevent the changes from being implemented and this in turn will delay the finalisation of the Charter review process. In this context, it is suggested that the Council has three (3) options available.

### Option 1

If the Council is happy to endorse the suggested changes to the EHA Charter, it could advise the Authority's Chief Executive of its position and request that the Charter Review process be deferred until after 30 June 2022, at which point the Town of Walkerville will no longer be a Constituent Council of EHA. This would enable the finalisation of the Charter in the second half of 2022, as the remaining Constituent Councils are likely to reach to a unanimous position on the proposed changes to the EHA Charter.

This option is not recommended because it would delay the timely review of the EHA Charter.

### Option 2

If the Council is satisfied with the suggested changes and endorses the changes to the EHA Charter, it could advise the Authority's Chief Executive of its position and request that the Chief Executive Officer convene a meeting of Senior Executives or Chief Executives of each of the Constituent Councils with the aim of reaching consensus on the outstanding issues of concern to the respective Constituent Councils.

This option is not recommended on the basis that it is a resource intense option in light of the fact that only one of the Constituent Councils has a singular position of the majority of unresolved proposed changes to the EHA Charter.

### Option 3

If the Council endorses the suggested changes to the EHA Charter, it could advise the Authority's Chief Executive of its position and request that EHA write to the Town of Walkerville requesting that it re-consider its position regarding objections to proposed changes to Clauses 1.7, 2.2, 2.5 and 8.1(c) of the EHA Charter and that such correspondence include any available additional supporting information and rationale for the proposed changes to assist the Town of Walkerville's re-consideration of the proposed changes to the Charter. Noting, that the Town of Walkerville has advised that it will be withdrawing its membership of the Eastern Health Authority.

This option is recommended on the basis that it is the most efficient and likely pathway forward that could result in the finalisation of the Charter review process in a timely manner.

## CONCLUSION

The requirement for the EHA Charter to be reviewed is a legislative compliance issue and the review is being undertaken within the timeframes prescribed in the *Local Government Act 1999*.

The proposed changes will enhance the Authority's ability to carry out its responsibilities and activities and tightens up some existing governance arrangements with respect to Board meetings and the role of Board Members and the Authority's Chief Executive Officer.

In light of the contents of this report, it is recommended that the Council advise the Eastern Health Authority Inc. Board of Management, that:

1. the proposed changes to the EHA Charter, as detailed in Attachment B to this report, are endorsed;
2. that the Council does not object to the re-drafting of Clauses 1.7, 2.1, 3.3 and 8(b) to address concerns expressed by the City of Burnside and the Campbelltown City Council, as outlined in the body of this report, should that be deemed necessary in order to facilitate the timely review of the EHA Charter; and
3. that the Authority's Chief Executive Officer write to the Town of Walkerville, requesting that the Town of Walkerville re-consider its position regarding its objections to proposed changes to Clauses 1.7, 2.2, 2.5 and 8.1(c) of the EHA Charter and that such correspondence include any available additional supporting information and rationale for the proposed changes to assist the Town of Walkerville's re-consideration of the proposed changes to the Charter.

## COMMENTS

Nil.

## RECOMMENDATION

That the Council advise the Eastern Health Authority Inc. Board of Management, that:

1. The proposed changes to the EHA Charter, as detailed in Attachment B to this report, are endorsed.
2. That the Council does not object to the re-drafting of Clauses 1.7, 2.1, 3.3 and 8(b) to address concerns expressed by the City of Burnside and The Campbelltown City Council, as outlined in the body of this report, should that be deemed necessary in order to facilitate the timely review of the EHA Charter; and
3. That the Authority's Chief Executive Officer write to the Town of Walkerville, requesting that the Town of Walkerville re-consider its position regarding its objections to proposed changes to Clauses 1.7, 2.2, 2.5 and 8.1(c) of the Charter and that such correspondence include any available additional supporting information and rationale for the proposed changes to assist the Town of Walkerville's re-consideration of the proposed changes to the Charter.

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*Cr Whittington moved:*

*That the Council advise the Eastern Health Authority Inc. Board of Management, that:*

1. *The proposed changes to the EHA Charter, as detailed in Attachment B to this report, are endorsed.*
2. *That the Council does not object to the re-drafting of Clauses 1.7, 2.1, 3.3 and 8(b) to address concerns expressed by the City of Burnside and The Campbelltown City Council, as outlined in the body of this report, should that be deemed necessary in order to facilitate the timely review of the EHA Charter; and*
3. *That the Authority's Chief Executive Officer write to the Town of Walkerville, requesting that the Town of Walkerville re-consider its position regarding its objections to proposed changes to Clauses 1.7, 2.2, 2.5 and 8.1(c) of the Charter and that such correspondence include any available additional supporting information and rationale for the proposed changes to assist the Town of Walkerville's re-consideration of the proposed changes to the Charter.*

*Seconded by Cr Knoblauch and carried unanimously.*

## 11.5 Highbury Landfill Authority Charter Review

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**REPORT AUTHOR:** General Manager, Urban Services  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 8366 4523  
**FILE REFERENCE:** qA69172  
**ATTACHMENTS:** A - B

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### PURPOSE OF REPORT

The purpose of this report is to present to the Council, the draft amendment to the Highbury Landfill Authority Charter for endorsement.

### BACKGROUND

The Highbury Landfill Authority (the Authority) is a Regional Subsidiary established pursuant to Section 43 of the *Local Government Act 1999*, for the purpose of facilitating the closure and post-closure management of the former Highbury Landfill site. The City of Norwood Payneham & St Peters, together with the City of Burnside and the Town of Walkerville make up the Constituent Councils of the Authority.

The Authority has reviewed the Highbury Landfill Authority's Charter as required by the *Local Government Act 1999* (the Act). A copy of the Gazetted current Charter is contained in **Attachment A** and a copy of the Charter with proposed amendments is contained in **Attachment B**.

In order to amend the Charter, the Constituent Councils must resolve to approve the amendments. Once all Constituent Councils have agreed to the amendments, the Authority's Executive Officer will as per Section 19 (5) of Schedule 2 of the *Local Government Act 1999*, be required to:

- forward a copy of the Charter as amended to the Minister for Planning and Local Government;
- publish a copy of the Charter as amended on a website determined by the CEOs of the constituent councils; and
- ensure that a notice of the fact of the amendment and a website address at which the Charter is available for inspection is published in the Government Gazette.

The Authority has engaged Norman Waterhouse Lawyers to review the Charter and the proposed amendments, to ensure that it meets all the legislative requirements by the *Local Government Act 1999*.

It should be noted that the amendments to the existing Charter must be agreed to unanimously by the Constituent Councils.

### RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

### FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

### 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**

Not Applicable.

## **CONSULTATION**

- **Elected Members**  
Cr Minney is this Council's appointee on the Authority's Board and is aware of the proposed changes to the Charter.
- **Community**  
Not Applicable.
- **Staff**  
Chief Executive Officer
- **Other Agencies**  
Not Applicable.

## **DISCUSSION**

A review of the Authority's Charter, as required by the *Local Government Act 1999*, has been undertaken. This process was undertaken by the Authority.

The proposed changes to the existing Charter now requires the endorsement of the Council.

The only substantive change from the original Charter is that the Authority has determined that Section 90, of the *Local Government Act 1999*, will not apply to the Authority. The Highbury Landfill Authority is set up only to manage the post closure of the Highbury Landfill and only incurs expenses to maintain the site and ensure that it meets its environmental obligations of a closed landfill. Amendments have been made to conduct the Authority's meetings generally "in camera" however, the Board at its discretion can choose to meet in public on a case-by- case basis or in accordance with an adopted policy.

This amendment is set out in Item 2.5.13 of the amended Charter, as contained in Attachment B.

Whilst the rationale for proposing to conduct all of the meetings of the Authority “in camera” is understood, it is recommended that this amendment not be endorsed by the Council as it is not in keeping with the general obligation and principles that all meetings of a Council (and in this case, a Regional Authority) should be conducted “in the open” and items should only be considered “in camera” if such items meet the requirements of Section 90. The reasons for not supporting this amendment are:

- the Highbury Landfill site is located adjacent to residential properties whose owners have taken a keen interest in the closure of the site. To hold meetings “in camera” at all times may cause a sense of mistrust amongst the public;
- the landfill site is a sensitive issue environmentally and should an environmental mishap take place then it would have unfavourable repercussions for both the Subsidiary and the Constituent Councils in supporting holding the meetings “in camera”;
- essentially, it is not good governance; and
- there are a broad range of matters that can be considered “in camera” and there is opportunity for matters to be considered “in camera” should such items meet the threshold of Section 90.

The remaining amendments have been made to ensure compliance with the requirements of the Act and associated regulations and should be endorsed.

## **OPTIONS**

The Council can choose to endorse or not to endorse the proposed amendments to the Highbury Landfill Charter as recommended by the Authority’s Board. In this case, it is recommended that the majority of the proposed changes be endorsed, except for Section 2.5.13 of the proposed amendments to the Charter, which if allowed, will allow all future Board meetings to be held in camera, unless resolved not to do so by the Board.

## **CONCLUSION**

Nil

## **COMMENTS**

Nil

## **RECOMMENDATION**

That the proposed changes to the Highbury Landfill Authority Charter as contained in Attachment B be endorsed in principle, with the following amendment:

- that Section 2.5.13 be replaced with: That Members of the public are able to attend all meetings of the Highbury Landfill Authority Board, unless prohibited by resolution of the Board under the confidentiality provisions contained in Section 90 of the *Local Government Act 1999*

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*Cr Minney moved:*

*That the proposed changes to the Highbury Landfill Authority Charter as contained in Attachment B be endorsed in principle, with the following amendment:*

- *that Section 2.5.13 be replaced with: That Members of the public are able to attend all meetings of the Highbury Landfill Authority Board, unless prohibited by resolution of the Board under the confidentiality provisions contained in Section 90 of the Local Government Act 1999*

*Seconded by Cr Duke and carried unanimously.*



## 11.6 LOCAL DESIGN REVIEW SCHEME

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**REPORT AUTHOR:** Senior Urban Planner  
**GENERAL MANAGER:** Urban Planning & Environment  
**CONTACT NUMBER:** 8366 4561  
**FILE REFERENCE:** fA12761  
**ATTACHMENTS:** A - C

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### PURPOSE OF REPORT

The purpose of this report is to provide the Council with information regarding the *Local Design Review Scheme* and the associated *Local Design Review Code Amendment* and seek a decision on whether the Council will participate in the Scheme.

### BACKGROUND

Section 121 of the *Planning, Development & Infrastructure Act 2016*, enables the Minister for Planning and Local Government to establish a Design Review Scheme, where a person who is considering undertaking development may apply to a Design Panel for design advice. Participation in the Scheme is voluntary for Councils (which can decide whether Local Design Review will be available within their Council areas), and for applicants (if their development is within a participating council and is a prescribed development type). The Design Review Scheme supports one of the key intended planning reform outcomes of better development design outcomes.

In June 2020, the Office for Design and Architecture SA (ODASA) prepared the draft *Local Design Review Scheme* for consultation. The draft Scheme sets out the parameters and processes for establishing and delivering a Local Design Review service. Council staff provided comments on the draft Scheme, a copy of which is contained in **Attachment A**.

In February 2021, the Minister approved the Scheme to come into effect on 1 July 2021. A copy of the approved Scheme is contained in **Attachment B**. Despite being approved, the Scheme cannot be operational without an amendment to the *Planning and Design Code* which provides a mechanism for identifying which development types will be eligible for participation in the Scheme. The Scheme also only becomes operational where a Council has opted into the Scheme.

The State Planning Commission has prepared the draft *Local Design Review Code Amendment* which is currently on public consultation. A copy of the Code Amendment is contained in **Attachment C**. The Code Amendment does not require councils to determine whether or not they will participate in the Scheme. Rather, it proposes to include a procedural clause in the Code which instructs how eligible development types will be prescribed. The Code Amendment itself is relatively minor, however its release for consultation provides the Council with a timely opportunity to consider whether or not it will participate in the Scheme.

### RELEVANT STRATEGIC DIRECTIONS & POLICIES

#### **Outcome 2: Cultural Vitality**

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

#### **Objective:**

*2.4 Pleasant, well designed, and sustainable urban environments*

### FINANCIAL AND BUDGET IMPLICATIONS

The financial implications of the *Local Design Review Scheme* will vary depending on the Council's level of participation. Should the Council determine to not participate in the Scheme, there will be no financial or budget implications. However, should the Council determine to participate in the Scheme, there will be costs involved. The Scheme anticipates that Design Review Panel members will be remunerated for their participation, and that 'reasonable' costs incurred in providing the service can be (but does not have to be) passed on to the development applicants. Participating Councils may determine to absorb some or all of these costs so as to not disincentive applicants' participation due to high costs.

## EXTERNAL ECONOMIC IMPLICATIONS

Nil.

## SOCIAL ISSUES

The *Local Design Review Scheme* intends to contribute to better development design outcomes. Good development design outcomes can benefit both future occupants, surrounding neighbours, and the community generally through improved streetscape amenity.

## CULTURAL ISSUES

Not Applicable.

## ENVIRONMENTAL ISSUES

The *Local Design Review Scheme* emphasises desirable outcomes lead by South Australia's *Principles of Good Design* which, among other principles, seeks durable and sustainable developments. As such, a positive outcome of a design review process may include improved sustainability of the development.

## RESOURCE ISSUES

Should the Council determine to participate, staff resources will be required to administer the Scheme, including managing applications to the Design Panel. If the Council determines to form its own Panel, a process of recruitment and engagement would also need to occur to form the Panel.

## RISK MANAGEMENT

There is a risk that if the Council chooses not to participate in the Scheme, there may be criticism that good design processes are not being applied. This risk can be mitigated through the continued offering of a free pre-lodgement service, as outlined in this report.

## COVID-19 IMPLICATIONS

Not Applicable.

## CONSULTATION

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

**DISCUSSION**

Local Design Review Scheme

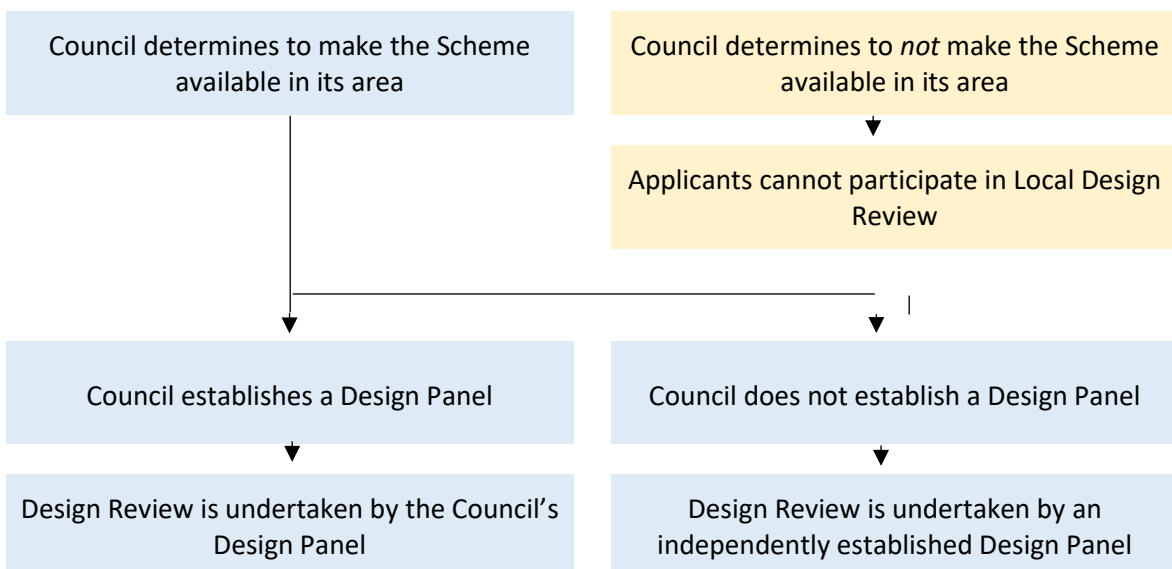
The *Local Design Review Scheme* allows applicants to seek design advice from a Panel of independent qualified experts prior to formally lodging a Development Application. The purpose of the Scheme is to improve design outcomes by involving the applicant in discussions about design at the earliest stage of the development assessment process and to create consistency for this process across Local Government. The Scheme has been developed by the Office for Design and Architecture (ODASA), which is an arm of the Planning and Land Use Services Division of the Attorney-General’s Department. Although the Scheme is recognised in the *Planning Development & Infrastructure Act 2016*, Design Review is conducted purely in an advisory capacity. To this end an applicant can choose to consider or ignore the advice provided by this Panel. This differs from the Council Assessment Panel which has a formal statutory assessment role under the Act.

Members of a Design Panel must have a tertiary qualification and at least seven (7) years of experience in a relevant field such as architecture, landscape architecture or urban design. A Design Panel may consist of as little as one (1) member and there is no maximum number of members specified in the Scheme.

For the Scheme to be available within a Local Government Area, the Council must determine to participate in the Scheme. A participating council (either independently or jointly with one or more other councils) has the option of establishing the Design Panel which will undertake a review of the design of prospective developments in its area. Alternatively, if the participating council does not establish its own Design Panel, the design review will be undertaken by a panel which has been established by an ‘Independent Design Review Administrator’ which is a person or body (such as a professional association) who has been registered for the Scheme.

The benefit of a council establishing its own Design Panel is the ability to appoint Panel Members who it deems appropriately qualified for the nature and context of development in the local area. Alternatively, a council may determine to not establish its own Design Panel due to administrative and resourcing implications. At this point, the mechanism for formalising participation in the Scheme is not clear, particularly for Councils which determine to not form their own Design Panel. It should be noted that an applicant cannot apply to an independent design panel for design review if the Council has determined that the Scheme will not be available within its Council area.

A summary of this process is outlined in **Figure 1**.



**FIGURE 1 – AVAILABILITY OF LOCAL DESIGN REVIEW AND RELEVANT DESIGN PANEL**

Section 121(1) of the *Planning, Development & Infrastructure Act 2016*, specifies that only developments of a class specified by the *Planning and Design Code* are eligible to participate in the design review process. The draft *Local Design Review Code Amendment* proposes to include the following clause in the Code:

- (1) *Development within the ambit of subclause (2) is specified as a class of development for the purposes of section 121(1) of the Act.*
- (2) *Development that is—*
  - (a) *within the area of a council that has determined to make design review available in its area by participating in the scheme determined by the Minister for the purposes of section 121 of the Act; and*
  - (b) *a form of development that is—*
    - i. *either restricted development or performance assessed development that has been selected by the council as a class of development for the purposes of this clause; and*
    - ii. *specified by the Chief Executive by a notice published on the SA planning portal for the purposes of this clause.*
- (3) *A council may from time to time vary the classes of development applying in its area under this clause by a further notice published by the Chief Executive on the SA planning portal at the request of the council.*

Publishing the specified classes of development on the Portal will be administratively easier than amending the Code, which is likely why this approach has been proposed.

The Scheme outlines the operational details of the design review process, including the roles and responsibilities of the applicant, the Council and the Panel. The Scheme also sets out that the Council can charge or reduce the prescribed design review fee which is currently set at \$100 plus the reasonable costs of the Design Panel to provide advice. The 'reasonable costs' would include the sitting fees for the Panel members. For the sake of comparison, the total sitting fee for all four (4) independent Council Assessment Panel members is currently \$2000 per meeting. A Council may choose to reduce or waive this fee so as to not disincentivise applicants from participating in the Scheme.

The desired outcome of the Scheme is that applicants will adopt the design advice which is provided by the Design Panel thereby resulting in an improved outcome. Pursuant to both the Scheme and the *Planning, Development and Infrastructure Act 2016*, the design advice which is provided by the Panel, must be taken into account by the relevant authority during the assessment of a formal development application and the relevant authority must consider how the lodged proposal has responded to the design advice.

The Scheme is broadly based on the existing '*State Design Review*' process which is undertaken for certain developments where the State Planning Commission is the relevant authority (which delegates the role of Development Assessment to the State Commission Assessment Panel). For example, buildings exceeding four (4) storeys within Urban Corridor Zones. State Design Review, which has operated since 2011, is a pre-lodgement service where a prospective development is reviewed by the State Design Review Panel convened by ODASA. Through this process, the applicant can elect to obtain a formal pre-lodgement agreement which avoids the need for a referral during the assessment of the development application. Due to the larger scale of eligible developments and the time-saving option for avoiding a formal referral during the development assessment process, State Design Review is an attractive and often worthwhile process for the applicants.

#### Current Services provided by the Council

In determining whether or not to participate in the Local Design Review Scheme, it is relevant to consider the current pre-lodgement services offered by this Council, which includes:

- a free, formalised pre-lodgement advice service with written feedback for detailed site-specific development proposals (which was temporarily suspended in the first half of 2021 due to the transition to the Planning and Design Code, but has now resumed);
- a heritage advisory service through which the Council's Heritage Advisor provides free advice available to owners of heritage buildings or properties within historic areas on a range of matters including historic building restoration and appropriate design outcomes for new development; and
- a designated Urban Planner offering advice for walk-in/ impromptu and general requests.

Providing pre-lodgement advice is an effective way of achieving better design outcomes as it provides opportunities for the applicant to refine their proposal at a stage where they may be more open to recommendations / advice and making changes, which subsequently improves their experience through the development assessment process. Council staff ordinarily provide a written response to the formalised pre-lodgement process within two (2) weeks to assist applicants to make informed decisions when purchasing properties, entering into contracts or financing agreements etc. The formalised pre-lodgement advice is provided directly by the Council's Assessment Manager, to ensure maximum consistency and reliability of advice.

The Council's heritage advisory service is a popular scheme offered on a weekly basis, with most meetings occurring on-site with the applicants and/or purchasers of property. Applicants can use the service at a pre-lodgement stage, however the Council's Heritage Advisor also provides advice to Council staff and the Council Assessment Panel during the assessment of applications to assist in achieving compliance with the Code policies and generally better outcomes from a heritage and built form perspective. These services are provided free of charge to encourage participation and there is a generally high level of satisfaction from participants. The investment by the Council is significant, both in general staff resources and in the order of \$40-\$50,000 per annum for the heritage advisory service, but has proven to be a worthwhile use of resources in the interests of achieving better development outcomes and providing a service to citizens.

#### Limitations and Benefits of the Local Design Review Scheme

The success of the current pre-lodgement services which are offered by the City of Norwood Payneham & St Peters, is largely due to the balance of effort versus reward for the applicant. The services are free, the level of information expected to be submitted is manageable and the response time is fast, making it a worthwhile process even for small developments with modest project costs and timeframes. Additionally, the advice is provided by the Council's Assessment Manager, who will either be determining the application under delegation or providing a recommendation to the Council Assessment Panel. Similarly, for applicants participating in the State Design Review, the complexity and time involved in the process is normally commensurate with the scale of development in terms of the project costs and timeframes and can also shorten the formal assessment process with the incentive of removing the Government Architect referral.

The Local Design Review process is likely to take significantly longer than this Council's current pre-lodgement service due to the need to form and convene a special Design Panel meeting for each proposal. It would also be more costly to both the Council and to the applicant if a fee is charged. An applicant for smaller scale development is unlikely to see the same effort versus reward balance as compared to the current systems. For the City of Norwood Payneham & St Peters, larger scale developments such as multi-storey mixed use buildings primarily occur in the Urban Corridor Zones, and in these circumstances the State Planning Commission is the relevant authority.

The majority of development applications determined at the Council are low-scale residential or small scale commercial projects which often do not exceed two-storeys. If the City of Norwood Payneham & St Peters applied a Local Design Review process to (for example) development three (3) storeys and above or the construction of five (5) or more dwellings, the Panel would be meeting very infrequently particularly given it is voluntary for proponents to participate in the process. Other Councils may have a much greater balance of medium to large scale development which warrants the resources required to establish a Local Design Review Panel, or other circumstances which may warrant the Design Review process. At this stage, Council staff are only aware of one small group of councils in the Mount Lofty Ranges region which are considering forming a joint Panel.

The Scheme is likely to be most effective for applicants who may otherwise struggle to deliver a contextually appropriate and well resolved design response. It is considered unlikely, however, that the applicants who struggle with design will be of a mind to participate in the design review process. In this respect, the Scheme is at risk of 'missing the mark' in terms of those applicants who would benefit the most from it.

Although Members of the Design Panel would provide professional advice and the relevant authority is required to take the advice into account, there is a less direct relationship and a greater chance of a difference of opinion between the Design Panel and the relevant authority. This is problematic given the legislative requirement to take into account advice received as part of a Design Panel in determining a planning consent. From a Council perspective, a Design Panel would ideally contribute to a better resolved design by the time the application is lodged, provide expert professional input to a Council Planner's assessment and may help support the planner's position when negotiating amendments with the applicant. This would be especially valuable to a council with less experienced staff or without other in-house support. The level of benefit will vary from Council to Council depending on their current systems, processes and staff experience and skill sets, in balance with the resources required to engage and maintain a Design Panel.

Good design outcomes relies first and foremost on good policy settings. The Scheme requires a Design Panel to take into account the relevant *Planning and Design Code* policies. Unfortunately, many of the policies contained in the Code are not considered to provide appropriate and localised design guidance and are not contextual, particularly when compared to former Development Plan policies. A participating council may, therefore, be reluctant to invest in a Design Panel which provides advice in relation to policies and zoning which are not actually supported by the Council, or achieving desirable outcomes.

#### Resource Implications

If the Council participated in the Scheme, there would still be a need to maintain current pre-lodgement services (given these cater for a broader range of applicants than Local Design Review is likely to). As such any resources required to participate in the Scheme, such as engaging and maintaining a Design Panel, would be an additional financial impost. Charging a fee to applicants would assist in offsetting costs, but this would likely disincentivise uptake of the services and would not result in cost recovery. The 'on demand' nature of the service would create unpredictability in the budget and administrative scheduling and would not provide the same level of efficiency as the Council Assessment Panel meetings, which are scheduled monthly to consider a more consistent volume of applications. As outlined above, the CAP costs in the order of \$2000 per meeting (with an average of one meeting per month).

#### **OPTIONS**

The Council has a range of options in relation to participating in the Local Design Review Scheme and providing a response to the Local Design Review Scheme Code Amendment.

#### Local Design Review Scheme

##### Option 1

The Council could determine to not make the Local Design Review Scheme available.

##### Option 2

The Council could determine to make the Local Design Review Scheme available, provide a list of development classes which will be eligible for Design Review, and register with the Attorney-General's Department to establish a Design Panel, either independently or jointly with another council(s)

##### Option 3

The Council could determine to make the Local Design Review Scheme available within the Council area, provide a list of development classes which will be eligible for Design Review, but not establish its own Design Panel, requiring any applications for Design Review to be referred to an Independent Design Panel.

Option 1 is the recommended option, as it is considered that the Local Design Review Scheme is unlikely to be of substantial benefit to the Council, its community and indeed applicants, particularly in light of the resource implications and possible low uptake of the service, as compared to the Council's existing pre-lodgement services. If this position is supported, this can be communicated in separate correspondence to the Attorney General's Department.

### Local Design Review Scheme Code Amendment

#### Option 1

The Council could determine to not make a submission in response to the draft Local Design Review Scheme Code Amendment.

#### Option 2

The Council could determine to make a submission in response to the draft Local Design Review Scheme Code Amendment.

Option 1 is the recommended option, as it is a minor procedural amendment and, should the Council determine to not participate in the Scheme, the Amendment will have no impact on the City of Norwood Payneham & St Peters.

### **CONCLUSION**

The Local Design Review Scheme purports to provide an opportunity to improve design outcomes for local 'suburban' level development. Individually, these developments may be small, but they can have a significant cumulative impact on the streetscape and amenity of a local area. Although the intent of the Scheme is positive, it is considered that the Scheme is overly resource intensive, onerous to proponents and time consuming, particularly in light of the likely scale of development which will be eligible for participation in the process. The Council's existing pre-lodgement advice service provides greater flexibility, whilst at the same time providing proponents with the level of guidance they are ordinarily seeking prior to lodging a development application. The Council has suitably trained and experienced Urban Planners who, together with input from the Council's Heritage Advisor, are able to apply the relevant design policies to achieve high quality urban design outcomes.

### **COMMENTS**

Nil

### **RECOMMENDATION**

1. That the Council not participate in the Local Design Review, and the Attorney-General's Department be advised of this decision.
  2. That Council not lodge a submission in relation to the Local Design Review Code Amendment.
- 

*Cr Moore moved:*

1. *That the Council not participate in the Local Design Review, and the Attorney-General's Department be advised of this decision.*
2. *That Council not lodge a submission in relation to the Local Design Review Code Amendment.*

*Seconded by Cr Dottore and carried unanimously.*

## 11.7 EXECUTION OF COUNCIL SEAL - FUNDING DEED UNDER 2021-2022 COMMONWEALTH INFRASTRUCTURE INVESTMENT BLACK SPOT PROGRAM

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**REPORT AUTHOR:** Manager, Traffic & Integrated Transport  
**GENERAL MANAGER:** General Manager, Urban Planning & Environment  
**CONTACT NUMBER:** 8366 4542  
**FILE REFERENCE:** qA66187  
**ATTACHMENTS:** A

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### PURPOSE OF REPORT

The purpose of this report is to seek the Council's approval to sign and seal two funding deeds (*the Deeds*) between the Council and the Commissioner of Highways.

The Deeds facilitate the Council's receipt of funding (\$253,000, GST inclusive) from the *2021-2022 Commonwealth Infrastructure Investment Black Spot Program (the Federal Black Spot Program)*. The funding has been awarded for the design and construction of two (2) intersection upgrades on William Street, Norwood as set out below:

Location 1: Intersection of William and Elizabeth Streets, Norwood  
Project description: Modify the approach central medians, kerb extension and central roundabout. Modifications include narrowing all approach lanes, stormwater improvements, new landscaping, pavement marking and related works (2 year project).  
Project funding: \$121,000 (GST inclusive)

Location 2: Intersection of William and George Streets, Norwood  
Project description: Modify the approach central medians, kerb extension and central roundabout. Modifications include narrowing all approach lanes, stormwater improvements, new landscaping, pavement marking and related works (2 year project).  
Project funding: \$132,000 (GST inclusive)

A copy of the Deeds are contained in **Attachment A**.

### BACKGROUND

The two (2) intersections were identified as Black Spots because of their significant crash history over a five (5) year period. There were six (6) crashes at the intersection of William and George Streets and four (4) crashes at the intersection of William & Elizabeth Streets. Of these crashes, 70% involved cyclists, six (6) of which resulted in an injury.

William Street is an important bicycle route, acting similarly to Beulah Road as a parallel, low-traffic alternative to The Parade. Its popularity was confirmed in the 2021 'Super-Tuesday' Bicycle and Pedestrian Survey which counted 152 cyclists and 143 pedestrians in the two hour morning commuter period (at the intersection of William Street and Osmond Terrace).

In 2015, the roundabouts along Beulah Road were similarly modified to improve cyclist safety as recommended in the Council's City-wide Bicycle Plan. The crash data for four (4) years before, and four (4) years after the upgrade identified that crashes decreased by 44% and crashes involving cyclists decreased by 41%. This represents a significant safety improvement and confirms that upgrading the William Street roundabouts will more than likely result in less crashes and injuries in Norwood.

The Department of Infrastructure and Transport and (DIT) has recently advised that the Council has been successful in receiving a grant via *the Federal Black Spot Program* and *the Deeds* which facilitate receipt of the funding is required to be signed and sealed by the Council.



## **FINANCIAL AND BUDGET IMPLICATIONS**

As part of the 2021-2022 Budget, the Council has allocated \$108,000 to undertake design work for improvements associated with the Shipsters Road to Dequetteville Terrace bikeway, as designated on the *City-Wide Cycling Network*. William Street forms part of this bikeway and the Federal Blackspot funding will reduce the overall contribution required from Council for the construction of the bikeway that is planned for the 2022-2023 financial year.

## **EXTERNAL ECONOMIC IMPLICATIONS**

Nil.

## **SOCIAL ISSUES**

Not Applicable.

## **CULTURAL ISSUES**

Not Applicable.

## **ENVIRONMENTAL ISSUES**

Improving the safety and convenience of bicycle routes across the City will hopefully encourage more citizens to use active modes of transport and in turn reduce reliance on motor vehicles.

## **RESOURCE ISSUES**

Not Applicable.

## **RISK MANAGEMENT**

No significant risks have been identified with this proposal as it relates to the execution of a funding deed.

## **COVID-19 IMPLICATIONS**

Not Applicable.

## **CONSULTATION**

Not Applicable.

## **DISCUSSION**

The proposed works will modify the geometry of the roundabouts to meet the current best-practice Australian Standards and Guidelines, which are designed to improve safety by reducing traffic speed and improving the positioning of vehicles and cyclists on the road.

The funding period is from 1 July 2021 to 30 June 2023. It is anticipated that design will be undertaken in 2021-2022 and construction in 2022-2023.

There are six (6) roundabout renewal works which have been identified on William Street, which have been allocated funding in the Council's Asset Management Plan and Long Term Financial Plan. In addition, there is funding allocated for the William Street Bikeway (Fullarton Road to Shipsters Road). Although the intersections of William Street with Elizabeth and George Streets were not identified as the highest priority from a 'condition' perspective, it is sensible to reallocate them to short-term works from a 'safety' perspective. Therefore, the timing of future works can be modified to bring forward these two intersections resulting in no additional cost to the Council other than that previously allowed in the Long Term Financial Plan, as follows:

- William Street roundabout upgrades (2023 – 2026): \$225,463;
- William Street road reseal (2023 – 2027): \$818,969; and
- William Street Bikeway, Fullarton Road to Shipsters Road (2022-2031): \$802,285.

## **OPTIONS**

The Council can either agree to or decline the funding deeds. If the Council does not accept the funding, the project will not proceed.

Given that the work is required to be undertaken to improve these intersections, there is no logical reason not to accept the Grant.

## **CONCLUSION**

Nil

## **COMMENTS**

Nil

## **RECOMMENDATION**

That the Mayor and Chief Executive Officer be and are hereby authorised to sign and seal the Funding Deed under the 2021-2022 Commonwealth Infrastructure Investment Black Spot Program, for:

- modifications to the roundabout at the intersection of William Street and Elizabeth Street to improve road safety. Works will include narrowing of approach lanes, stormwater improvements, new landscaping, pavement marking and related works; and
- modifications to the roundabout at the intersection of William Street and George Street to improve road safety. Works will include narrowing of approach lanes, stormwater improvements, new landscaping, pavement marking and related works.

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*Cr Duke moved:*

*That the Mayor and Chief Executive Officer be and are hereby authorised to sign and seal the Funding Deed under the 2021-2022 Commonwealth Infrastructure Investment Black Spot Program, for:*

- *modifications to the roundabout at the intersection of William Street and Elizabeth Street to improve road safety. Works will include narrowing of approach lanes, stormwater improvements, new landscaping, pavement marking and related works; and*
- *modifications to the roundabout at the intersection of William Street and George Street to improve road safety. Works will include narrowing of approach lanes, stormwater improvements, new landscaping, pavement marking and related works.*

*Seconded by Cr Stock and carried unanimously.*

## 11.8 LOCAL GOVERNMENT ASSOCIATION OF SOUTH AUSTRALIA – REQUEST FOR FUNDING – DISTRICT COUNCIL OF LOXTON WAIKERIE

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

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### PURPOSE OF REPORT

The purpose of the report is to advise the Council of a request which has been received from the Local Government Association of South Australia, for funding to support the District Council of Loxton Waikerie's legal costs associated with the legal proceedings which have been commenced by the Australian Worker's Union (AWU) against the District Council of Loxton Waikerie's regarding the interpretation of the Local Government Employees Award in respect to the payment of Rostered Days Off (RDOs) and public holidays.

### BACKGROUND

The District Council of Loxton Waikerie has made an application to the Local Government Association of South Australia (LGA), seeking contributions from Councils towards its legal costs, in accordance with the LGA's *Policy for Councils Seeking Funding Support for Litigation* (the Policy), regarding the interpretation of the Local Government Employees Award in respect to the payment of Rostered Days Off (RDOs) and public holidays..

At its meeting held on 10 June 2021, the LGA Board considered the District Council of Loxton Waikerie's application and resolved to seek contributions from Councils, in accordance with the LGA's Policy.

The LGA has now written to Councils seeking voluntary contributions from Councils in support of the District Council of Loxton Waikerie's application.

A copy of the letter dated 18 August 2021, from the LGA is contained within **Attachment A**.

### RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

### FINANCIAL AND BUDGET IMPLICATIONS

The LGA is seeking a contribution from the Council of \$758.13.

This amount is based upon a formula, as set out in the Policy, which takes into account the proportion of the membership subscription which is paid by Councils as part of their LGA membership annual subscription.

Whilst the Council has not made an allocation as part of the 2021-2022 Budget, for this activity, in the event the Council does determine to support the request, funds will be allocated from the 2021-2022 Budget.

### EXTERNAL ECONOMIC IMPLICATIONS

Nil.

### SOCIAL ISSUES

Nil.

### CULTURAL ISSUES

Nil.

## ENVIRONMENTAL ISSUES

Nil.

## RESOURCE ISSUES

Not Applicable.

## RISK MANAGEMENT

Nil.

## CONSULTATION

- **Elected Members**  
Not Applicable.
- **Community**  
Not Applicable.
- **Staff**  
Payroll Officer.
- **Other Agencies**  
Not Applicable.

## DISCUSSION

In June 2021, the District Council of Loxton Waikerie applied to the LGA for funding support from Councils to assist with the legal costs relating to a matter, which in the District Council of Loxton Waikerie's view, is a matter which has the potential to impact significantly on Local Government.

The matter relates to an interpretation of the *Local Government Employees Award* (the Award) in respect to the payment of Rostered Days Off (RDOs) and public holidays. The Award states out the following:

*"When a rostered day off falls on a Public Holiday the employee will be paid for the public holiday and the rostered day off will move to the next working day, or a day mutually agreed between the employer and employee."*

Payment for public holidays is based on the number of ordinary hours that an employee would normally work on the day, at their appropriate total daily rate.

As set out in the letter from the LGA, *"In the case of the LWDC, employees under the LGE Award work 9.5 hour days, 8 days per fortnight. Employees are entitled to an RDO each Monday. LWDC has 46 employees who work a four (4) day week (eight (8) day fortnight). Based on the AWU interpretation of the LGE Award, those employees would be paid 9.5 hours for each of the nine (9) public holidays each year, rather than the 7.6 hours currently paid. This equates to an increase in the number of hours paid for public holidays each year of 17.1 hours per employee (9 public holidays x 1.9 hours) at a cost of approximately \$25,000 per annum."*

Essentially this means that the District Council of Loxton Waikerie have been paying their employees who work 9.5 hours a day only 7.6 hours a day for public holidays.

### City of Norwood Payneham & St Peters' Position

In accordance with Clause 6.1.4.3, of the Award, permanent staff at the City of Norwood Payneham & St Peters who are employed under the *Local Government Employees Award* are paid for public holidays in accordance with the hours that they would normally be rostered to work on that day.

In other words, if a Rostered Day Off falls on a public holiday, the employee is paid for the public holiday and the RDO is moved to the next working day or another mutually agreed day in that fortnightly pay cycle. In this case, of the employee's standard working hours at 8.5 hours a day, then the RDO is swapped to another 8.5 hour day and the employee receives 8.5 hours pay for the public holiday.

Clause 6.1.4.4 of the Award sets out the following:

*"Public Holidays and Bereavement Leave will be allowed for the number of ordinary hours that the employee would normally work on the day at the appropriate total daily rate."*

Clearly, this Council's interpretation and application of the Award is different to the District Council of Loxton Waikerie's position and aligns with the AWU's position.

Based on the Council's application of the provisions of the Award it is difficult to justify supporting a Council, who in this instance, holds a different position to this Council.

### **OPTIONS**

The Council can resolve to support the LGA's request to contribute funds towards the District Council of Loxton Waikerie's legal costs or resolve not to support the request.

This Council has, on various occasions, responded positively to requests from the LGA to assist with funding for various activities. Given the nature of this issue and the Council's position in respect to the matter, it is however recommended that the Council does not support the request on this occasion.

### **CONCLUSION**

The District Council of Loxton Waikerie is entitled to make an application to the LGA for funding assistance in accordance with the LGA's *Policy for Councils Seeking Funding Support for Litigation*, however it is at the discretion of the Council to determine if it wishes to provide a contribution in accordance with the LGA's Policy.

However, this issue is limited in terms of impact to the District Council of Loxton Waikerie and is an issue which should be resolved between the Council and the Union.

### **COMMENTS**

Nil

### **RECOMMENDATION**

That the Council advises the Local Government Association of South Australia that the Council does not support the District Council of Loxton Waikerie's application for funding towards its legal costs associated with the matter regarding the payment of Rostered Days Off (RDOs) and public holidays in accordance with the Local Government Employees Award.

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*Cr Moorhouse moved:*

*That the Council advises the Local Government Association of South Australia that the Council does not support the District Council of Loxton Waikerie's application for funding towards its legal costs associated with the matter regarding the payment of Rostered Days Off (RDOs) and public holidays in accordance with the Local Government Employees Award.*

*Seconded by Cr Duke and carried unanimously.*

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## 11.9 REVIEW OF CONFIDENTIAL ITEMS

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**REPORT AUTHOR:** General Manager, Governance & Community Affairs  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 8366 4549  
**FILE REFERENCE:** qA65013  
**ATTACHMENTS:** A

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### PURPOSE OF REPORT

The purpose of the report is to present information regarding the review of the Confidential Items to the Council for information.

### BACKGROUND

In accordance with the *Local Government Act 1999* (the Act), Council (and Committee) meetings are open to the public and attendance is encouraged and welcomed.

There are, however, times where the Council (or the Committee), believes it is necessary in the broader community interest to exclude the public from the discussion of a particular matter in accordance with Section 90(3) of the Act.

The public will only be excluded when the need for confidentiality outweighs the principle of open decision making.

In addition to the above, the Act requires the Council to specify the duration of the order (ie determine a suitable period for which the item will remain confidential), and either impose a “release” date or event which will trigger the release of the item or a period after which the Council will review the order and determine if in fact the item should remain confidential.

In accordance with the Act, a review of the Council’s Confidential Items as at 30 June 2021, has been undertaken. A summary of all Confidential Items is set out in the Register of Confidential Items which details the date of the order, the grounds upon which the order was made and whether or not the document has become public by virtue of the resolution.

A copy of the Register of Confidential Items is contained within **Attachment A**.

### RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

### DISCUSSION

A review of the Confidential Items as at 30 June 2021 has been undertaken.

The Council’s last review of the Confidential Items was conducted in March 2021 for the period ending 31 December 2020. A total of 11 items have considered by the Council in camera since that time and therefore, these items have been included in the Register of Confidential Items.

A number of items (ie 5 items), are no longer confidential by virtue of the Council’s original resolution which specified a time and/or an event to trigger the release of the item. The details of these items are contained in Attachment A and highlighted in red.

There are two (2) items which require the Council’s consideration. These items are highlighted in Attachment A in blue.

These items will be considered as part of a separate Confidential report.

## **OPTIONS**

The annual review in accordance with Section 91(9) of the Act is simply an administrative review. This does not mean that every confidentiality order needs to be remade. The only orders that need to be remade are those where the existing order is due to expire and the documents have been assessed against the relevant ground contained in Section 90(3) and determined to be required to remain confidential.

This report, therefore, is presented to the Council for information purposes only.

## **CONCLUSION**

The review of the Council's confidentiality orders ensures compliance with the legislative requirements as set out in Sections 90 and 91 of the *Local Government Act 1999*.

## **COMMENTS**

Nil.

## **RECOMMENDATION**

That the report be received and noted.

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*Cr Minney moved:*

*That the report be received and noted.*

*Seconded by Cr Dottore and carried unanimously.*

## 12. ADOPTION OF COMMITTEE MINUTES

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**REPORT AUTHOR:** General Manager, Governance & Community Affairs  
**GENERAL MANAGER:** Chief Executive Officer  
**CONTACT NUMBER:** 8366 4549  
**FILE REFERENCE:** Not Applicable  
**ATTACHMENTS:** A - D

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### PURPOSE OF REPORT

The purpose of the report is to present to the Council the Minutes of the following Committee Meetings for the Council's consideration and adoption of the recommendations contained within the Minutes:

- St Peters Child Care Centre & Pre-School Committee – (9 August 2021)  
(A copy of the Minutes of the St Peters Child Care Centre & Pre-School Committee meeting is contained within **Attachment A**)
- Traffic Management & Road Safety Committee – (10 August 2021)  
(A copy of the Minutes of the Traffic Management & Road Safety Committee meeting is contained within **Attachment B**)
- Audit Committee – (10 August 2021)  
(A copy of the Minutes of the Audit Committee meeting is contained within **Attachment C**)
- Cultural Heritage Committee – (16 August 2021)  
(A copy of the Minutes of the Cultural Heritage Committee meeting is contained within **Attachment D**)

### ADOPTION OF COMMITTEE MINUTES

- **St Peters Child Care Centre & Pre-School Committee**

*Cr Moore moved that the minutes of the meeting of the St Peters Child Care Centre & Pre-School Committee held on 9 August 2021, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Moorhouse and carried unanimously.*

- **Traffic Management & Road Safety Committee**

*Cr Dottore moved that the minutes of the meeting of the Traffic Management & Road Safety Committee held on 10 August 2021, be received and noted. Seconded by Cr Duke and carried unanimously.*

- **Audit Committee**

*Cr Stock moved that the minutes of the meeting of the Audit Committee held on 10 August 2021, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Minney and carried unanimously.*

- **Cultural Heritage Committee**

*Cr Whittington moved that the minutes of the meeting of the Cultural Heritage Committee held on 16 August 2021, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Moorhouse and carried unanimously.*



**13. OTHER BUSINESS**  
Nil

**14. CONFIDENTIAL REPORTS**

## 14.1 REVIEW OF CONFIDENTIAL ITEMS – TRINITY GARDENS BOWLING CLUB

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### 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

In accordance with Section 91(7) of the *Local Government Act 1999*, the report, Trinity Gardens Bowling Club dated 6 October 2020 (**Attachment A**), be kept confidential until the matter is finalised.

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*Cr Patterson 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, Corporate Services, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, Manager, Governance, Legal & Property and Executive Assistant to the Chief Executive Officer & Mayor], 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 Patterson left the meeting at 9:19pm.  
Cr Patterson returned to the meeting at 9:21pm.

*Cr Minney moved:*

*In accordance with Section 91(7) of the Local Government Act 1999, the report, Trinity Gardens Bowling Club dated 6 October 2020 (Attachment A), be kept confidential until the matter is finalised.*

*Seconded by Cr Granozio and carried unanimously.*

Cr Granozio left the meeting 9:35pm and did not return.

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**14.2 REVIEW OF CONFIDENTIAL ITEMS – THIRD CREEK DRAINAGE UPGRADE – STAGE 2B  
HENRY STREET TO BRIDGE ROAD**

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**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:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

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**

In accordance with Section 91(7) of the *Local Government Act 1999*, the report, Third Creek Drainage Upgrade – Stage 2B Henry Street to Bridge Road dated 7 December 2020 (**Attachment A**), be kept confidential until September 2026, after which time the order will be reviewed.

---

*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, Corporate Services, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, Manager, Governance, Legal & Property and Executive Assistant to the Chief Executive Officer & Mayor ], be excluded from the meeting on the basis that the Council will receive, discuss and consider:*

*(k) tenders for the supply of goods, the provision of services or the carrying out of works;*

*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 Dottore and carried unanimously.*

*Cr Duke moved:*

*In accordance with Section 91(7) of the Local Government Act 1999, the report, Third Creek Drainage Upgrade – Stage 2B Henry Street to Bridge Road dated 7 December 2020 (Attachment A), be kept confidential until September 2026, after which time the order will be reviewed.*

*Seconded by Cr Dottore and carried unanimously.*

### 14.3 WRITTEN NOTICES OF MOTION – CONFIDENTIAL ITEM - COUNCIL RELATED MATTER

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#### 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:

(b) information the disclosure of which –

- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is proposing to conduct business and prejudice the commercial position of the council; 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, discussion and minutes be kept confidential for a period not exceeding 12 months, after which time the order will be reviewed.

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*Cr Moore 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, Corporate Services, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, Manager, Governance, Legal & Property and Executive Assistant to the Chief Executive Officer & Mayor], be excluded from the meeting on the basis that the Council will receive, discuss and consider:*

*(b) information the disclosure of which –*

- (j) could reasonably be expected to confer a commercial advantage on a person with whom the council is proposing to conduct business and prejudice the commercial position of the council; 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 unanimously.*

Cr Sims left the meeting at 9:39pm.

Cr Sims returned to the meeting at 9:41pm.

*Cr Sims moved:*

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

*Seconded by Cr Callisto and carried unanimously.*

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#### 14.4 COUNCIL RELATED MATTER

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##### 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:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

and the Council is satisfied that, the principle that the meeting should be conducted in a place open to the public, has been outweighed but 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, after which time the order will be reviewed.

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

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*Cr Dottore 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, Corporate Services, General Manager, Governance & Community Affairs, General Manager, Urban Planning & Environment, Manager, Governance, Legal & Property and Executive Assistant to the Chief Executive Officer & Mayor], be excluded from the meeting on the basis that the Council will receive, discuss and consider:*

*(k) tenders for the supply of goods, the provision of services or the carrying out of works;*

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

*Seconded by Cr Patterson and carried unanimously.*

*Cr Minney 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, after which time the order will be reviewed.*

*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 Knoblauch and carried unanimously.*

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**15. CLOSURE**

There being no further business, the Mayor declared the meeting closed at 10:04pm.

\_\_\_\_\_  
**Mayor Robert Bria**

**Minutes Confirmed on** \_\_\_\_\_  
(date)