

Council Meeting Minutes

6 June 2022

Our Vision

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

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

City of Norwood Payneham & St Peters
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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 Sue Whittington
Cr John Callisto

Staff Mario Barone (Chief Executive Officer)
Lisa Mara (General Manager, Governance & Community Affairs)
Sharon Perkins (General Manager, Corporate Services)
Teri Hopkins (Manager, Governance & Legal)
Rosanna Busolin (Manager, Community Services)
Simonne Whitlock (Communications Officer)
Tina Zullo (Administration Officer, Governance & Community Affairs)

APOLOGIES Cr Christel Mex, Cr Fay Patterson

ABSENT Nil

1. KAURNA ACKNOWLEDGEMENT

2. OPENING PRAYER

The Opening Prayer was read by Cr Kester Moorhouse.

3. CONFIRMATION OF THE MINUTES OF THE SPECIAL COUNCIL MEETING HELD ON 9 MAY 2022

Cr Knoblauch moved that the Minutes of the Special Council meeting held on 9 May 2022 be taken as read and confirmed. Seconded by Cr Duke and carried unanimously.

4. MAYOR'S COMMUNICATION

Monday, 2 May	<ul style="list-style-type: none">• Presided over a Council meeting, Council Chamber, Norwood Town Hall.
Tuesday, 3 May	<ul style="list-style-type: none">• Filmed video for Council website, St Morris.
Tuesday, 3 May	<ul style="list-style-type: none">• Attended a meeting with the Chief Executive Officer and members of the Trinity Gardens Tennis Club Executive Committee, Mayor's Office, Norwood Town Hall.
Friday, 6 May	<ul style="list-style-type: none">• Attended the official opening of the re-development of Trinity Gardens School Administration Office, Trinity Gardens.

Friday, 6 May	<ul style="list-style-type: none">• Attended a meeting with the Chief Executive Officer and The Hon Nick Champion MP, Minister for Planning, Minister Champion's Ministerial Office, Adelaide.
Friday, 6 May	<ul style="list-style-type: none">• Attended the pre-match function followed by the Norwood versus South Adelaide football match, Norwood Oval.
Saturday, 7 May	<ul style="list-style-type: none">• Attended the Trinity Gardens Bowling Club Annual Quiz Night, Trinity Gardens Bowling Club, Trinity Gardens.
Monday, 9 May	<ul style="list-style-type: none">• Attended the Order of Australia Association (SA Branch) 2022 Australia Day Honours New Recipients Reception, Payneham Library & Community Facilities Complex, Felixstow.
Monday, 9 May	<ul style="list-style-type: none">• Presided over a Special Council Meeting, Council Chamber, Norwood Town Hall.
Thursday, 12 May	<ul style="list-style-type: none">• Attended a meeting of the Eastern Regional Alliance (ERA) Mayors and Chief Executive Officers, City of Burnside Council offices, Tusmore.
Thursday, 19 May	<ul style="list-style-type: none">• Filmed videos for Council website, Norwood, Trinity Gardens and Felixstow.
Monday, 23 May	<ul style="list-style-type: none">• Attended an on-site meeting with residents, Pam Court, Firle.
Saturday, 28 May	<ul style="list-style-type: none">• Attended the Norwood Croquet Club Trophy Presentation, Norwood Croquet Club, Norwood.
Friday, 3 June	<ul style="list-style-type: none">• Attended the Eastern Regional Alliance (ERA) Mayor's Monthly Breakfast, Luigi Delicatessen, Adelaide.
Saturday, 4 June	<ul style="list-style-type: none">• Attended the North Adelaide versus Norwood football match, Prospect Oval.

5. DELEGATES COMMUNICATION

- Cr Stock advised that on Thursday 5 May 2022, he attended a meeting of the East Waste Board of Management where discussions were held regarding the contracts for the processing of "yellow bin" recyclable material.
- Cr Knoblauch advised that on Monday 30 May 2022, he attended the Marden Senior College Governing Council's monthly meeting.
- Cr Whittington advised that on Wednesday 25 May 2022, she and Cr Knoblauch attended the Eastern Health Authority Board meeting.

6. QUESTIONS WITHOUT NOTICE

Nil

7. QUESTIONS WITH NOTICE

Nil

8. DEPUTATIONS

Nil

9. PETITIONS

Nil

10. WRITTEN NOTICES OF MOTION

10.1 PORTRUSH ROAD/MAGILL ROAD INTERSECTION – DELEGATION FOR ACQUISITION OF LAND – SUBMITTED BY CR EVONNE MOORE

NOTICE OF MOTION: Portrush Road/Magill Road Intersection – Delegation for Acquisition of Land
SUBMITTED BY: Cr Evonne Moore
FILE REFERENCE: qA1039
ATTACHMENTS: Nil

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

NOTICE OF MOTION

That the resolution of the Council made at its meeting held on 2 May 2022 as follows:

That the Council sends an urgent delegation to the new Minister of Transport to ask for a grant of some land at the newly widened intersection of Portrush Road and Magill Road, to allow Council to establish a pocket park or two and to plant trees.

be amended to read as follows:

That the Council sends an urgent delegation to the new Minister of Transport to discuss the State Government's intentions regarding the surplus land at the intersection of Magill Road and Portrush Road with a view to requesting a grant of some land to the Council to allow the Council to establish a pocket park or alternative measures to reduce the level of noise associated with traffic and to enhance this intersection.

REASONS IN SUPPORT OF MOTION

The following Reasons in Support of the Motion were provided to the Council at its meeting held on 2 May 2022:

The widening of this intersection necessitated the removal of some 50 homes and business and the cutting down of at least 60 trees, most of which were Council street trees. This intersection now looks very bare and ugly and presents a hot and unattractive streetscape for pedestrians, cyclists and motorists in summer.

Many local residents were shocked and devastated by this intersection widening and the forcing of people out of their homes and businesses.

Land is now available as not all the property purchased by the previous government was needed for the intersection widening. This land will, undoubtedly, be sold to the highest bidder if Council does not take swift action to try to secure some of the land.

Council has already prepared draft landscaping plans before we approached the Transport Department some time ago but our efforts to secure departmental support for attractive landscaping of the intersection were unsuccessful then. Our delegation to the new Transport Minister should take these plans to show him.

The new State Government is claiming greater green credentials than the previous government and now is an appropriate time to ask it to fund the greening of this barren intersection.

Following the Council's decision, some residents have indicated that they are opposed to a pocket park as they believe new buildings near their property will provide better protection to them from the noise of motor vehicles using Portrush Road.

It may therefore be prudent to consider other measures to reduce the level of noise and enhance this location rather than restrict the Council to the establishment of a pocket park.

STAFF COMMENT
PREPARED BY GENERAL MANAGER, GOVERNANCE & COMMUNITY AFFAIRS

Arrangements for the meeting with the Minister for Infrastructure and Transport have not been finalised to date (given the recent State Election), and therefore any changes to the resolution can be discussed with the new Minister, as requested via the Notice of Motion.

Cr Moore moved:

That the resolution of the Council made at its meeting held on 2 May 2022 as follows:

That the Council sends an urgent delegation to the new Minister of Transport to ask for a grant of some land at the newly widened intersection of Portrush Road and Magill Road, to allow Council to establish a pocket park or two and to plant trees.

be amended to read as follows:

That the Council sends an urgent delegation to the new Minister of Transport to discuss the State Government's intentions regarding the surplus land at the intersection of Magill Road and Portrush Road with a view to requesting a grant of some land to the Council to allow the Council to establish a pocket park or alternative measures to reduce the level of noise associated with traffic and to enhance this intersection.

Seconded by Cr Sims and carried unanimously.

11. STAFF REPORTS

Section 1 – Strategy & Policy

Reports

[No Items listed under this Section]

Section 2 – Corporate & Finance
Reports

11.1 MONTHLY FINANCIAL REPORT – APRIL 2022

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

PURPOSE OF REPORT

The purpose of this report is to provide the Council with information regarding its financial performance for the year ended April 2022.

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. This report is based upon the proposed Third Budget review which forecasts an Operating Surplus of \$1.356 million. The Third Budget Review as proposed saw an increase to the Operating Surplus of \$1.171 million due largely to Operating Projects being carry forward into the 2022-2023 Financial Year and the advance payment an additional quarter of Financial Assistance Grants by the Federal Government which was greater than anticipated in the 2021-2022 Budget.

For the period ended April 2022, the Council's Operating Surplus is \$2.946 million against a budgeted Operating Surplus of \$2.336 million resulting in a favourable variance of \$609,000.

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 April 2022, the Council's Operating Surplus is \$2.946 million against a budgeted Operating Surplus of \$2.336 million resulting in a favourable variance of \$609,000. The favourable variance is largely the result of expenditure being favourable to the Budget.

The primary drivers behind the variances in expenditure are:

- Energy Expenses are \$69,000 (14%) favourable to budget due to timing related issues with the Council's provider issuing adjustment notes against various facilities. It is anticipated that this timing difference will continue to decrease however, the installation of the solar system at the Norwood Town Hall, which was completed in 2021, has also generated a greater reduction in energy costs than was first anticipated.
- Materials, Parts and Consumables combined are \$155,000 (13%) favourable to budget. There are no individually significant underspends across these budget lines however, many small variances which in part are the result of issues associated with the delivery of services across the organisation with reduced staffing due to COVID-19. It is anticipated that there will be some increased expenditure in the last quarter of the financial year as staffing levels return to normal.
- Finance costs is \$113,000 favourable to the budget as there was an allowance for costs associated with borrowings to fund capital works which as yet have not been drawn down due to sufficient cash reserves to fund expenditure needs.
- Employee Expenses are \$287,000 favourable to the budget which is driven by the combination of staff vacancies which are being covered with existing staffing resources, timing of leave being taken compared to budget and variances in the rate of pay being paid to new staff members compared to budget.

Total income is in line with the budget expectations however, the following variances are highlighted:

- User Charges are \$190,000 (6%) unfavourable to the budget, which is due primarily a decrease in income at the St Peters Child Care Centre and Preschool (\$99,000) as a result of room closures due to COVID-19 exposures and the gap fee above the Government Subsidy being waived, combined with a number of smaller timing differences across the Councils facilities for hire.
- Grant income is \$83,000 favourable due to a number of small variances across a several of programs.

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

OPTIONS

Nil

CONCLUSION

Nil

COMMENTS

Nil

RECOMMENDATION

That the April 2022 Monthly Financial Report be received and noted.

Cr Minney moved:

That the April 2022 Monthly Financial Report be received and noted.

Seconded by Cr Dottore and carried unanimously.

11.2 2021-2022 THIRD BUDGET REVIEW

REPORT AUTHOR: Financial Services Manager
GENERAL MANAGER: General Manager, Corporate Services
CONTACT NUMBER: 8366 4585
FILE REFERENCE: qA80300/A405266
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of this report is to provide the Council with a summary of the forecast Budget position for the year ended 30 June 2021, following the Third Budget Review. The forecast is based on the year-to-date March 2022 results.

BACKGROUND

Pursuant to Section 123 (13) of the *Local Government Act 1999*, the Council must, as required by the Regulations reconsider its annual business plan or its budget during the course of a financial year and, if necessary or appropriate, make any revisions.

The Budget Reporting Framework set out in Regulation 9 of the *Local Government (Financial Management) Regulations 2011* (“the Regulations”) comprises two (2) types of reports, namely:

1. the Budget Update; and
2. the Mid-year Budget Review.

Budget Update

The Budget Update Report sets out the revised forecast of the Council’s Operating and Capital investment activities compared with the estimates for those activities set out in the Adopted Budget. The Budget Update is required to be presented in a manner consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances*.

The Budget Update Report must be considered by the Council at least twice per year between 30 September and 31 May (both dates inclusive) in the relevant financial year, with at least one (1) Budget Update Report being considered by the Council prior to consideration of the Mid-Year Budget Review Report.

The Regulations requires a Budget Update Report to include a revised forecast of the Council’s operating and capital investment activities compared with estimates set out in the Adopted Budget, however it is recommended by the Local Government Association that the Budget Update Report should also include at a summary level:

- the year-to- date result;
- any variances sought to the Adopted Budget or the most recent Revised Budget for the financial year; and
- a revised end of year forecast for the financial year.

Mid-Year Review

The Mid-Year Budget Review must be considered by the Council between 30 November and 15 March (inclusive) in the relevant financial year. The Mid-Year Budget Review Report sets out a revised forecast of each item shown in its Budgeted Financial Statements compared with estimates set out in the Adopted Budget presented in a manner consistent with the Model Financial Statements. The Mid-Year Budget Review Report must also include revised forecasts for the relevant financial year of the Council’s Operating Surplus Ratio, Net Financial Liabilities Ratio and Asset Sustainability Ratio compared with estimates set out in the budget presented in a manner consistent with the note in the Model Financial Statements entitled *Financial Indicators*. The Mid-year Budget Review is a comprehensive review of the Council’s Budget and includes the four principal financial statements, as required by the Model Financial Statement, detailing:

- the year-to-date result;
- any variances sought to the Adopted Budget; and
- a revised full year forecast of each item in the budgeted financial statements compared with estimates set out in the Adopted budget.

The Mid-year Budget Review Report should also include information detailing the revised forecasts of financial indicators compared with targets established in the Adopted Budget and a summary report of operating and capital activities consistent with the note in the Model Financial Statements entitled *Uniform Presentation of Finances*.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The Council's Long Term Strategic directions are set out in *City Plan 2030 – Shaping our Future*.

The Council's Long Term Financial Plan (LTFP), is a key document in the Councils Planning Framework. It is the primary financial management tool which links the Council's Strategic Plan, *City Plan 2030 – Shaping our Future*, Whole-of-Life Assets Management Plans, the Annual Business Plan and Budget.

The *2021-2022 Annual Business Plan* and Budget, sets out the proposed services, programs and initiatives for the 2021-2022 Financial Year and explains how the Council intends to finance its continuing services, programs and initiatives which are to be undertaken during the financial year. The 2021-2022 Adopted Budget estimated an Operating Surplus of \$471,000. The Operating Surplus was decreased as part of the Mid-Year Budget Review to \$185,300.

FINANCIAL AND BUDGET IMPLICATIONS

The Third Budget Review, provides the opportunity to reflect any changes in projections based on the actual year-to-date results to March 2022 and forecast the 2021-2022 Operating result.

Details of material movements in the forecast from the Adopted Budget are contained in the Discussion section of this Report.

EXTERNAL ECONOMIC IMPLICATIONS

This report provides information on the planned financial performance of the Council for the year ended 30 June 2022 and has no direct external economic impacts.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

There are no risk management issues arising from this issue. All documents have been prepared in accordance with the statutory requirements.

COVID-19 IMPLICATIONS

Since the re-opening of the South Australian border on 23 November 2021 and the emergence of the Omicron variant of COVID-19, a number of businesses have been impacted by the increase in the number of COVID-19 cases and capacity restrictions introduced by State Government. To support the local businesses, a Financial Assistance Package was approved by the Council at its Meeting held on 17 January 2022. The financial impact of the Financial Assistance Package, was taken into account as part of the Mid-Year Budget review that was endorsed by the Council at its meeting held on 7 March 2022.

CONSULTATION

- **Elected Members**

The Council considered the First Budget Update and the Mid-year Budget review at its meetings held on 6 December 2021 and 7 March 2022 respectively.

- **Audit Committee**

The Audit Committee at its meeting held on 23 May 2022 considered the Third Budget Review and recommend to the Council that the Financial Statements contained in **Attachment B**, which reflected the proposed budget adjustments set out in this report, be adopted.

- **Community**

Not Applicable.

- **Staff**

Responsible Officers and General Managers.

- **Other Agencies**

Not Applicable.

DISCUSSION

Budget Review

In determining the Adopted Operating Surplus, the Council considers the financial resources which are required to provide the ongoing services, programs and facilities (Recurrent Operating Budget), which encompass the basic responsibilities, which the Council is required to provide under the *Local Government Act* and other relevant legislation, plus ongoing services and programs as a result of community needs and expectations.

Such on-going services include regulatory services, such as animal management and parking management, street cleaning and rubbish collection, maintenance of basic infrastructure including roads, footpaths, parks, public open space, street lighting and storm-water drainage, development planning and control, library and learning services, community support programs, environmental programs, community events, community recreational facilities and home assistance service.

In addition, the Council considers the funding requirements associated with the introduction of new services or the enhancement to existing services (Operating Projects).

The 2021-2022 Adopted Operating Budget, projected an Operating Surplus of \$471,000. At the Council meeting held on 7 March 2022, the Council endorsed the Mid-Year Budget Update, which reported a forecast Operating Surplus of \$185,000.

Following the Third Budget Review, the Operating Surplus has increased to \$1.356 million.

The material movements in the components that make up the Operating Surplus following the Third Budget Review are detailed below.

A. Recurrent Operating Budget

For 2021-2022, the Recurrent Operating Budget forecast a Recurrent Operating Surplus of \$1.064 million. Following the First Budget Update and the Mid-Year Budget Review, the Recurrent Operating Budget Surplus was reduced to \$933,500.

As a result of the Third Budget Update, the Recurrent Operating Surplus has increased to \$1.663 million. The major reasons for the movement in Operating Surplus are detailed in Table 1.

TABLE 1: MAJOR VARIANCES IN RECURRENT OPERATING BUDGET – THIRD BUDGET REVIEW

	Favourable/ (Unfavourable) \$
As part of the 2022-2023 Federal Budget, the Federal Government announced that it is advancing 75% of the 2022-2023 Financial Assistance Grants. Past practice has been for the Federal Government to advance 50% of future years Financial Assistance Grants. The additional 25% cash advance is aimed at providing Councils immediate access to funds to help manage the cumulative impacts of floods and the COVID-19 pandemic.	533,000
Adjustment to Rate Rebates and Rate Capping expenses to the level calculated as part of the annual Rates Notice generation process.	140,000
Following a review of the cash position and the review of the Capital Works Program, it is anticipated that no new long-term borrowings will be drawn down prior to 30 June 2022, therefore, finance costs have been reduced to reflect the interest payable on existing loans only.	60,000
Reduction in payments to external service providers of Home Support Services to anticipated payments for the remainder of the financial year.	50,000
General savings across administration costs such as printing & stationary, cash collection and postage.	56,000
Given the increase in property sales, the number of Rate & Property Searches has increased. The Rate Search Income has been increased to reflect anticipated activity for the remainder of the year.	20,000
Legal expenses has been increased to reflect the actual expenditure on legal proceedings and settlement costs associated with to the scramble crossing at the intersection of the Parade and George Street, Norwood.	(100,000)

B. Operating Projects

The Adopted Budget includes an estimate of operating project expenditure for the year under review and;

- previously approved and carried forward projects from the prior budget years; less
- an allowance for current year approved projects projected to be carried forward to subsequent budget years.

Carried Forward estimates (from prior financial years) are reviewed upon finalisation of the Annual Financial Statements. Additional expenditure required to finalise Operating Projects not completed at the end of the Financial Year, is incorporated in the Budget as part of First Budget Update.

Taking into account the Carried Forward Operating Project expenditure and new projects which have been endorsed by the Council, the 2021-2022 Adopted Operating Projects Budget forecast a cost to the Council of \$955,000, inclusive of carry forward project expenditure of \$203,000.

Following the First Budget Update, the value of carried forward expenditure was increased to \$510,000. The increase in the Carried Forward Budget, is due to projects not progressing as anticipated or the commencement of some projects being deferred.

The Mid-Year Budget Update forecast the cost of Operating Projects to be \$1.170 million. The Third Budget Update is estimating that the cost of Operating Projects to be finalised by June 30 to be \$760,000, a decrease of \$410,000.

The reduction reflects the Operating Projects not expected to be finalised by 30 June 2022, coupled with completed projects being delivered under budget.

The Operating Projects, and expenditure not expected to be incurred in the 2021-2022 is detailed in Table 2 below.

TABLE 2: OPERATING PROJECTS NOT EXPECTED TO BE COMPLETED IN 2021-2022

Service Initiative	\$
Authority Content Migration to Councils EDMS, Objective ECM is proposed to be deferred to 2023-2024 due to other priorities and resourcing of the IT and Corporate Records Units.	58,400
The development of the <i>City-wide Parking Policy</i> was delivered under budget. Excess funds were carried forward to implement any necessary changes emanating from the review. A review of how parking controls are enforced is being undertaken in-house, with \$10,000 from the savings to be carried forward to the 2022-2023 Financial Year.	53,870
Ehive - Cultural Heritage Collections Project – the digitisation of the Council's Cultural Heritage collection is being deferred, with delivery proposed to be undertaken in 2023-2024.	52,570
Due to the current planting program, \$50,000 of the Additional Street tree planting program will be carried forward to the 2022-2023 financial year, with the trees to be planted in July 2022.	50,000
Initial investigations on the feasibility assessment of additional level on the Webbe Street Parking has commenced however the full investigations are not anticipated to be finalised by 30 June 2022.	50,000
Development of the <i>People, Place and Activation Strategy</i> has commenced with the work undertaken to date being delivered by internal resources. The Budget allocation relates to cost associate with consultation and finalisation of the documentation which is not anticipated to be completed by 30 June 2022.	30,000
Review of the <i>Public Art Strategy</i>	30,000
Development of the <i>Tree Management Policy & Strategy</i> was delivered under budget. Excess funds have been carried forward to the 2022-2023 financial year to implement the year one actions set out in the Strategy.	20,000
The project of <i>Age Friendly Wayfinding Strategy</i> has commenced; however the installation of signage will not be installed prior to 30 June 2022	20,000
Resilient East Project	13,000
TOTAL OPERATING PROJECTS NOT EXPECTED TO BE INCURRED IN 2021-2022	377,840

A status report on the endorsed Operating Projects is contained in **Attachment A**.

C. Capital Projects

The Council adopted a Capital Budget of \$26.972 million for 2021-2022, which comprised funding allocations for New Capital Projects involving new or the upgrading of existing assets (\$8.081 million), the renewal/replacement of existing assets (\$14.089 million) and Carried Forward Projects from 2020-2021 (\$4.801million).

The First Budget Update forecast the cost of Capital Projects to be \$30.594 million. The increase is predominately due to a number of projects which were initially anticipated to be completed by 30 June 2021 being delayed or still being in progress as at 30 June 2021. Following the Mid-Year Budget Review, the Capital Project expenditure is forecast to increase by \$289,952 to \$30.884 million. Following a review of the status of the Capital Works Program, the Capital projects to be completed by 30 June 2022 is anticipated to be \$16.197 million, with project expenditure of \$14.687million to be carried forward to future years. Details of Projects to be carried forward to be undertaken in the 2022-2023 Financial Year are detailed in Table 3 below.

TABLE 3: PROJECTS TO BE CARRIED FORWARD TO 2022-2023

Capital Project	Increase/ (Decrease) \$
River Torrens Linear Park Path Upgrade - The reconstruction of the shared path along the River Torrens Linear Park between the intersection of Battams Road/Ninth Street Royston Park and Twelftree Reserve, College Park, encompassing a section of the path that passes through Dunstan Adventure Playground. \$1.350 million of grant funding will also be carried forward.	1,945,000
St Peters Street Streetscape Upgrade - As previously advised, works have commenced with the project due to be completed by 31 December 2022.	700,000
The Parade Master Plan was endorsed by the Council in May 2019. Stage 2 encompasses the design development for the Parade between Fullarton Road and Portrush road, and detail design and construction documentation for George Street between the intersection of The Parade and Webbe Street. Funds carried forward relate to the George Street Construction and finalisation of Stage 1 detailed design	889,000
Burchell Reserve Upgrade - Burchell Reserve will be redeveloped to improve the amenity of the Reserve through new community tennis courts, seating, refurbished toilets and landscaping that would create a gathering point for the community and encourage social interaction. Construction works scheduled to commence in September 2022 and to be completed by June 2023.	2,060,000
Payneham Memorial Swimming Centre - The redevelopment of the Payneham Memorial Swimming Centre, as per the Council's Swimming Centres Strategy and endorsed concept plans, with carried forward funds being carried forward to completed detailed design.	2,500,000
Quadrennial Art Project - Work has commenced, however the installation of the Major artwork is scheduled to be completed in August 2022.	146,800
Norwood Library Strategic Review & Concept Plan - preliminary investigation has commenced; however final concepts are not anticipated to be delivered prior to 30 June 2022.	100,000
Borthwick Park Creek improvements have commenced, however the works are not anticipated to be completed by 30 June 2022.	400,000
Building Works Program	728,500
<ul style="list-style-type: none"> • Solar installation at the St Peters Library, St Peters Childcare Centre & Pre-school and the Glynde Depot (\$208,550). Works have been tendered and awarded however works will not be completed by 30 June 2022. • Norwood Town Hall Airconditioning upgrade (\$520,000). Due to the lead times for the delivery of the air-conditioning units, works will not be completed by 30 June 2022. 	
Civil Infrastructure Works Program - Awaiting final designs, which are subject to traffic review and drainage designs.	1,134,761
Design and construction of the traffic management devices along Langman Grove to address traffic management issues associated with Langman Grove, Briar Road and Turner Street, Felixstow, as per the recommendation from the Council's Traffic Management & Road Safety Committee. The final design for the proposed solution are not anticipated to be completed by 30 June 2022.	148,000
Minor Projects	253,740

In addition, the following Capital Projects set out in Table 4 below will be deferred to be undertaken in future Financial Years.

TABLE 4: CAPITAL PROJECTS TO BE CARRIED FORWARD TO FUTURE YEARS

Capital Project	\$
Following a review of the Stormwater Drainage Program, the Trinity Valley Stormwater Drainage Upgrade – Stage 1, is now scheduled to be undertaken in the 2024-2025 Financial Year.	1,950,000
Stephen Street (Norwood) Improvements – commencement of works is dependent on the completion of the private development (Norwood Green). Following discussions with the developers, due to on-going construction and site access by heavy vehicles occurring via Stephen Street, works have been deferred to the 2024-2025 financial year.	250,000
To ensure that the proposed upgrades reflects current trends and delivers on the needs and expectation at the time of delivery, the commencement of the following two (2) Master Plans have been deferred, as the delivery of the projects have been reprioritised as part of the recently endorsed Long Term Financial Plan: <ul style="list-style-type: none"> • \$50,000 for Adey Reserve Master Plan; • \$50,000 for Hannaford Reserve Master Plan. 	100,000
Concept Design for Norwood Swimming Centre – The redevelopment of the Norwood Swimming Centre are not scheduled to commence until 2026-2027 as per the LTFP. Given the timespan between the development of the Masterplan and the delivery of works, to ensure that the proposed concept reflects current technologies and delivers on the needs and expectations at the time of delivery, it is recommended that the preparation of the Masterplan be deferred.	47,075
Minor Projects	60,710

A status report on the endorsed Capital Projects is contained in **Attachment A**.

Regulation 9 (1) (b) of the Regulations states the Council must consider:

“between 30 November and 15 March (both dates inclusive) in the relevant financial year—a report showing a revised forecast of each item shown in its budgeted financial statements for the relevant financial year compared with estimates set out in the budget presented in a manner consistent with the Model Financial Statements.”

Further Regulation 9 (2) of the Regulations states the Council must consider:

“revised forecasts for the relevant financial year of the council's operating surplus ratio, net financial liabilities ratio and asset sustainability ratio compared with estimates set out in the budget presented in a manner consistent with the note in the Model Financial Statements entitled Financial Indicators.”

The revised Budgeted Financial Statements and Financial Indicators as a result of the Mid-Year Budget Update are included in **Attachment B**.

OPTIONS

The Council has the following options in respect to this issue:

1. Adopt the Third Budget Review as recommended; or
2. Amend the Third Budget Review as it sees fit.

The Third Budget Review is forecasting an Operating Surplus, adjusted for the additional advance of the Financial Assistance Grant funding, that is in line with the Adopted Budget. In addition, the proposed amendments to the Operating and Capital Projects budgets are consistent with decisions made by the Council since the adoption of the 2021-2022 Annual Budget and decision made with the “in-principle” adoption of the Draft 2022-2023 Budget.

The Audit Committee at its meeting held on 23 May 2022 considered the Third Budget Review, as presented in this report and endorsed the following recommendation, which is reflected in the Minutes of the Audit Committee.

*That the Audit Committee recommends to the Council that pursuant to Regulation 9 (1) and (2) of the Local Government (Financial Management) Regulations 2011, Budgeted Financial Statements and Financial Indicators as contained within **Attachment A** be adopted.*

Therefore Option 1 is recommended.

CONCLUSION

Nil

COMMENTS

Nil

RECOMMENDATION

1. That the Third Budget Update Report be received and noted.
 2. That project progress report contained in **Attachment A**, be received and noted.
 3. That Pursuant to Regulation 9 (1) and (2) of the Local Government (Financial Management) Regulations 2011, Budgeted Financial Statements and Financial Indicators as contained within **Attachment B**, be adopted.
-

Cr Sims moved:

1. *That the Third Budget Update Report be received and noted.*
2. *That project progress report contained in Attachment A, be received and noted.*
3. *That Pursuant to Regulation 9 (1) and (2) of the Local Government (Financial Management) Regulations 2011, Budgeted Financial Statements and Financial Indicators as contained within Attachment B, be adopted.*

Seconded by Cr Granozio and carried unanimously.

11.3 ERA WATER REVISED DRAFT 2022-2023 BUDGET

REPORT AUTHOR: General Manager, Corporate Services
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4585
FILE REFERENCE: qA87866/A397638
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of this report is to present to the Council, the ERA Water revised draft 2022-2023 Budget for endorsement.

BACKGROUND

ERA Water is a Regional Subsidiary established pursuant to Section 43 of the *Local Government Act 1999*, for the primary purpose of implementing the Waterproofing Eastern Adelaide Project (the Scheme), which involves the establishment of wetland bio-filters, aquifer recharge and recovery, pipeline installations and water storage facilities. ERA Water manage the Scheme on behalf of the Constituent Councils and provide recycled stormwater for the irrigation of parks and reserves to Constituent Councils. The City of Norwood Payneham & St Peters, together with the City of Burnside and the Town of Walkerville make up the Constituent Councils of ERA Water.

Pursuant to Clause 5.1.1 of the ERA Water Charter (the Charter), prior to 31 March of each year, ERA Water must prepare and submit the ERA Water Draft Budget to the Constituent Councils for approval.

The Draft Budget can only be adopted by the ERA Water Board, following unanimous approval of the Constituent Councils.

Upon completion of the Draft Budget, pursuant to Clause 6.1 of the Charter, ERA Water must prepare and provide the draft Annual Business Plan to Constituent Councils. The Annual Business Plan can only be adopted by the ERA Water Board, once absolute majority is provided by the Constituent Councils.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

The revised Draft 2022-2023 Budget is forecasting an Operating Deficit of \$803,000 an increase of \$324,000 on the original draft Budget. This Councils share of the Operating Deficit, which will be required to be included in the Councils 2022-2023 Budget, will increase by \$108,000 to \$267,667. The reason for this variation on the Draft Budget considered by the Council at its meeting held on 13 April 2022, is discussed further in the Discussion Section of this report.

The initial draft ERA Budget was based on the Constituent Councils accepting the recapitalisation proposal, which comprises of a capital injection of \$3 million to be contributed in line with the ownership share (i.e. \$1 million per Constituent Council) plus a water security charge of \$1.250 million to be paid over five (5) years, with the contribution per Constituent Council being based on the take or pay water allocation.

The revised draft Budget is now based on a year one capital contribution for each Constituent Council being \$200,000. The total capital contribution for each Constituent Council remains at \$1 million, however the timing of when the balance of the capital contribution is required, has not yet been determined. The original request for the City of Norwood Payneham & St Peters and the City of Burnside to make the capital contribution upfront and in full was based on the respective Council's capacity to pay. The Town of Walkerville advised that it did not have the financial capacity to fund its share of the capital contribution up-front, as such it was agreed that their contribution would be paid over five (5) years, at \$200,000 per annum.

For the City of Norwood Payneham & St Peters, the total contribution which has been requested as part of the recapitalisation proposal remains at \$1.475 million, which is made up of a \$1 million capital contribution and an annual water security charge of \$95,000, payable for five years.

The Draft Budget includes water sales to this Council of \$220,477 which is based on water consumption of 76.67ML. The Council's Draft 2022-2023 Budget includes a budget estimate of \$380,000, which includes water sourced from SA Water and ERA Water for the Councils reserves, parks, medians and sporting grounds, the water security charge of \$95,000 and the capital contribution of \$1 million.

The Councils Draft 2022-2023 Budget will be amended to reflect the increase in the share of the Operating Deficit and the lower capital contribution, which will reduce the Council's cash needs by \$800,000 for the 2022-2023 Financial Year.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

At the Special Council Meeting held on 13 April 2022, the Council considered and endorsed the ERA Water draft 2022-2023 Budget, which was based on a recapitalisation proposal comprising of a capital injection of \$3 million to be contributed in line with the ownership share plus a water security charge of \$1.250 million to be paid over five (5) years, with the contribution per Constituent Council being based on the take or pay water allocation.

The recapitalisation funds will be utilised to:

- expand the network and the number of connections to build scale over a five (5) year period, so that ERA Water has an operating cash break-even position;
- invest in assets to increase and or improve the reliability of supply;
- meet operating cash deficits over the five (5) year period; and
- pay down debt.

For the City of Norwood Payneham & St Peters, the total contribution requested as part of the recapitalisation proposal is \$1.475 million, which is made up of a \$1 million capital contribution and an annual water security charge of \$95,000, payable for five years.

The capital contribution from the City of Burnside, as part of the recapitalisation proposal, was set at \$1 million to be paid in the 2022-2023 Financial year plus the applicable annual water security charge, with the Town of Walkerville making a contribution of \$200,000 per year over a five-year timeframe, plus the applicable annual water security charge, commencing in the 2022-2023 Financial year.

As a result of the reduction in the capital contribution being requested, it is likely that ERA Water will exceed the \$15 million debt cap before the end of the financial year. Should this be the case, the Constituents Councils may be required to make a further capital contribution to ensure the continued operations of ERA Water.

CONSULTATION

- **Elected Members**

Cr John Minney is a Member of the ERA Water Board and is aware of this issue.

Elected Members considered and endorsed the initial Draft 2022-2023 ERA Water Budget at its meeting held on 13 April 2022.

- **Audit Committee**

The Audit Committee at its meeting held on 23 May 2022, considered the ERA Water revised budget. At that meeting the Audit Committee resolved to recommend to the Council;

1. *That the ERA Water revised 2022-2023 Draft Budget be approved.*
2. *The that Council seek clarification from the City of Burnside regarding its change of position on the re-capitalisation of ERA Water.*

- **Community**

Not Applicable.

- **Staff**

Nil

- **Other Agencies**

Not Applicable.

DISCUSSION

As Elected Members are aware, the ERA Water Charter requires the ERA Water Board (the Board), prior to it adopting its Draft Budget, to obtain unanimous approval of its Draft Budget from all Constituent Councils.

At its Special Council Meeting held on the 13 April 2022, the Council considered a report on the ERA Water Draft 2022-2023 Budget and unanimously endorsed the Draft 2022-2023 Budget as presented. The Draft 2022-2023 Budget considered by the Council is contained in **Attachment A**.

Following feedback from the City of Burnside regarding the draft budget, the Board reviewed its draft budget to ensure that it would receive unanimous approval from all Constituent Councils.

The main change from the draft Budget which was endorsed by the Council at the Special Council meeting held on the 13 April 2022 is a reduction in the capital injection required from this Council and the City of Burnside from \$1 million to \$200,000 for the 2022-2023 financial year.

This amendment brings the capital contribution in-line with the proposal which was agreed to with the Town of Walkerville given its financial circumstances and capacity. It should be noted, that the total capital contribution by the three (3) Constituent Councils, to be paid as part of the recapitalisation of ERA Water still remains at \$3 million. It is unknown at this stage as to the timing of future contributions, (i.e. future capital contributions for this Council and the City of Burnside may be in-line with the original five (5) payment schedule set for the Town of Walkerville or there may be a request that balance of \$800,000 be made in 2023-2024 financial year).

As a result of the proposed reduced capital injection:

- the forecast debt as at 30 June 2023, will increase from \$13.839 million to \$15.270 million, which while still within the debt cap of \$15.3 million (as set by the Constituent Councils), does not allow for any contingency should the assumptions, upon which the budget is predicated on, do not hold true;
- the increased debt levels, coupled with a change in the interest rate on the Cash Advance Debenture facility, will increase the interest expense by \$31,000 to \$358,000; and
- the provision for Capital works will decrease from \$850,000 to \$350,000. To address this, it is proposed that the capital works undertaken during the year will be funded based on a business case and feasibility assessment, as such a provision of \$300,000 has been allowed for in the Operating Budget to engage consultants to assist with the development of the business and feasibility assessment for capital projects.

The revised ERA Water draft 2022-2023 Budget continues to forecast a small cash surplus however, due to the reduction of the total aggregate capital contribution from \$2.2 million to \$600,000 (down by \$1.6 million), ERA Water is not in a position to repay borrowings which were originally set at \$1.355 million.

A copy of the amended Draft 2022-2023 Budget is contained in **Attachment B**.

OPTIONS

The Council can choose not to endorse the revised Draft 2022-2023 Budget, however, given that the revised Budget has been developed on the same principles as the initial budget, albeit with a lower capital injection from the Constituent Councils, there are no specific issues or activities which present a financial or risk management issue for this Council to take this course of action.

In addition, the Audit Committee considered the revised draft Budget at its meeting held on 23 May 2022 and recommended to the Council that the revised Draft 2022-2023 Budget be endorsed.

CONCLUSION

As with any forecast, the financial projections contained within the Budget are meant to provide an indication of the ERA Water's direction and financial capacity based on a set of assumptions. The achievement of the financial forecast is dependent on the assumptions holding true. The key assumption, in which ERA Water has limited influence on, is the level of rainfall which is received.

As the City of Burnside has formally resolved to reduce its capital contribution from \$1.0 million to \$200,000 (i.e. in line with the capital contribution which will be made by the Town of Walkerville). There is no reason why this Council would continue to provide its capital contribution of \$1.0 million. At this stage for the purpose of achieving a unanimous agreement of the draft Budget, it is recommended that the Council also adjust its capital contribution of \$200,000. However in accordance with the recommendation which has been made by the Council's Audit Committee, clarification will be sought from the City of Burnside in respect to why it has resolved to reduce its capital contribution given ERA Water's financial strategy.

COMMENTS

Nil

RECOMMENDATION

That ERA Water be advised that pursuant to Clause 5.1.1 of the Charter, the Council has considered and hereby approves the revised Draft 2022-2023 Budget, as contained in **Attachment B**.

Cr Stock moved:

That ERA Water be advised that pursuant to Clause 5.1.1 of the Charter, the Council has considered and hereby approves the revised Draft 2022-2023 Budget, as contained in Attachment B.

Seconded by Cr Minney and carried unanimously.

11.4 Highbury Landfill Authority Draft 2022-2023 Budget & 2021-2022 Budget Review

REPORT AUTHOR: General Manager, Corporate Services
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4585
FILE REFERENCE: qA88244/A407425
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to present to the Council the Draft 2022-2023 Highbury Landfill Budget and the 2021-2022 Budget Review 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.

Pursuant to Clause 4.4 of the Authority's Charter (the Charter), the Authority must prepare an Annual Budget.

Pursuant to Schedule 2 Clause 25 (3) of the *Local Government Act 1999* a subsidiary, may with the approval of the Constituent Councils, amend its adopted budget at any time prior to the completion of the financial year.

The Draft Budget must be adopted by the Authority's Board by 30 June.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

The financial implications for the Council associated with the Draft Budget relate to the cash which is required to fund the required post-closure works and management of the former landfill and the recognition of the Authority's Operating Result within the Council's Statement of Comprehensive Income.

Adoption of the Authority's Draft 2022-2023 Budget, for this Council, has resulted in a capital contribution of \$81,000 to fund the Post-Closure Provision expenditure, which includes monitoring and site maintenance costs and the Councils Share (40.4%) of the Authority's projected Operating Surplus of \$13,000 with this Council's share of the deficit being \$5,250.

Upon approval by the Council and adoption by the Authority's Board, the Council's Draft 2022-2023 Budget will be updated accordingly.

The approval of the 2021-2022 Budget review, will result in an increase in the Councils profit from Regional Subsidiaries by \$62,000.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

As an owner, the Council is responsible to meet the liabilities of the Authority, should the Authority not be in a position to meet those liabilities. The extent of the Council's exposure is however limited to its ownership share, which is currently 40.4%.

CONSULTATION

- **Elected Members**
Cr Minney is this Council's appointee on the Authorities Board and is aware of the contents of the 2022-2023 Draft Budget and 2021-2022 Budget Review.
- **Community**
Not Applicable.
- **Staff**
Not Applicable.
- **Other Agencies**
Not Applicable.

DISCUSSION

Draft 2022-2023 Budget

The Authority is required to oversee the management of the landfill until a steady state of conditions in respect to the gas emissions is maintained, which could be more than 25 years.

The Authority's Draft Budget includes expenditure items associated with the post-closure requirements which include:

- monthly monitoring of landfill gas and annual monitoring of ground water across the landfill site;
- site maintenance, which includes ongoing maintenance for fire control, fencing and access track maintenance; and
- administration costs such as insurance, utilities, Council rates and general administration of the Authority.

The Authority is required to oversee the management of the landfill until a steady state of conditions in respect to the gas emissions is maintained, which could be more than 25 years. The Authority is twelve (12) years into the post-closure period.

The Post-Closure Provision, relates to anticipated future liability to manage the post closure of the landfill. The Authority will require a Capital Contribution of \$200,000 from the Constituent Councils to fund the Post-Closure Provision expenditure, which includes monitoring and site maintenance costs.

The Authority is reporting an Operating Surplus of \$13,000, which incorporates, after the post closure expenditure, an anticipated improvement in the Post-Closure Provision of \$18,000.

2021-2022 Budget Review

The adoption of the Authority's 2021-2022 Budget, for this Council, resulted in a capital contribution of \$80,800 to fund the Post-Closure Provision expenditure, which includes monitoring and site maintenance costs and the Councils Share (40.4%) of the Authority's projected Operating Deficit of \$2,072 with this Council's share of the deficit being \$1,000.

Following a review of the Post-Closure Provision, the Authority is reporting a reduction in anticipated future liability to manage the post closure of the landfill. The reduction in the required balance of the Post-Closure Provision has resulted in the Authority now forecasting an Operating Surplus of \$151,000 compared to the budgeted deficit of \$2,100.

In preparing the 2021-2022 Budget, the Authority anticipated an opening balance of the Post-Closure Provision of \$3.153 million. Following a review of the Post-Closure Provision, undertaken as part of the finalisation of the 2020-2021 Financial Statements, the opening balance of the Post-Closure Provision was \$2.981 million, a reduction of \$172,000. Given the reduced opening provision balance and a review of the closing Post-Closure Provision, which takes into account the post-closure expenditure and the Commonwealth Bond Interest Rates, the Authority is forecasting the net present value of the post closure provision to be \$2.639 million, resulting in a Post-Closure Provision income of \$156,000.

The Council's share of the Net surplus is \$61,000, an increase in the Council's profit from Regional Subsidiaries to \$62,000.

A copy of the Draft 2022-2023 Budget and the 2021-2022 Budget Review is contained in **Attachment A**.

OPTIONS

The Council can choose to endorse or not to endorse the Authority's Draft 2022-2023 Budget and the 2021-2022 Budget Review. There are no specific issues or activities which present a financial or risk management issue for this Council, and as such it is recommended that the Council endorse the Authority's Draft 2022-2023 Budget and 2021-2022 Budget Review.

CONCLUSION

Nil

COMMENTS

Nil

RECOMMENDATION

1. That the Highbury Landfill Authority be advised that pursuant to Clause 4.4 of the Charter, the Council has considered and hereby approves the Authority's Draft 2022-2023 Budget.
2. That the Highbury Landfill Authority be advised that pursuant to Schedule 2 Clause 25 (3) of the *Local Government Act 1999*, the Council has considered and hereby approves the Authority's 2021-2022 Budget Review.

Cr Minney moved:

1. *That the Highbury Landfill Authority be advised that pursuant to Clause 4.4 of the Charter, the Council has considered and hereby approves the Authority's Draft 2022-2023 Budget.*
2. *That the Highbury Landfill Authority be advised that pursuant to Schedule 2 Clause 25 (3) of the Local Government Act 1999, the Council has considered and hereby approves the Authority's 2021-2022 Budget Review.*

Seconded by Cr Duke and carried unanimously.

11.5 ENDORSEMENT OF THE DRAFT 2022-2023 NORWOOD PARADE PRECINCT ANNUAL BUSINESS PLAN

REPORT AUTHOR: Economic Development Coordinator
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4616
FILE REFERENCE: qA85811
ATTACHMENTS: A – C

PURPOSE OF REPORT

The purpose of this report is to present to the Council, the final *Draft of the 2022-2023 Annual Business Plan*, for approval.

BACKGROUND

At its meeting held on 15 February 2022, the Norwood Parade Precinct Committee (NPPC) resolved the following:

That the Draft 2022-2023 Norwood Parade Precinct Annual Business Plan be endorsed as being suitable to present to the Council for its endorsement and approval to be released for consultation with The Parade Precinct business community for a period of twenty-one (21) days.

The *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* was presented and endorsed by the Council at its March 2022 meeting and was subsequently released for consultation with The Parade Precinct business community for a period of twenty-one (21) days from Friday 1 April until Thursday 21 April 2022. Comments were invited via email and in writing. In response one (1) submission has been received. A copy of the submission is contained in **Attachment A**. The summary of the submission and a response to the issues raised in the submission are contained in **Attachment B**.

The draft Plan is based on collecting \$215,000 in revenue through The Parade Separate Rate in 2022-2023. In accordance with the Council's resolution to extend the Separate Rate, this amount of revenue will also be collected for the 2023-2024 financial year, however a new Annual Business Plan will be developed for the 2023-2024 financial year to determine the allocation of the revenue.

A copy of the final *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* is contained in **Attachment C**.

The report setting out the results of the consultation was prepared and included in the Norwood Parade Precinct Agenda for the meeting scheduled for Tuesday 10 May 2022. Due to a lack of quorum the meeting was cancelled. The Norwood Parade Precinct Committee meeting was then re-scheduled for Tuesday 17 May 2022. This meeting also received a number of apologies, which again resulted in a lack of quorum for the second time and was also subsequently cancelled.

The Committee considered and endorsed the consultation draft of the *2022-2023 Norwood Parade Precinct Annual Business Plan* and made no changes prior to the document being released for consultation. Given that only one (1) submission has been lodged, which did not impact directly on the contents within the draft Annual Business Plan, or the proposed distribution of the budget and that the Annual Business Plan is used to inform the Council's Budget, a decision was made to present the final *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* directly to the Council for final endorsement.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Objectives and Strategies contained in *CityPlan 2030* are outlined below:

Outcome 3: Economic Prosperity

A dynamic and thriving centre for business and services.

- **Objective 3.1 A diverse range of businesses and services.**
 - Strategy 3.1.1 - Support and encourage local small, specialty, independent and family-owned businesses.
- **Objective 3.2 Cosmopolitan business precincts contributing to the prosperity of the City.**
 - Strategy 3.2.1 - Retain, enhance and promote the unique character of all our City's business precincts.
 - Strategy 3.2.3 - Promote the City as a tourist destination.
- **Objective 3.5 A local economy supporting and supported by its community.**
 - Strategy 3.5.1 - Support opportunities for people to collaborate and interact in business precincts.
 - Strategy 3.5.2 - Retail accessible local shopping and services.

The relevant Strategies contained in the *2021-2026 Economic Development Strategy* are outlined below:

Dynamic & Diverse City

Outcome: A City with thriving and resilient business sectors that drive employment and deliver growth.

Objective: Support the growth and viability of the City's business sectors based on their competitive strength and strategic priority.

- Strategy 1.1 - Focus on the support and growth of the City's priority sectors
- Strategy 1.3 - Identify emerging trends and support opportunities for economic growth
- Strategy 1.4 - Promote opportunity and collaboration across the sectors
- Strategy 1.5 - Identify and promote local competitive advantage

Destination City

Outcome: A destination with dynamic, cultural, vibrant and attractive precincts.

Objective: Increase the number of people who live, work and visit the City and enhance the community well-being of existing residents, workers and visitors.

- Strategy 2.1 - Showcase and promote the City's attractions and events to facilitate growth in visitation and spending.
- Strategy 2.2 - Support the City's vibrant mainstreet precincts.
- Strategy 2.3 - Facilitate the activation of key spaces and precincts in the City.
- Strategy 2.4 - Work with local business operators to strengthen the viability of precincts and enhance the customer experience.

Innovative City

Outcome: An innovative City that supports business and attracts investment.

Objective: Attract and maintain competitive businesses with the capacity for resilience and ongoing sustainability, innovation and growth.

- Strategy 3.2 - Recognise businesses and business sectors that make a significant contribution to the City.
- Strategy 3.3 - Facilitate communication, education and networking programs to support businesses.
- Strategy 3.5 - Encourage sustainable working methods in all aspects of business.

Business Friendly City

Outcome: A City that understands the needs of business.

Objective: Remove barriers and make it easy for business owners to start, run and grow a business.

- *Strategy 4.1 - Ensure that Council processes are business friendly and contribute to a well-functioning City.*

FINANCIAL AND BUDGET IMPLICATIONS

The *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* is based on a total budget of \$215,000, which is the total amount that the Council will receive from The Separate Rate.

The total cost incurred in placing the *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* on consultation totalled \$1,886. This amount has been deducted from the 2021-2022 Norwood Parade Precinct Budget. This cost related to the:

- letter distribution to The Parade Precinct business and property owners;
- printing of posters and postcards; and
- the notice placed in *The Advertiser*.

EXTERNAL ECONOMIC IMPLICATIONS

The *Draft 2022-2023 Parade Precinct Annual Business Plan*, includes strategies and initiatives which are intended to improve the economy of the Norwood Parade Precinct in areas including, but not limited to:

- increasing diversity of businesses and services;
- prosperity and development of The Parade Precinct;
- attracting investment and business opportunities to the area;
- increasing local employment opportunities;
- development and support of appropriate industry clusters;
- building community support;
- attracting tourism visitors to The Parade; and
- creating a cohesive brand for The Parade.

The success of the *2022-2023 Parade Precinct Annual Business Plan* may be impacted upon by the broader economic environment such as the long-lasting effects on businesses as a result of the COVID-19 Pandemic. Whilst the Annual Business Plan does not make specific reference to the Pandemic, the affects on business will be considered during the development and implementation stages of programs and initiatives. The Annual Business Plan is a high-level document and to remain flexible and be able to respond to external economic issues as they arise, the budget allocations set out in the document are fluid and funds can be re-allocated at the Committee's discretion.

SOCIAL ISSUES

The future development of key business precincts such as The Parade, Norwood impacts positively on the City. A vibrant local economy contributes significantly to creating a vibrant local community and assists in developing social capital.

CULTURAL ISSUES

Many of the initiatives highlighted as part of the *2022-2023 Norwood Parade Precinct Annual Business Plan* aim to enhance the unique character of The Parade and its sense of place and reinforces its critical significance.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

The *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* is reliant upon the collection of the Separate Rate, and its implementation will be undertaken by the Council's Economic Development Team with input and involvement from other Council Staff and external contractors as required.

CONSULTATION

- **Elected Members**

Mayor Robert Bria and Councillors Sue Whittington, Fay Patterson, John Callisto and Carlo Dottore, are Members of the Norwood Parade Precinct Committee and have considered the draft *2022-2023 Norwood Parade Precinct Annual Business Plan* prior to its release for consultation.

- **Business Community**

The *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* was released for consultation on Friday 1 April, with comments sought in writing by no later than 5.00pm, Thursday 21 April 2022.

A letter was sent to all businesses and property owners on The Parade advising of the Draft Plan and the consultation process. Posters and postcards were placed at the Norwood Town Hall Customer Service Centre and a notice was also placed in *The Advertiser* on the first day of the consultation period. In addition information was published on the Council and The Parade websites and an Electronic Direct Marketing (EDM) advising The Parade traders of the consultation was also distributed. Copies of the Draft Plan were made available at the Norwood Town Hall.

One (1) submission has been received by the Council during the consultation period for the *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan*. The focus of the comment in the submission is in relation to activating the section of The Parade between Osmond Terrace and Fullarton Road.

- **Staff**

General Manager, Corporate Services
Financial Services Manager
Manager, Economic Development & Strategic Projects
Economic Development Officer

- **Other Agencies**

Not Applicable

DISCUSSION

The one (1) submission which was received during the consultation period, raises the following issues:

- greater efforts should be made to promote the precinct as a whole; and
- the Council should host and promote events and activations west of Osmond Terrace.

A summary of the submission and a response to the issues raised in the submission are contained in **Attachment B**. Given that the focus of the submission is based on the delivery of events and initiatives, with no focus on the draft Annual Business Plan and how the Committee has recommended that the \$215,000 should be allocated. it is recommended that no changes be made to the draft Annual Business Plan and on the allocation of the funds.

Pursuant to the Terms of Reference, which have been set by the Council, the Norwood Parade Precinct Committee is required to prepare an Annual Business Plan prior to each financial year, to guide its programmes and initiatives for the ensuing financial year and to assist in determining the funding requirements for consideration and approval by the Council. Whilst the Committee has not endorsed the final draft, which is being presented to the Council, it did consider and endorse the draft which was released for consultation.

A summary of how the Committee proposes to allocate the revenue received from The Separate Rate is outlined in Table 1 below. The allocation has been based on the 2021-2022 allocations and the patterns of spend by the Committee.

TABLE 1: NORWOOD PARADE PRECINCT COMMITTEE 2022-2023 ANNUAL BUSINESS PLAN

Strategies	Budget
Events & Activations	
<i>Events & Activations</i>	\$40,000
	\$40,000
Marketing & Communication	
<i>Website</i>	\$4,000
<i>Social Media</i>	\$5,000
<i>Advertising</i>	\$50,000
	\$59,000
Identity & Brand	
<i>Sponsorship</i>	\$7,500
<i>Signage & Street Decorations</i>	\$50,000
<i>Merchandise</i>	\$1,000
<i>Competitions & Promotions</i>	\$50,000
	\$108,500
Business Development	
<i>Networking</i>	\$3,000
<i>Business Training</i>	\$3,000
	\$6,000
Administration	
<i>Catering</i>	\$1,000
<i>Print, Post & Distribution</i>	\$500
	\$1,500
TOTAL	\$215,000

OPTIONS

The Council can approve the *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan* contained in **Attachment C**. Alternatively, the Council can amend or delete strategies and respective budget allocations.

CONCLUSION

A response will be provided to the property owner who has made a submission.

COMMENTS

Nil.

RECOMMENDATION

That the *Draft 2022-2023 Norwood Parade Precinct Annual Business Plan*, as contained in **Attachment C**, be approved.

Cr Whittington moved:

That the Draft 2022-2023 Norwood Parade Precinct Annual Business Plan, as contained in Attachment C, be approved.

Seconded by Cr Callisto and carried unanimously.

11.6 SCIENCE ALIVE! – REQUEST FOR SPONSORSHIP

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA59716
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise the Council of a request which has been received from the organisers of *Science Alive!* seeking the Council's support for the event which is scheduled to be held in July 2022.

BACKGROUND

The organisers of *Science Alive!* have approached the Council requesting sponsorship and support of the event which is scheduled to be held in the Norwood Concert Hall in 2022.

Science Alive! is proposed to be held for the second time in the City of Norwood Payneham & St Peters in the October 2022 school holidays. Mr Haddy, the organiser, has managed science events and activities around Australia, is passionate about sustainability and has been the Event Director of *Science Alive!* since the inaugural event in 2006.

Through the Youth Development program, the Council supported the 2021 Event which was held in the City for the first time in 2021.

A summary of the 2021 event (provided by Mr Haddy), is contained in **Attachment A**.

The organisers have once again approached the Council requesting that the Council provide sponsorship of the Event by waiving the hire fee of the Norwood Concert Hall for the 2022 event.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant objectives contained in CityPlan 2030 are:

Outcome 2: Cultural Vitality

2.1 An artistic, creative, cultural and visually interesting community

2.1.1 Use the arts to enliven the public realm 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.

The relevant objectives contained in Youth Development Strategy 2019-2022 are:

Objective 1. Young people are connected, included and welcome in the life of the community

Strategy: Continue to offer arts and culture focused programs and events

In addition to the objectives, the Council's Youth Development Strategy focuses on four (4) key areas which includes Arts and Culture.

FINANCIAL AND BUDGET IMPLICATIONS

The costs to hire the Norwood Concert Hall for each event would be \$2,475.00 per day, with the hire of the Don Pyatt Hall at \$360 per day.

Whilst the organisers have requested that the hire fees be waived, they would be required to meet the following costs:

- \$60 per hour for labour (Fire Warden/COVID Marshall/First Aid/Supervisor/Room Set up);
- \$70 per hour for technician/electrician; and
- \$300 per day for cleaning.

The *Science Alive!* organisers charge an admission fee for children (adults are free to enter). This fee covers the associated costs of the activations and equipment required for the children to participate in the science activities during the event.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

The Council is committed to providing opportunities for young people to contribute to the arts and participate in events which expose young people to new skills. *Science Alive!* provides a fun connection to the world of Science and Technology and children from 5 years to 16 years old.

Support for the event will demonstrate the Council's commitment to the strategies and objectives set out in the Council's *Youth Development Strategy*.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Should the Council determine to support the event, the Norwood Concert Hall Venue Manager, the Council's Event Coordinators and Communications Officer will assist with event logistics and promotional activities.

RISK MANAGEMENT

The Event Organisers will be required to provide a Risk Management Plan (which in any case is standard practice and is provided for all Council events) and the appropriate insurance arrangements.

COVID-19 IMPLICATIONS

The organisers will be required to comply with any COVID-19 restrictions which may be in place at the time the event is held.

CONSULTATION

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

DISCUSSION

Science Alive!

The *Science Alive!* organisers are proposing to run the Event from 14 July –15 July 2022, in the Norwood Concert Hall and Don Pyatt Hall.

A range of activities will be provided to children including:

- engaging with an electric circuit activity;
- challenging themselves at a range of hands-on exhibits from Questacon;
- interacting with a native animal or bugs n slugs display;
- attending a robotics workshop;
- viewing the night sky in an inflatable planetarium;
- having a Virtual Reality experience;
- making a creation at the 'science craft' table;
- learning more about dinosaurs; and
- attending '*Spectacular Science*' shows.

The organisers of *Science Alive!* is asking the Council to provide assistance by waiving the hire fee associated with the use the Norwood Concert Hall and the Don Pyatt Hall and assisting with the promotion of the event.

The organisers are requesting assistance with the 2022 event given the hardship which has been experienced by the events industry over the last two years.

OPTIONS

The Council can choose to:

- support the 2022 *Science Alive!* event; or
- not to support the event.

On the basis that this event aligns with the Council's *Youth Development Strategy*, is specifically for young people and will provide a unique opportunity for young people within the City of Norwood Payneham & St Peters to develop skills and knowledge in the areas of science, technology and music, it is recommended that the Council supports this Event.

Waiving the fees for the use of the Norwood Concert Hall will provide the assistance that the organisation needs as part of the post COVID recovery process and therefore will provide a significant benefit to the organisers to ensure that these events can proceed.

As the Council supported the 2021 *Science Alive!* event, it is recommended that the Council agrees to waive the fees by 50% for the 2022 event.

CONCLUSION

From a youth development perspective, the Council's *Youth Development Strategy* sets out that the Council has committed to offering *arts and culture focused programs and events* for young people. In this regard, the *Science Alive!* event aligns with the Council's *Youth Development Strategy*.

COMMENTS

Nil.

RECOMMENDATION

That the Council agrees to support the 2022 *Science Alive!* event and waive 50% of the fees associated with the hire of the Norwood Concert Hall and Don Pyatt Hall.

Cr Whittington moved:

That the Council agrees to support the 2022 Science Alive! event and waive 50% of the fees associated with the hire of the Norwood Concert Hall and Don Pyatt Hall.

Seconded by Cr Callisto.

Amendment

Cr Sims moved:

That the Council agrees to support the 2022 Science Alive! event and waive 100% of the fees associated with the hire of the Norwood Concert Hall and Don Pyatt Hall.

Seconded by Cr Moore.

The amendment was put and lost.

The original motion was put and carried.

**Section 3 – Governance & General
Reports**

11.7 NOMINATION TO EXTERNAL BODIES – LOCAL GOVERNMENT TRANSPORT ADVISORY PANEL

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

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the call for nominations by the Local Government Association of South Australia, for appointment to the Local Government Transport Advisory Panel.

Local Government Transport Advisory Panel

The Local Government Association of South Australia (LGA), is inviting nominations for appointment to the Local Government Transport Advisory Panel.

The Panel oversees the governance and operations of the Special Local Roads Program which has been in place in South Australia since 1985.

The objectives of the Special Local Roads Program are to:

- prioritise the construction and maintenance of strategic and significant local roads whose benefits exceed the boundary of the council and its community;
- support the delivery of local roads in an orderly and coordinated manner through evidence-based decisions that draw upon the best available State, Regional and Local plans; and
- demonstrate accountability and transparency in the administration of the program.

The Panel's role is to consider applications for Special Local Roads Program funding and make recommendations to the LGA Board of Directors, which are then forwarded to the South Australian Local Government Grants Commission and relevant State and Federal Ministers for approval.

A copy of the Local Government Transport Advisory Panel Terms of Reference is contained within **Attachment A**.

The current members of the Panel are:

- Mayor Keith Parkes, Alexandrina Council, (a member of the LGA Board);
- Mr Richard Dodson, Deputy CEO, Light Regional Council, (a member from a country Council);
- Mr Peter Tsokas, CEO, City of Unley, (a member from a metropolitan Council);
- Mr Lea Bacon, Director Policy, (as delegate of the LGA);
- Mr Peter Ilee, (as nominee of the Minister for Local Government); and
- Mr Andrew Excell, (as nominee of the Minister for Infrastructure and Transport).

The Terms of Reference were reviewed by the LGA Board in March 2022 and therefore, in accordance with the newly adopted Terms of Reference, the LGA is seeking nominations from suitably qualified Council representatives to fill two (2) new positions for a four (4) year term, commencing in August 2022.

Nominees are required to have relevant qualifications, experience and/or knowledge in the following:

- infrastructure planning and delivery;
- local, regional and state transport planning;
- preparation and/or evaluation of grant applications, including analysis of information of a technical and financial nature; and
- experience in an advisory board or committee that provides advice to a decision-making body.

The Panel meets at least three (3) times a year, at a location determined by the Chair. In accordance with the Terms of Reference, remuneration is not applicable for Members of the Panel.

Nominations for the Local Government Transport Advisory Panel must be forwarded to the LGA by 15 June 2022, via the Nomination form contained in Attachment B, and must include an up-to-date Resume.

A copy of the Selection Criteria and Nomination Form is contained within **Attachment B**.

The Local Government Transport Advisory Panel (the Panel) is a committee of the LGA, and whilst nominations are not required to be endorsed by the Council, it is this Council's practise to endorse any nomination (ie, Elected Member or staff nominations), for appointment to external committees.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

RECOMMENDATION

1. The Council notes the report and declines the invitation to submit a nomination to the Local Government Association for the Local Government Transport Advisory Panel.

or

2. The Council nominates _____ to the Local Government Association for the Local Government Transport Advisory Panel.
-

Cr Duke moved:

The Council notes the report and declines the invitation to submit a nomination to the Local Government Association for the Local Government Transport Advisory Panel.

Seconded by Cr Moorhouse and carried unanimously.

11.8 DEED OF VARIATION - COMMONWEALTH HOME SUPPORT PROGRAM

REPORT AUTHOR: Manager, Community Services
GENERAL MANAGER: General Manager, Governance & Community Affairs
CONTACT NUMBER: 8366 4600
FILE REFERENCE: qA64449
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to present to the Council for its endorsement, the Australian Government's Deed of Variation for services and programs which are delivered by the Council as part of the Commonwealth Home Support Program (CHSP).

BACKGROUND

As Elected Members are aware, the Council currently receives funding from the Federal Government's Department of Health, to deliver a range of home support services to older citizens living in the City, through the Commonwealth Home Support Program. The current Grant Agreement terminates on 30 June 2022. A new Deed of Variation and Grant Agreement has been issued by the Federal Government's Department of Health to extend the funding until 30 June 2023.

The funds will continue to be used to support the co-ordination and delivery of home support services (i.e. Domestic Assistance, Home Maintenance, Personal Care and Home Modifications) and social support programs (i.e. Shopping Transport, Excursions and Strength and Balance) to older citizens living in the City.

A copy of the Deed of Variation and Grant Agreement is contained within **Attachment A**.

The Deed of Variation requires the Council's endorsement.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Social Equity

Objective

1.1 Convenient and accessible services, information and facilities.

Strategy

1.1.2 Maximise access to services, facilities and information

Older citizens and their Carers will be able to gain access to services and programs to support them to remain in their homes and remain connected to the community, through funding provided by the Australian Government

FINANCIAL AND BUDGET IMPLICATIONS

Funding provided by the Federal Government for the Council's Home Support Program, is directly allocated to services and programs. The Council will receive an estimated \$1,004,946.07 for the period 1 July 2022 – 30 June 2023.

This funding is subject to the Federal Government's Department of Health receiving a signed and sealed Deed of Variation.

DISCUSSION

The Council's current Grant Agreement is for home support services covering the period 1 July 2020 to 30 June 2022. A new Grant Agreement and Deed of Variation has now been issued to the Council for the period 1 July 2022 - 30 June 2023.

The new Grant Agreement provides flexibility to enable the Council to re-allocate up to 50% of its funding across service types to meet demand. In this regard, the Council will be able to reallocate funds from services which have had a decline in demand to other services where demand is increasing without requiring the approval from the relevant Department of Health Grant Manager.

To ensure that the Council continues to receive funding support for these important services, the Deed of Variation must be signed and sealed in accordance with the Federal Government's Department of Health requirements.

RECOMMENDATION

That the Mayor and Chief Executive Officer be authorised to sign and seal the Australian Government's Department of Health's Deed of Variation, as contained within Attachment A.

Cr Duke moved:

That the Mayor and Chief Executive Officer be authorised to sign and seal the Australian Government's Department of Health's Deed of Variation, as contained within Attachment A.

Seconded by Cr Whittington and carried unanimously.

11.9 DEED OF VARIATION - COMMUNITY VISITORS SCHEME

REPORT AUTHOR: Manager, Community Services
GENERAL MANAGER: General Manager, Governance and Community Affairs
CONTACT NUMBER: 8366 4600
FILE REFERENCE: qA2061
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to present the Federal Government's Deed of Variation for the Community Visitors Scheme for the Council's endorsement.

BACKGROUND

The Community Visitors Scheme is a national program that provides companionship to socially isolated citizens living in Federal Government Subsidised Residential Aged Care Facilities. The Community Visitors Scheme is resourced through Volunteers who are matched to a resident or group of residents. Volunteers visit residents on a fortnightly basis.

The Council is funded by the Federal Department of Health to provide and support fifty (50) Volunteers in Aged Care Facilities in the Local Government areas of the City of Burnside, City of Norwood Payneham & St Peters and Campbelltown City Council.

The CVS Funding Agreement is made up of the Commonwealth Standards Grant Agreement and the Deed of Variation. Both documents provide the expected outcomes for the use of the funds. The current Funding Agreement concludes on 30 June 2022.

The Deed of Variation has been issued to extend the funding for the period 1 July 2022 to 30 June 2023.

A copy of the Deed of Variation and the Commonwealth Standard Grant Agreement is contained within **Attachment A**.

The Deed of Variation requires the Council's endorsement

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant goals contained within *CityPlan 2030* are:

Social Equity

Objective

1.1 Convenient and accessible services, information and facilities.

Strategy

1.1.2 Maximise access to services, facilities and information

The Community Visitors Scheme provides an important service for socially isolated citizens residing in Residential Aged Care Facilities by providing them with companionship and a connection to the wider community.

FINANCIAL AND BUDGET IMPLICATIONS

Funding for the CVS program is provided for a twelve (12) month period. This grant provides \$87,500 for the period 1 July 2022 to 30 June 2023, which will cover 100% of the total costs of the program.

DISCUSSION

The Council 's Funding Agreement for the Community Visitors Scheme will conclude on 30 June 2022. The Deed of Variation has been offered for the Community Visitors Scheme which will extend the funding for the period 1 July 2022 to 30 June 2023.

To ensure the Council receives the Funding for the Community Visitors Scheme, the Deed of Variation must be signed and sealed in accordance with the Federal Department of Health requirements.

The Council's endorsement of the Funding Agreement will secure funding to enable the Council to continue to provide services for the 2022-2023 financial year.

RECOMMENDATION

That the Mayor and Chief Executive Officer be authorised to sign and seal the Deed of Variation in relation to the Community Visitors Scheme as contained within **Attachment A**.

Cr Minney moved:

That the Mayor and Chief Executive Officer be authorised to sign and seal the Deed of Variation in relation to the Community Visitors Scheme as contained within Attachment A.

Seconded by Cr Dottore and carried unanimously.

11.10 CHIEF EXECUTIVE OFFICER'S REPORT – AMENDMENT OF COUNCIL DECISION - EXTINGUISHMENT OF EASEMENT – 75 FIFTH AVENUE, JOSLIN

REPORT AUTHOR: Chief Executive Officer
GENERAL MANAGER: Not Applicable
CONTACT NUMBER: 8366 4539
FILE REFERENCE: qA72749
ATTACHMENTS: A

PURPOSE

Regulation 21(1) of the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations), provides for the Chief Executive Officer to submit a report to the Council recommending the revocation or amendment of a resolution passed since the last General Election of the Council. This is a procedural provision of an administrative nature which operates in the same manner as the Rescission Motion provisions of Regulation 12 of the Regulations, but without the requirement for a Notice of Motion 5 clear days' notice before the meeting at which it is to be considered. Accordingly, the Chief Executive Officer, by virtue of this report, may recommend to the Council a revocation or amendment of a previous Council decision.

BACKGROUND

At its meeting held on 5 December 2016, the Council considered a report regarding the extinguishment of a stormwater easement located on privately owned property at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin and to relocate the stormwater pipe (i.e. lay a new stormwater pipe) on adjacent Council owned land (walkway). This proposal was initiated at the request of the Government of the People's Republic of China (through the Chinese Consulate-General) following its purchase of the land for the purpose of establishing the Consulate-General of the People's Republic of China in Adelaide (the Chinese Consulate).

The Council was also advised that the existing easement for the stormwater pipe continued in a north westerly directly beyond the subject land and runs across a portion of the property at 75 Fifth Avenue, Joslin before connecting to existing stormwater infrastructure on Fifth Avenue.

As this project required the laying of a new stormwater pipe underneath the laneway that abuts the subject land and the property at 75 Fifth Avenue, Joslin, it was considered prudent for the Council to contemporaneously seek to extinguish the existing drainage easement in favour of the Council over the property at 75 Fifth Avenue, Joslin and lay the new pipe entirely within the laneway, connecting it directly into the existing stormwater infrastructure on Fifth Avenue. This would ensure that the stormwater infrastructure would run entirely on Council owned land between Fourth and Fifth Avenue, Joslin.

Following consideration of the matter, the Council resolved the following:

1. *That the Council agrees to the extinguishment of an existing easement located at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin (Certificates of Title Volume 5261 Folio 363, being allotments 4 and 5 in Filed Plan 138009) and to re-align the path of the stormwater drain (and lay a new stormwater pipe) to adjacent Council owned land, on terms described in the Deed of Agreement document, contained in Attachment C to this report, including the gifting of a 600mm strip of land from the Chinese Consulate-General to the Council, to permit the walkway to be widened to three (3) metres.*
2. *That the walkway and the 600mm strip of land be converted to a public thoroughfare, as distinct from community land, if required.*
3. *That the Council acquire an Easement in Gross over the whole of the widened walkway.*
4. *That the Council extinguish the easement over the common property in Strata Plan No. 1361 at 75 Fifth Avenue, Joslin.*
5. *That the Mayor and the Chief Executive Officer be authorised to sign and seal the Deed of Agreement document described in Point 1 above.*

6. *That pursuant to the Electronic Conveyancing National Law (South Australia) Act 2013, the Chief Executive Officer be authorised to execute a Client Authorisation Form on behalf of the Council, to authorise a Subscriber to:*
- (a) act for the Council in consenting to the extinguishment of easements and creation of an easement in gross and merging of the 600mm strip of land with the existing walkway contained in Certificate of Title Volume 6159, Folio 921 and registering the new allotment as a Public thoroughfare (if appropriate); and*
 - (b) to execute and submit the requisite documents with the relevant Land Registry.*
7. *That the Chief Executive Officer be authorised to take such other actions as necessary to give effect to the undertakings contained in the documentation being executed in Point 5 above.*

A Deed of Agreement was subsequently executed by the Council and the Chinese Consulate-General.

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

The works associated with the relocation of the stormwater pipe and extinguishment of the easement over 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin, have been completed and the costs for this work was met by the Government of the People's Republic of China.

However, the new pipe, installed as part of the works, runs along Fourth Avenue, then along the walkway to a junction box where it connects to the existing pipe through 75 Fifth Avenue. At the time of undertaking the works, it was determined that it was more efficient from a hydraulic perspective that the existing pipe be retained and continue to operate in this location.

This means that the existing easement over the property at 75 Fifth Avenue, Joslin, needs to be retained in the Council's favour.

In addition, as the extinguishment of the easement over the property at 75 Fifth Avenue, Joslin, was included in the Deed of Agreement which was entered into between the Council and the Chinese Consulate for the works, in accordance with the Council's resolution, set out above, Lynch Meyer Lawyers, acting for the Chinese Consulate, have advised that they are happy to accept a letter seeking a waiver of the relevant clause of the Deed of Agreement, rather than a formal Deed of Variation being entered into.

The Chief Executive Officer's Recommendation below, seeks to remove part four (4) of the resolution which was made by the Council at its meeting held on 5 December 2016, as follows:

4. *That the Council extinguish the easement over the common property in Strata Plan No. 1361 at 75 Fifth Avenue, Joslin.*

In addition to the removal of Part four (4) of the resolution, the Council is required to consider a new Part 7 to the resolution to authorise the Chief Executive Officer to request a waiver of the Council's obligation under Clause 6.5 of the Deed of Agreement from the Chinese Consulate-General.

Clause 6.5 of the Deed of Agreement (page 6) states the following:

The Council will at its own cost extinguish the existing easement over 75 Fifth Avenue, Joslin in the State of South Australia and obtain all Approvals required for such extinguishment.

The Recommendation may be resolved by the Council by way of a motion being moved, seconded and passed by a simple majority vote at the meeting.

RECOMMENDATION

That the Council resolution made at its meeting held on 5 December 2016, in respect to the extinguishment of an existing easement at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin be amended as follows:

1. That the Council agrees to the extinguishment of an existing easement located at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin (Certificates of Title Volume 5261 Folio 363, being allotments 4 and 5 in Filed Plan 138009) and to re-align the path of the stormwater drain (and lay a new stormwater pipe) to adjacent Council owned land, on terms described in the Deed of Agreement document, contained in Attachment C to this report, including the gifting of a 600mm strip of land from the Chinese Consulate-General to the Council, to permit the walkway to be widened to three (3) metres.
 2. That the walkway and the 600mm strip of land be converted to a public thoroughfare, as distinct from community land, if required.
 3. That the Council acquire an Easement in Gross over the whole of the widened walkway.
 4. That the Mayor and the Chief Executive Officer be authorised to sign and seal the Deed of Agreement document described in Point 1 above.
 5. That pursuant to the Electronic Conveyancing National Law (South Australia) Act 2013, the Chief Executive Officer be authorised to execute a Client Authorisation Form on behalf of the Council, to authorise a Subscriber to:
 - (a) act for the Council in consenting to the extinguishment of easements and creation of an easement in gross and merging of the 600mm strip of land with the existing walkway contained in Certificate of Title Volume 6159, Folio 921 and registering the new allotment as a Public thoroughfare (if appropriate); and
 - (b) to execute and submit the requisite documents with the relevant Land Registry.
 6. That the Chief Executive Officer be authorised to take such other actions as necessary to give effect to the undertakings contained in the documentation being executed in Point 5 above.
 7. That the Chief Executive Officer be authorised to request a waiver of the Council's obligation under Clause 6.5 of the Deed of Agreement from the Chinese Consulate-General.
-

Cr Moorhouse moved:

That the Council resolution made at its meeting held on 5 December 2016, in respect to the extinguishment of an existing easement at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin be amended as follows:

- 1. That the Council agrees to the extinguishment of an existing easement located at 90 Fourth Avenue, Joslin and 81 Fifth Avenue, Joslin (Certificates of Title Volume 5261 Folio 363, being allotments 4 and 5 in Filed Plan 138009) and to re-align the path of the stormwater drain (and lay a new stormwater pipe) to adjacent Council owned land, on terms described in the Deed of Agreement document, contained in Attachment C to this report, including the gifting of a 600mm strip of land from the Chinese Consulate-General to the Council, to permit the walkway to be widened to three (3) metres.*
- 2. That the walkway and the 600mm strip of land be converted to a public thoroughfare, as distinct from community land, if required.*
- 3. That the Council acquire an Easement in Gross over the whole of the widened walkway.*
- 4. That the Mayor and the Chief Executive Officer be authorised to sign and seal the Deed of Agreement document described in Point 1 above.*
- 5. That pursuant to the Electronic Conveyancing National Law (South Australia) Act 2013, the Chief Executive Officer be authorised to execute a Client Authorisation Form on behalf of the Council, to authorise a Subscriber to:
 - (a) act for the Council in consenting to the extinguishment of easements and creation of an easement in gross and merging of the 600mm strip of land with the existing walkway contained in Certificate of Title Volume 6159, Folio 921 and registering the new allotment as a Public thoroughfare (if appropriate); and*
 - (b) to execute and submit the requisite documents with the relevant Land Registry.**
- 6. That the Chief Executive Officer be authorised to take such other actions as necessary to give effect to the undertakings contained in the documentation being executed in Point 5 above.*
- 7. That the Chief Executive Officer be authorised to request a waiver of the Council's obligation under Clause 6.5 of the Deed of Agreement from the Chinese Consulate-General.*

Seconded by Cr Granozio and carried unanimously.

11.11 PROPOSED CONVERSION OF NELSON LANE, STEPNEY TO A PUBLIC ROAD - SECTION 210(1) OF THE *LOCAL GOVERNMENT ACT 1999*

REPORT AUTHOR: Manager, Governance & Legal
GENERAL MANAGER: General Manager, Governance & Community Affairs
CONTACT NUMBER: 8366 4626
FILE REFERENCE: qA2009
ATTACHMENTS: A

PURPOSE OF REPORT

To obtain the Council's approval to commence the process of converting the privately owned Nelson Lane, Stepney to a Public Road under Section 210(1) of the *Local Government Act 1999*.

BACKGROUND

Nelson Lane is a privately owned road in the area of Stepney, comprising of allotments 143 & 144 in Filed Plan 17910.

Elected Members may recall at its meeting held on 7 September 2020 the Council considered a proposal to convert Nelson Lane to a Public Road in accordance with the Council's *Private Laneways Policy & Procedure*.

A copy of an aerial image of Nelson Lane is contained in **Attachment A**.

At its meeting held on 7 September 2020, the Council determined not to proceed with the proposed conversion of Nelson Lane to Public Road, because the required two-thirds consent of the adjoining landowners was not obtained. Only 57% of adjoining property owners agreed to the proposal.

On 20 August 2021 approval for the "Otto Development" was granted under the *Planning, Infrastructure and Development Act 2016*. "Otto Development" adjoins Nelson Lane. Stage 1 of the "Otto Development" included approval to reseal Nelson Lane.

Nelson Lane was previously identified as suitable for conversion to a Public Road under the selection criteria of the Council's *Private Laneways Policy & Procedure*. This criteria included the surface condition of Nelson Lane and the increased use of Nelson Lane by the community. While Nelson Lane has been resealed, the use of Nelson Lane is likely to increase because of the "Otto Development".

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

Objective 1.2

A people-friendly, integrated, sustainable and active transport and pedestrian network

1.2.2 Provide safe and accessible movement for all people.

FINANCIAL AND BUDGET IMPLICATIONS

The legal and administrative costs to convert Nelson Lane to a Public Road were included in the Council's 2019-2020 Budget. The costs related to research and design relates issues.

At that time, the estimated cost for legal, advertising and administrative costs totalled \$3,492.75 (including GST). These costs have mostly been incurred as part of the process to convert Nelson Lane to a Public Road under the *Private Laneways Policy & Procedure*. If the Council determines to proceed with the conversion of Nelson Lane to a Public Road only minor costs are therefore now expected.

The other cost identified for the Public Road conversion, was the upgrade of Nelson Lane was accounted for in the Council's 2020-2021 Budget. As discussed, Nelson Lane has been resealed as the "Otto Development", the only costs associated with ongoing maintenance will now be required.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

The “Otto Development” is likely to increase the number of residents and visitors using Nelson Lane daily, on this basis it is appropriate to convert Nelson Lane to a Public Road. If Nelson Lane remains a private road, nearby residents and businesses may not have a legal right to access Nelson Lane. In addition, converting Nelson Lane to a Public Road will ensure the road is maintained by the Council at a Public Road standard.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

The legal research for the conversion process has largely been undertaken. The Council’s Governance & Community Affairs staff will assist the Council’s lawyers to finalise the process as required under Section 210(1) of the Act.

RISK MANAGEMENT

If the Council determines to commence the process to convert Nelson Lane to a Public Road, the Council will assume responsibility for the road including ongoing maintenance and upkeep of the Lane. The process to convert Nelson Lane to a Public Road, will be undertaken in accordance with the relevant legislative requirements.

COVID-19 IMPLICATIONS

Not Applicable.

CONSULTATION

- **Elected Members**
The Council previously considered the matter at its meeting held on 7 September 2020.
- **Community**
The Council must give Public Notice of the proposed declaration to convert Nelson Lane to a Public Road at least three (3) months prior to making a declaration under Section 210(2)(b) of the Act.
- **Staff**
General Manager, Governance and Community Affairs
Acting Manager, City Assets
Project Officer, Assets
- **Other Agencies**
Section 210(2)(ab) of the Act requires the Council to provide notice of the proposed declaration to any person that has a registered legal interest over the land. Lands Title Office checks have identified that the Minister for Infrastructure and Transport has a registered easement over the land, likely for a right of way. The Certificate of title does not state what the easement is for.

DISCUSSION

The Council does not own Nelson Lane. The research which has been undertaken indicates that allotments 143 & 144 comprising Nelson Lane were owned by a J.M Strongman who is deceased. There is no evidence held by the Lands Titles Office to show the transfer of ownership of Nelson Lane, so it appears that Nelson Lane remains in the private ownership of the estate, executors or administrators of J.M Strongman.

Pursuant to section 210(1) of the Act, the Council can convert a private road to a Public Road if:

- (a) *The owner of the road asks for, or consent to, the declaration; or*
- (b) *The council makes reasonable inquires to find the owner and fails to do so.*

All reasonable inquires to find the owner of Nelson Lane suggests the owner of Nelson Lane is deceased.

It is the Council's objective to progressively obtain ownership of a private laneway under the *Private Laneways Policy & Procedure*. To acquire this pursuant to its policy means that the Council seeks written permission of a minimum of two-thirds of the adjoining owners to declare a private laneway to a Public Road. In this case, two-thirds of the adjoining owners did not consent to the Public Road conversion when this process was previously undertaken.

Since this process was unsuccessful, it is proposed that the Council departs from the *Private Laneways Policy & Procedure*, and commences the process to convert Nelson Lane to a Public Road under Section 210(1) of the Act. The advantages of converting Nelson Lane to a Public Road are as follows:

1. Safe and accessible access by the community. While Nelson Lane is privately owned, the community does not have safe accessible and ongoing access. The need for community access to Nelson Lane has arisen due largely to the "Otto Development" where access by the community is likely to increase with the completion of a number of residences in this location.
2. The increased foot and vehicle traffic on Nelson Lane as a result of the "Otto Development" will require ongoing maintenance and upkeep of Nelson Lane. The Council are best placed to ensure that Nelson Lane remains at a Public Road standard for the community. In addition, now that Nelson Lane has been resealed by the developer undertaking the "Otto Development" the funding allocated in the 2020-2021 Budget to resurface Nelson Lane, will not be required. Only costs associated with maintenance and upkeep will be required in the future.
3. The conversion of Nelson Road to a Public Road has previously been selected by the Council in 2019, as part of the selection criteria of the *Private Laneways Policy & Procedure*. Most of the costs to convert Nelson Lane to a Public Road have already been expended as part of the 2019-2020 & 2020-2021 Budget.

The disadvantage of not converting Nelson Lane to a Public Road is that the Council will not be able to ensure safe and accessible access for the community or indeed maintain the road as it does not own it.

Next Steps

If the Council determines to commence the process under Section 210(1) of the Act, the following steps will be taken:

1. a review of the legal research previously undertaken including obtaining a current Certificate of Title;
2. a final check with the Probate Registry to confirm if Nelson Lane was left to a beneficiary;
3. Public Notice of the proposed declaration (Section 210(2)(b) of the Act);
4. A Notice of the declaration published in the *Gazette* three (3) months after Public Notice of the declaration (Section 210(5) of the Act); and
5. providing the Register-General a copy of the declaration immediately after the declaration in the *Gazette* is made (Section 210(7) of the Act).

OPTIONS

The Council can resolve to either:

- 1) Commence the process under Section 210 of the Act to convert Nelson Lane to a Public Road; or
- 2) Refrain from commencing the process to convert Nelson Lane to a Public Road under Section 210 of the Act.

Given the on-going issues for residents associated with private laneways in terms of maintenance etc, it is recommended that the Council proceeds with the conversion of Nelson Lane to a Public Road.

CONCLUSION

It is proposed to commence the process under Section 210(1) of the Act, to convert Nelson Lane to a Public Road. Not only has Nelson Lane been resealed as part of the “Otto Development”, there is an obligation on the Council in its *CityPlan 2030* to ensure safe and accessible access for the community. In addition converting Nelson Lane to a Public Road has already been provided for in the 2019-2020 & 2020-2021 Budgets.

COMMENTS

Not Applicable.

RECOMMENDATION

1. That the Council resolves to proceed with the proposed declaration under section 210(1) of the *Local Government Act 1999* to convert Nelson Lane, Stepney from a Private Road comprising of allotments 143 & 144 in Filed Plan 17910 to a Public Road.
 2. That the Council note that the process of converting Nelson Lane to a Public Road under Section 210 of the *Local Government Act 1999*, will now be enacted.
-

Cr Sims moved:

1. *That the Council resolves to proceed with the proposed declaration under section 210(1) of the Local Government Act 1999 to convert Nelson Lane, Stepney from a Private Road comprising of allotments 143 & 144 in Filed Plan 17910 to a Public Road.*
2. *That the Council note that the process of converting Nelson Lane to a Public Road under Section 210 of the Local Government Act 1999, will now be enacted.*

Seconded by Cr Stock and carried unanimously.

11.12 PROPOSED CONVERSION OF PRIVATE LANEWAY TO PUBLIC ROAD – ROSEMONT LANE, NORWOOD

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2010
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of this report is to present to the Council the proposed declaration of Rosemont Lane, Norwood, as Public Road pursuant to Section 210 of the *Local Government Act 1999* and the Council's *Private Laneways Policy & Procedure*.

BACKGROUND

The Council's *Private Laneways Policy & Procedure* (the Policy) provides that the Council will select up to two (2) Private Laneways for conversion to Public Road each year. The Public Road conversion process is required to be conducted in accordance with Section 210 of the *Local Government Act 1999* (the Act) and the requirements of the Council's Policy.

Since the adoption of the Policy, the following Private Laneways have been converted to Public Road:

- 2018-2019 – Post Office Lane, Norwood; and
- 2019-2020 – Charlotte Lane, Norwood.

For the 2020-2021 financial year, Salisbury Lane in Royston Park and Rosemont Lane in Norwood, were identified as two (2) Private Laneways that were suitable for conversion to Public Road. Both Laneways are predominantly unsealed with poor surface condition and have a history of experiencing flooding issues which impact upon adjoining property owners.

Initial investigations were undertaken by the Council to determine the scope and cost of storm drainage infrastructure works required to resolve the flooding and stormwater issues in both Laneways and a report was presented to the Council at its meeting held on 1 February 2021, to determine whether the Council wished to proceed with the conversion of one or both Laneways under the Council's *Private Laneways Policy*.

Following consideration of the matter, the Council resolved the following:

1. *That the proposed conversion of the Private Laneway known as 'Rosemont Lane', Norwood to Public Road proceed pursuant to Section 210 of the Local Government Act 1999 and in accordance with the Council's Private Laneways Policy & Procedure in the 2020-2021 financial year, with design and construction to occur in 2021-2022.*
2. *That the Chief Executive Officer be authorised to negotiate a transfer of the parcel of land comprised in Certificate of Title Volume 5209 Folio 850 and located at the end of Rosemont Lane, Norwood to the Council and a vesting of this land in the Council as Public Road, in connection with the proposed conversion of Rosemont Lane to Public Road.*
3. *That the Chief Executive Officer be authorised to enter into negotiations with the property owners of 165 First Avenue, 161 First Avenue, 301 Payneham Road and 155 First Avenue, Royston Park with respect to a proposed boundary realignment and vesting of the land comprised within the Private Laneway known as 'Salisbury Lane', Royston Park in the Council as Public Road, and that the Chief Executive Officer be authorised to prepare the required legal and conveyancing documentation to effect the boundary realignment and vesting of land for approval by the Council, in connection with the proposed conversion of Salisbury Lane to Public Road under the Council's Private Laneways Policy & Procedure.*

As such, the Council proceeded with Stage 1 of the Private Laneway to Public Road conversion process with respect to Rosemont Lane – namely, completing the research required to determine the legal status and ownership of the Laneway and publishing public notices of the proposed conversion in accordance with Section 210 of the Act.

Following completion of the three (3) month statutory notice period required under the Act, fourteen (14) submissions were received from adjoining property owners who agreed to the proposed conversion of Rosemont Lane to Public Road. This equates to two thirds (2/3rds) of all adjoining owners.

Two (2) responses were received from property owners who did not agree to the proposed conversion of the Laneway.

Five (5) property owners did not provide a response.

As such, the agreement of two-thirds (2/3rds) of the adjoining property owners to the proposed Public Road conversion, as required under the Council's Policy, (which would require agreement from 14 owners) has been obtained.

Pursuant to Section 210 of the Act, the Council can now proceed to declare Rosemont Lane as Public Road.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Social Equity

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

1.22.2 Provide safe and accessible movement for all people.

FINANCIAL AND BUDGET IMPLICATIONS

Funding for Stage 1 of the Public Road conversion process (i.e. legal research and preliminary design) for Rosemont Lane was included as part of the Council's 2020-2021 Budget.

As provided for in the Council's *Private Laneways Policy*, the legal, advertising and administrative costs of converting Rosemont Lane to Public Road, are proposed to be recovered from the adjoining owners of the Laneway, if the conversion proceeds. This occurs through declaration of a Separate Rate over the adjoining properties. As detailed in the Discussion section of this report, these costs amounted to \$8,030.80 (including GST), to be shared equally between the adjoining properties. If the Council determines not to proceed with the conversion of Rosemont Lane to Public Road, these costs will not be recovered.

Funding for Stage 2 of the Public Road conversion process (i.e. final design and the civil and drainage works required to upgrade Rosemont Lane to Public Road standard) has been included in the Council's 2022-2023 Budget.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

The Council's *Private Laneways Policy & Procedure* provides a framework for the Council to progressively assume ownership of and responsibility for Private Laneways throughout the City which have often deteriorated over time. Although the Council has no legal obligation to maintain these Laneways or convert them to Public Road, it is recognised that in many cases, the Council is the only authority which has the capacity to provide a solution for adjacent residents and businesses where there is no known owner of the Laneway.

Although the upgrade of a Private Laneway to Public Road benefits the community at large by improving the public road network, the Council's Policy requires that the legal and administrative costs of conversion are met by the adjoining owners of the Laneway, as they will most directly benefit from the upgrade. In accordance with the Council's Policy, the Council has determined to cover the costs of the capital upgrade works to bring the Laneway up to Public Road standard.

In some cases, despite the potential benefits of upgrading a Private Laneway to Public Road, the adjacent owners may determine that it is preferable for the Laneway to remain in private ownership. This may be for reasons of amenity, ease of current use and parking, and existing maintenance arrangements between adjacent owners.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

The Private Laneways conversion process is managed in-house by Council Staff with assistance from external lawyers and consultants as required.

RISK MANAGEMENT

By converting a Private Laneway to Public Road under the legislative process set out in Section 210 of the Act, the Council assumes responsibility for the ongoing maintenance and upkeep of the Laneway, rather than responsibility and liability for the condition of the Laneway remaining an unknown factor due to the Laneway having no identifiable owner or a mix of ownership arrangements.

COVID-19 IMPLICATIONS

There are no direct implications from the COVID-19 pandemic or associated State Government restrictions on the proposed conversion of Rosemont Lane to Public Road under the Council's Policy.

CONSULTATION

- **Elected Members**

The Council considered the proposed conversion of Rosemont Lane to Public Road at its meeting held on 1 February 2021.

- **Community**

Public notice of the Council's proposed declaration of Rosemont Lane as Public Road was published on 10 June 2021 on the Council's website, on 11 June 2021 in the SA Government Gazette and on 15 June 2021 in the Advertiser, as required by Section 210(2) of the Act.

Additionally, the 21 adjoining property owners of Rosemont Lane (including any persons with a registered right of way over the Laneway) were notified of the proposed conversion as required by Section 210(2) of the Act on 21 June 2021.

As such, the three (3) month statutory notice period was conducted from 21 June 2021 to 21 September 2021.

- **Staff**

General Manager, Urban Services
General Manager, Urban Planning & Environment
Acting Manager, City Assets
Project Manager, Assets
Project Officer, Assets

- **Other Agencies**

If the Council proceeds with the declaration of Rosemont Lane as Public Road, a copy of the declaration will be provided to the Registrar-General as required by Section 210(7) of the Act.

DISCUSSION

Rosemont Lane was initially identified as suitable for conversion to Public Road under the Council's *Private Laneways Policy*, due to flooding issues experienced at the western end of the Laneway. At present, the Laneway is unsealed and contains no storm drainage infrastructure. In high rainfall events, flooding often occurs at the western end of the Laneway behind the properties at 5B and 7 Rosemont Street, as the land naturally falls in this direction and there is no outlet for stormwater.

Recent weather events (30 and 31 May 2022), have once again caused flooding to these properties.

The Laneway also provides primary vehicle access for a significant number of adjoining properties from the public road network, and so ensuring ongoing maintenance and accessibility of the Laneway for these Properties is critical.

A map showing the location of Rosemont Lane and the 21 adjoining rateable properties is contained with **Attachment A**.

Two (2) of the adjoining rateable properties are strata titled and each contain a large number of units with vehicle access from William Street – on this basis, only the common property of each land holding was included as a single adjoining property for the purposes of the Council's Policy.

Ownership of Laneway

In order to commence the Public Road conversion process for Rosemont Lane, Norwood, legal research was undertaken by the Council's lawyers to determine the legal status and ownership of the Laneway.

Rosemont Lane is a privately owned laneway that comprises several historical parcels of land under divided ownership.

The sections marked 'Private Road' and 'A' / 'Right of Way' on the **enclosed** map remain in the ownership of deceased estates from the late 1800s, while the land marked 'B' remains in the ownership of a deregistered company since the late 1960s.

Further attempts to locate the executors, administrators, heirs or beneficiaries of the last known owners of the Laneway – namely V.M. Gilmour Pty Ltd (deregistered), the estate of the late George August Reinecke and the estates of the late James Spankie Buik and the late Robert Whyte Buik – have been unsuccessful.

With respect to the parcel of land owned by the deregistered company, the Council's lawyers have advised that this land can also be converted to Public Road under the process set out in Section 210 of the Act and that a separate transfer of this parcel of land to the Council will not be required.

Public Road conversion process

On the basis of the above information and in order to satisfy the requirement in Section 210(1)(b) of the Act to make 'reasonable inquiries' to find the owner of Rosemont Lane, public notices of the proposed conversion of Rosemont Lane to Public Road were published in both the SA Government Gazette and the Advertiser. The three (3) month statutory notice period was conducted from 21 June 2021 to 21 September 2021.

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

No responses were received in relation to the public notices.

The Council's *Private Laneways Policy & Procedure* also requires the agreement of two-thirds (2/3^{rds}) of the adjoining property owners to the proposed Public Road conversion and agreement to share the costs of converting the Laneway to Public Road (including the legal, advertising and administrative costs). Based on a total of 21 adjoining properties, this requires agreement from 14 property owners.

Correspondence was sent to all 21 adjoining owners of Rosemont Lane on 21 June 2021, advising them of the proposed conversion of Rosemont Lane to Public Road and seeking their written agreement to the proposal and the cost sharing arrangements. A number of these adjoining properties also have a Right of Way over the Laneway, which provided historical rights of access to their properties. Notice to these registered interest holders of the proposed conversion to Public Road is required by Section 210(2) of the Act.

The total legal, advertising and administration costs of converting Rosemont Lane to Public Road amounted to \$8,030.80 (including GST). Shared equally between the 21 adjoining properties, this equates to \$382.42 (including GST) per property.

During the three (3)-month notice period, a few enquiries were received regarding the proposed conversion of Rosemont Lane to Public Road from adjoining property owners. Namely, enquiries regarding future parking restrictions in the Laneway, who would have access to the laneway and what the finished design, surface and landscaping of the Public Road would be. These enquiries were addressed on the basis that the narrow width of the laneway would not permit on-street parking once converted to Public Road and that the laneway would be accessible to the public at large once converted to Public Road (although through-traffic is unlikely given it is a dead end).

With respect to the proposed design of the Public Road, this will be finalised and further information will be provided to adjoining owners if the proposed conversion to Public Road proceeds.

An enquiry was also received as to whether the upgrade to Public Road would have an impact on future development of the adjoining properties. The Council's Urban Planning & Environment staff have advised that the conversion of Rosemont Lane to Public Road is unlikely to have any implications with respect to development potential on the adjoining properties. Any proposed development will be subject to assessment under the *Planning, Development and Infrastructure Act* and the relevant provisions of the State Government *Planning & Design Code* for this area. Converting the Laneway to public road may encourage additional adjoining property owners to request rear garage access from the Lane where they have not had this previously, which would likely be approved subject to any physical limitations (i.e. width of the laneway and turning circles in that location). New dwellings are unlikely to be approved directly fronting the Laneway (i.e. with primary vehicle access from the Lane) given the Laneway will not have utility, infrastructure and other services, as this is a requirement under the *Planning & Design Code* for the zone surrounding Rosemont Lane.

A further enquiry related to the effect that the proposed works may have on any adjacent vegetation. The Council's City Arborist has been involved throughout this process and has advised that careful pruning would be undertaken on any tree roots exposed as part of the works and that there would be no adverse effects on the vegetation.

The works, which are proposed to be undertaken to Rosemont Lane include alternatives to 'hard' drainage solutions on the basis of the Laneway's low-use residential character and to take into account protection of the mature Red Gum trees located on the northern boundary of the Laneway.

Permeable interlocking pavers have been identified as preferred options on the basis that they allow water infiltration to assist with stormwater management and do not seal off oxygen from the roots of the mature Red Gum trees located on the boundary of the Laneway.

Outcome of consultation

Upon completion of the three-month statutory notice period on 21 September 2021, agreement of two-thirds (2/3^{rds}) of the adjoining property owners to the proposed conversion of Rosemont Lane to Public Road, as required by the Council's *Private Laneways Policy*, was successfully obtained.

Follow-up letters were sent on 6 September 2021 to adjoining property owners who had not responded to the Council's initial correspondence, requesting a response as to whether they supported the proposed conversion of Rosemont Lane to Public Road. This generated a few additional responses. Despite these efforts, five (5) property owners did not provide a response.

Difficulties in obtaining agreement were presented by:

- rental properties managed by real estate agents, where the property owner does not live in the Rosemont Lane property and direct contact was not able to be made;
- adjoining property owners who do not currently have rear vehicle access from the Laneway, who therefore see little benefit in the Laneway being upgraded; and
- the two (2) properties on William Street that contain multiple units and are managed by Strata Corporations, which do not presently have vehicle access to the Laneway and contact was not able to be made directly with the Strata Corporation or relevant owners.

As stated previously, in total, fourteen (14) responses were received from adjoining property owners who agreed to the proposed conversion of Charlotte Lane to Public Road. This equates to the required two-thirds (2/3^{rds}) agreement from the adjacent property owners.

Two (2) responses were received from property owners who did not agree to the proposed conversion of the Laneway.

Agreement from fourteen (14) adjoining property owners is required under the Council's Policy to reach the two-thirds (2/3^{rds}) agreement threshold. As such, this was successfully obtained.

Declaration as Public Road

On the basis that the required two-thirds (2/3^{rds}) agreement has been obtained as required by the Council's Policy, the Council can now proceed to declare Rosemont Lane as Public Road pursuant to Section 210 of the Act.

The adjacent properties will benefit from the upgrade of the surface of the Laneway and implementation of a stormwater management system to manage the flooding risk which is currently presented to properties at the western end of the Laneway. Without these upgrades, these issues will continue and will fall to the adjoining owners who are directly affected to manage at their cost. The upgrade of the Laneway also provides an opportunity to implement line-marking, signing and measures to improve traffic safety and to reduce the incidence of antisocial behaviour where youths occasionally gather at the dead end of the Laneway after gaining access through the poorly maintained fence on the northern side of the Laneway.

If the Public Road conversion of Rosemont Lane proceeds, it is proposed to undertake extensive storm drainage and capital upgrade works to bring the Laneway up to Public Road standard, at an estimated cost of \$170,000 (excluding GST).

These works are proposed to include construction of an infiltration basin at the western end of the Laneway, with surface runoff and stormwater from the adjoining properties directed to the basin via a spoon drain, drainage pits and underground drainage trench along the length of the Laneway. Stormwater would be stored underground in the basin and would slowly infiltrate into the surrounding earth. The basin itself would be around one (1) metre deep and backfilled with crushed rock.

Re-surfacing of the Laneway will also be completed, with suitable surface treatments (such as permeable interlocking pavers), to allow water infiltration to assist with stormwater management. An additional consideration in selecting the final pavement option for the Laneway is the risk of excavation within the structural root zone and tree protection zone of the mature Red Gum trees located on the northern boundary of the Laneway. Further exploratory work will be undertaken to identify the location of the tree roots in order to determine the best surface treatment for the Laneway.

If the Council determines to proceed with the proposed conversion of Rosemont Lane to Public Road, Council staff will finalise the design for the civil and drainage works and will advise the adjoining property owners of the proposed outcome. The works will be scheduled for completion in the 2022-2023 financial year.

Upon declaration of Rosemont Lane to Public Road, notice of the Council's declaration will also be published in the SA Government Gazette and the Laneway will vest in the Council's ownership pursuant to Section 210(6) of the Act. Upon vesting, all prior registered interests and encumbrances over the Laneway (including, e.g., historical Rights of Way), will be extinguished pursuant to Section 208 of the Act. However, those adjoining properties which previously held Rights of Way over Rosemont Lane will enjoy all the usual rights of public rights of access over the newly declared Public Road.

As provided for by the Council's Policy, all adjoining owners will in due course also be required to contribute to the legal and administrative costs of the Public Road conversion through declaration of a Separate Rate over their properties pursuant to Section 154 of the Act.

OPTIONS

Option One

The Council can now proceed to declare Rosemont Lane as Public Road pursuant to Section 210 of the Act and in accordance with the Council's *Private Laneways Policy & Procedure*, on the basis that agreement of two-thirds (2/3rds) of the adjoining property owners to the proposed conversion has been obtained.

Option Two

The Council can determine not to declare Rosemont Lane as Public Road.

However, Option One is recommended on the basis that the requirements of the Act and the Council's Policy have been met, and in the interests of providing a benefit to the adjacent owners of the Laneway by the Council assuming responsibility for the ongoing maintenance and upkeep of the Laneway.

CONCLUSION

The Council's *Private Laneways Policy & Procedure* provides that the Council will select up to two (2) Private Laneways for conversion to Public Road each year. Rosemont Lane, Norwood was selected as suitable for conversion to Public Road on the basis of its poor surface condition and ongoing stormwater management and flooding issues. Public notice of the Council's proposed Public Road conversion was provided in accordance with the requirements of the *Local Government Act 1999* and all adjoining owners of Rosemont Lane were notified. Agreement to the proposed conversion of Rosemont Lane to Public Road has been obtained from two-thirds of the adjoining property owners.

COMMENTS

Nil.

RECOMMENDATION

1. That pursuant to Section 210(1) of the *Local Government Act 1999*, the Council declares the land comprised in Certificate of Title Volume 5209 Folio 850, the land marked 'Right of Way' in Transfer No. 105152 and the land comprised in Certificate of Title Volume 471 Folio 114, and which is a private road commonly known as 'Rosemont Lane' in the area of Norwood, to be Public Road.
 2. That the Chief Executive Officer be authorised to give public notice of this declaration in the Government Gazette pursuant to Section 210(5) of the Act.
-

Cr Whittington moved:

- 1. That pursuant to Section 210(1) of the Local Government Act 1999, the Council declares the land comprised in Certificate of Title Volume 5209 Folio 850, the land marked 'Right of Way' in Transfer No. 105152 and the land comprised in Certificate of Title Volume 471 Folio 114, and which is a private road commonly known as 'Rosemont Lane' in the area of Norwood, to be Public Road.*
- 2. That the Chief Executive Officer be authorised to give public notice of this declaration in the Government Gazette pursuant to Section 210(5) of the Act.*

Seconded by Cr Callisto and carried unanimously.

11.13 CODE OF CONDUCT MATTER – CR SIMS

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA88419
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of this report is to advise the Council of a complaint which has been lodged by a resident, during the investigation of which, it was identified that Councillor Scott Sims has breached certain provisions of the *Code of Conduct for Council Members*.

BACKGROUND

This report contains information regarding a complaint which has been made against Cr Scott Sims under the *Code of Conduct for Council Members* (the Code) and the investigation which has been undertaken in accordance with the Council's *Code of Conduct for Council Members – Complaint Handling Procedure* (the Procedure).

Clause 2.24 of the Code requires a breach of the Behavioural Code to be the subject of a report to a public meeting of the Council.

A copy of the Code is contained within **Attachment A**.

DISCUSSION

On 1 February 2022, a resident, (the complainant), lodged a complaint against Cr Sims under the *Code of Conduct for Council Members*, via an email, alleging that Cr Sims had breached Part 2 and also Clause 3.2 of Part 3 of the Code, when making comments via Facebook and in an email to the complainant regarding their concerns with a Council owned tree.

Essentially, the complaint has arisen as a result of a "Facebook conversation" between Cr Sims and the complainant, regarding the complainant's request for the Council to prune the Council owned tree located on a Council reserve adjacent to the complainant's property.

During the course of the "Facebook conversation", the complainant stated that Cr Sims' "*use of swear words and his tone of expression was harassing and demonstrated a lack of respect*".

Specifically, the complainant has alleged that Cr Sims breached the Code as follows:

General behaviour

- 2.1 *Show commitment and discharge duties conscientiously.*
- 2.2 *Act in a way that generates community trust and confidence in the Council.*
- 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.*
- 2.4 *Show respect for others if making comments publicly.*
- 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.*

Responsibilities as a member of Council

- 2.7 *Deal with information received in their capacity as Council members in a responsible manner.*

Member duties

Council members must

- 3.2 *Perform and discharge their official functions and duties with reasonable care and diligence at all times.*

In accordance with the Council's Procedure, an initial assessment of the complaint was undertaken and it was determined that the complaint did contain prima facie evidence of a breach of Part 2 and Part 3 of the Code.

Part 2 breaches of the Code relate to Behavioural matters and breaches of Part 3 of the Code relate to Misconduct matters.

In accordance with the Code and the Council's Procedure, it was determined that the matters relating to the alleged breaches of Part 2 of the Code would be retained by the Council for investigation. In addition, it was determined that the matter was not minor in nature meaning that the opportunity to resolve the matter informally whether through alternative dispute resolution processes or otherwise to explore resolution, was not available in the circumstances.

As the Council has no jurisdiction to investigate a complaint under Part 3 of the Code, on 9 February 2022, the allegations relating to Part 3 of the Code were referred to the SA Ombudsman for consideration and determination.

At the time of writing this report, the Council had not been advised of the outcome of the Ombudsman's assessment of the matter relating to the alleged breaches of Part 3 of the Code.

On the basis of the determination and the nature of the complaint, the matters relating to Part 2 of the Code (ie the Behavioural matters), was referred to Mr Michael Kelledy of Kelledy Jones Lawyers as the External Investigator under the Procedure, for investigation. The matter was referred to Mr Kelledy to ensure that there were no questions or concerns about the impartiality or independence of the investigation.

As part of the investigation, KelledyJones Lawyers invited both parties to provide any additional material and/or comments regarding the matter.

In accordance with the Council's Procedure, in affording the parties natural justice/procedural fairness as part of the investigation process, the complainant and Cr Sims were also provided with a copy of the draft report and an invitation to make any further submission to be taken into account as part of the investigation of the complaint, limited to the facts as stated and the preliminary findings made.

As both parties declined the invitation to provide any further submissions, the final report, setting out the findings and recommendations has now been provided to the Council for consideration.

A copy of the final report, *Final Investigation Report Councillor Scott Sims* (the Report), is contained within **Attachment B**.

Findings

KelledyJones Lawyers have found that the conduct by Cr Sims has amounted to a breach of the following Clauses of the Code:

- 2.2 *Act in a way that generates community trust and confidence in the Council.*
- 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.*
- 2.4 *Show respect for others if making comments publicly.*
- 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.*
- 2.6 *Comply with all Council policies, codes and resolutions.*

Where a breach of the Code is found, the Council's Procedure sets out the following:

*In accordance with clause 2.24 of the Code, if, following the investigation process, a breach of Part 2 of the Code, the Behavioural Code, has been substantiated, a report **must** be presented to a public meeting of the Council.*

This report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to the Council.

In accordance with Clause 2.25 of the Code, the Council may, by resolution, take any of the following actions upon a finding that an Elected Member has breached Part 2 of the Code:

- *take no action;*
- *pass a censure motion in respect of the Elected Member;*
- *request a public apology, whether written or verbal;*
- *request the Elected Member to attend training on the specific topic found to have been breached;*
- *resolve to remove or suspend the Elected Member from a position within the Council (not including the Elected Member's elected position on Council); and/or*
- *request the Elected Member to repay monies to the Council (ie legal fees).*

The recommendations which have been made by KelledyJones Lawyers for the Council's consideration in terms of resolving this matter are that the Council:

1. Notes that it has been found that, collectively, in making certain posts on Facebook, as well as in an email sent to the Complainant, Cr Sims has breached the following clauses of the Code:
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council*
 - 2.6 *Comply with all Council policies, codes and resolutions.*
2. Notes that Cr Sims has, voluntarily, removed the offending comments from the Facebook post in question and made a public apology to both the Complainant and the Council at the Council meeting held on 4 April 2022 and determines not to take any further action.

OPTIONS

Essentially the Council has two (2) options in respect to this matter.

Option One

The Council can resolve to accept the recommendations made by KelledyJones Lawyers and determine, as set out above, that no further action is required.

Option Two

Notwithstanding the apology which has been made by Cr Sims to the resident, the Council can determine alternative sanctions if the Council determines that this is warranted.

CONCLUSION

In accordance with the Council's *Code of Conduct for Council Members – Complaint Handling Procedure*, the Complainant and Cr Sims will be formally notified in writing of the outcome of this matter.

The Complainant is entitled to refer this matter to the South Australian Ombudsman if they are not happy with the outcome.

In respect to the alleged breaches of Part 3 – Misconduct of the Code, the South Australian Ombudsman is yet to finalise the matter.

COMMENTS

Nil.

RECOMMENDATION

1. The Council notes that it has been found that, in making certain posts on Facebook and in an email sent to the Complainant, Cr Sims has breached the following clauses of the *Code of Conduct for Council Members*:
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council*
 - 2.6 *Comply with all Council policies, codes and resolutions*
 2. The Council notes that Cr Sims has, voluntarily, removed the offending comments from the Facebook post in question and at the Council meeting held on 4 April 2022, made a public apology to the Complainant.
 3. That following consideration of the breach of the *Code of Conduct for Council Members*, by Cr Sims and the public apology which has been made by Cr Sims to the complainant, the Council determines not to take any further action regarding this matter.
-

Cr Sims declared a material conflict of interest in this item, as he is the subject of this matter and left the meeting at 7.43pm.

Cr Callisto moved:

1. *The Council notes that it has been found that, in making certain posts on Facebook and in an email sent to the Complainant, Cr Sims has breached the following clauses of the Code of Conduct for Council Members:*
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council*
 - 2.6 *Comply with all Council policies, codes and resolutions*
2. *The Council notes that Cr Sims has, voluntarily, removed the offending comments from the Facebook post in question and at the Council meeting held on 4 April 2022, made a public apology to the Complainant.*
3. *That following consideration of the breach of the Code of Conduct for Council Members by Cr Sims the Council censures Cr Sims for his conduct in regard to the breach of the Code of Conduct for Council Members, in relation to Clauses 2.2 – 2.6 inclusive.*
4. *That the Council notes that approximately \$76,000 to date has been spent by the Council on legal fees associated with matters relating to Cr Sims during this Council term.*

Seconded by Cr Duke.

Amendment

Cr Knoblauch moved:

1. *The Council notes that it has been found that, in making certain posts on Facebook and in an email sent to the Complainant, Cr Sims has breached the following clauses of the Code of Conduct for Council Members:*
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council*
 - 2.6 *Comply with all Council policies, codes and resolutions*
2. *The Council notes that Cr Sims has, voluntarily, removed the offending comments from the Facebook post in question and at the Council meeting held on 4 April 2022, made a public apology to the Complainant.*
3. *That following consideration of the breach of the Code of Conduct for Council Members by Cr Sims the Council censures Cr Sims for his conduct in regard to the breach of the Code of Conduct for Council Members, in relation to Clauses 2.2 – 2.6 inclusive.*
4. *That the Council notes that approximately \$76,000 to date has been spent by the Council on legal fees associated with matters relating to Cr Sims and further notes the indirect costs (staff time and resources) associated with these matters during this Council term.*

The amendment lapsed for want of a seconder.

Further Amendment

Cr Knoblauch moved:

1. *The Council notes that it has been found that, in making certain posts on Facebook and in an email sent to the Complainant, Cr Sims has breached the following clauses of the Code of Conduct for Council Members:*
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.3 *Act in a reasonable, just, respectful and non-discriminatory way when dealing with people*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.5 *Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council*
 - 2.6 *Comply with all Council policies, codes and resolutions*
2. *The Council notes that Cr Sims has, voluntarily, removed the offending comments from the Facebook post in question and at the Council meeting held on 4 April 2022, made a public apology to the Complainant.*
3. *That following consideration of the breach of the Code of Conduct for Council Members by Cr Sims the Council censures Cr Sims for his conduct in regard to the breach of the Code of Conduct for Council Members, in relation to Clauses 2.2 – 2.6 inclusive.*
4. *That the Council notes that approximately \$76,000 to date has been spent by the Council on legal fees associated with matters relating to Cr Sims and further notes the indirect costs (staff time and resources) associated with these matters during this Council term.*

Seconded by Cr Granozio.

The further amendment was put and carried and on becoming the motion was put and carried.

Cr Sims returned to the meeting at 8.06pm.

11.14 CODE OF CONDUCT MATTER – CR SIMS

REPORT AUTHOR: General Manager, Governance & Community Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA89891
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise the Council of a complaint which has been lodged by Mayor Bria, during the investigation of which, it was identified that Councillor Scott Sims has breached certain provisions of the *Code of Conduct for Council Members*.

BACKGROUND

This report contains information regarding a complaint which has been made against Cr Scott Sims under the *Code of Conduct for Council Members* (the Code) and the investigation which has been undertaken in accordance with the Council's *Code of Conduct for Council Members – Complaint Handling Procedure* (the Procedure).

Clause 2.24 of the Code requires a breach of the Behavioural Code to be the subject of a report to a public meeting of the Council.

DISCUSSION

On 9 February 2022, Mayor Bria, (the complainant), lodged a complaint against Cr Sims under the *Code of Conduct for Council Members*, via an email, alleging that Cr Sims had breached various sections of Part 2 of the Code, at the Council Meeting held on Monday, 7 February 2022.

Essentially, the complainant has stated that at the Council Meeting held on 7 February 2022, Cr Sims interrupted the Mayor on at least three (3) occasions, whilst the Mayor was reading a Personal Explanation regarding an email he had received from another Elected Member and during a period of time in which the meeting was open to the public.

Specifically, the complainant has alleged that Cr Sims breached the Code as follows:

General behaviour

2.2 Act in a way that generates community trust and confidence in the Council.

2.4 Show respect for others if making comments publicly.

Relationships with fellow Council Members

2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.

In accordance with the Council's Procedure, an initial assessment of the complaint was undertaken and it was determined that the complaint did contain prima facie evidence of a breach of Part 2 of the Code.

Part 2 breaches of the Code relate to Behavioural matters.

In accordance with the Code and the Council's Procedure, it was determined that the matters relating to the alleged breaches of Part 2 of the Code, would be retained by the Council for investigation. In addition, it was determined that the matter was not minor in nature meaning that the opportunity to resolve the matter informally whether through alternative dispute resolution processes or otherwise to explore resolution, was not available in the circumstances.

On the basis of the determination and the nature of the complaint, the matters relating to Part 2 of the Code (ie the Behavioural matters), was referred to Mr Michael Kelledy of Kelledy Jones Lawyers as the External Investigator under the Procedure, for investigation. The matter was referred to Mr Kelledy to ensure that there were no questions or concerns about the impartiality or independence of the investigation.

As part of the investigation, KelledyJones Lawyers invited both parties to provide any additional material and/or comments regarding the matter.

In accordance with the Council's Procedure, in affording the parties natural justice/procedural fairness as part of the investigation process, the complainant and Cr Sims were also provided with a copy of the draft report and an invitation to make any further submission to be taken into account as part of the investigation of the complaint, limited to the facts as stated and the preliminary findings made.

Both parties provided further submissions, which have been considered as part of the final report.

The final report, setting out the findings and recommendations has now been provided to the Council for consideration.

A copy of the final report, *Final Investigation Report Councillor Scott Sims* (the Report), is contained within **Attachment A**.

Findings

KelledyJones Lawyers have found that the conduct by Cr Sims has amounted to a breach of the following Clauses of the Code:

2.2 Act in a way that generates community trust and confidence in the Council.

2.4 Show respect for others if making comments publicly.

2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.

Where a breach of the Code is found, the Council's Procedure sets out the following:

*In accordance with clause 2.24 of the Code, if, following the investigation process, a breach of Part 2 of the Code, the Behavioural Code, has been substantiated, a report **must** be presented to a public meeting of the Council.*

This report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to the Council.

In accordance with Clause 2.25 of the Code, the Council may, by resolution, take any of the following actions upon a finding that an Elected Member has breached Part 2 of the Code:

- *take no action;*
- *pass a censure motion in respect of the Elected Member;*
- *request a public apology, whether written or verbal;*
- *request the Elected Member to attend training on the specific topic found to have been breached;*
- *resolve to remove or suspend the Elected Member from a position within the Council (not including the Elected Member's elected position on Council); and/or*
- *request the Elected Member to repay monies to the Council (ie legal fees).*

The recommendations which have been made by KelledyJones Lawyers for the Council's consideration in terms of resolving this matter are that the Council:

2. Notes that it has been found that, collectively, that Cr Sims in interrupting the Mayor during the Council Meeting held on Monday, 7 February 2022, has breached the following clauses of the Code:

2.2 Act in a way that generates community trust and confidence in the Council

2.4 Show respect for others if making comments publicly

2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.

3. Notes that Cr Sims has, voluntarily, made a public apology to the Council at the Council meeting held on 4 April 2022.

4. Notes that Cr Sims has, voluntarily, made a further public apology to the Mayor and the Council at the Council meeting held on 2 May 2022.
5. Requires Cr Sims to publicly withdraw any allegation that the Mayor bullied another Elected Member during his Personal Explanation, made at the Council Meeting held on 7 February 2022.

OPTIONS

Essentially the Council has two (2) options in respect to this matter.

Option One

The Council can resolve to accept the recommendations made by KelledyJones Lawyers.

Option Two

Notwithstanding the apology which has been made by Cr Sims to the Council and the Mayor, the Council can determine alternative sanctions if the Council determines that this is warranted.

CONCLUSION

In accordance with the Council's *Code of Conduct for Council Members – Complaint Handling Procedure*, the Complainant and Cr Sims will be formally notified in writing of the outcome of this matter.

The Complainant is entitled to refer this matter to the South Australian Ombudsman if they are not happy with the outcome.

COMMENTS

Nil.

RECOMMENDATION

1. The Council notes that it has been found that, in interrupting Mayor Bria and making rude and disparaging comments whilst the Mayor was making a Personal Explanation at the Council Meeting held on 7 February 2022, Cr Sims has breached the following clauses of the *Code of Conduct for Council Members*:
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.9 *Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.*
 2. The Council notes that Cr Sims has made a public apology to the Council for these behaviours at the Council Meeting held on 4 April 2022;
 3. The Council notes that Cr Sims has made a further public apology to Mayor Bria and the Council for these behaviours at the Council Meeting held on 2 May 2022;
 4. The Council requires Cr Sims to publicly withdraw the allegation of bullying another Elected Member which he made against the Mayor whilst the Mayor was making a Personal Explanation at the Council Meeting held on 7 February 2022.
-

Cr Sims declared a material conflict of interest in this item, as he is the subject of the Code of Conduct matter and left the meeting at 8.07pm.

Mayor Bria declared an actual conflict of interest in this item, as he is the complainant in the Code of Conduct matter and left the meeting at 8.08pm.

Appointment of Acting Mayor

At 8.08pm Cr Stock moved:

That Cr Kevin Duke be appointed Acting Mayor.

Seconded by Cr Callisto and carried unanimously.

Cr Duke assumed the Chair.

Cr Dottore moved:

1. *The Council notes that it has been found that, in interrupting Mayor Bria and making rude and disparaging comments whilst the Mayor was making a Personal Explanation at the Council Meeting held on 7 February 2022, Cr Sims has breached the following clauses of the Code of Conduct for Council Members:*
 - 2.2 *Act in a way that generates community trust and confidence in the Council*
 - 2.4 *Show respect for others if making comments publicly*
 - 2.9 *Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.*
2. *The Council notes that Cr Sims has made a public apology to the Council for these behaviours at the Council Meeting held on 4 April 2022;*
3. *The Council notes that Cr Sims has made a further public apology to Mayor Bria and the Council for these behaviours at the Council Meeting held on 2 May 2022;*
4. *The Council requires Cr Sims to publicly withdraw the allegation of bullying another Elected Member which he made against the Mayor whilst the Mayor was making a Personal Explanation at the Council Meeting held on 7 February 2022.*

Seconded by Cr Minney and carried unanimously.

Cr Sims returned to the meeting at 8.18pm.

Cr Minney left the meeting at 8.18pm.

Mayor Bria returned to the meeting at 8.19pm and resumed the Chair.

12. ADOPTION OF COMMITTEE MINUTES

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

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:

- **Quadrennial Public Art Assessment Panel – (23 May 2022)**
(A copy of the Minutes of the Quadrennial Public Art Assessment Panel meeting is contained within **Attachment A**)
- **St Peters Child Care Centre & Pre-School Committee – (23 May 2022)**
(A copy of the Minutes of the St Peters Child Care Centre & Pre-School Committee meeting is contained within **Attachment B**)
- **Audit Committee – (23 May 2022)**
(A copy of the Minutes of the Audit Committee meeting is contained within **Attachment C**)

ADOPTION OF COMMITTEE MINUTES

Cr Minney returned to the meeting at 8.20pm.

- **Quadrennial Public Art Assessment Panel**

Cr Whittington moved that the minutes of the meeting of the Quadrennial Public Art Assessment Panel held on 23 May 2022, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Callisto and carried unanimously.

- **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 23 May 2022, 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.

- **Audit Committee**

Cr Minney moved that the minutes of the meeting of the Audit Committee held on 23 May 2022, be received and that the resolutions set out therein as recommendations to the Council are adopted as decisions of the Council. Seconded by Cr Stock and carried unanimously.

13. OTHER BUSINESS

13.1 Personal Explanation – Cr Scott Sims – Code of Conduct

Cr Sims sought leave of the meeting to make a Personal Explanation in relation to his behaviour at a recent Council meeting.

The meeting granted leave for Cr Sims to make a Personal Explanation.

Cr Moorhouse moved:

That Cr Sims' Personal Explanation be recorded in the minutes in its entirety.

Seconded by Cr Granozio and carried unanimously.

Cr Duke left the meeting at 8.21pm.

Cr Scott Sims' Personal Explanation

I refer to item 11.14 regarding a Code of Conduct Matter regarding my past behaviour at a meeting.

I note Kelledy Jones' Recommendations (page 3. No 7) that I "*Publicly withdraw the allegation of bullying which (I) made against the Mayor while the Mayor was making a Personal Explanation at the Council Meeting held on 7 February 2022.*"

Over and above my apology on April 4, 2022 and a further apology on May 2, 2022 - both of which Council has noted - As per recommendation of the report to the Council, I now publicly withdraw the allegation of bullying as referred to above.

14. CONFIDENTIAL REPORTS

14.1 COUNCIL RELATED MATTER

RECOMMENDATION 1

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

- (g) matters that must be considered in confidence in order to ensure that the council does not breach any duty of confidence;

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 until the official announcement has been made.

Cr Minney moved:

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

- (g) matters that must be considered in confidence in order to ensure that the council does not breach any duty of confidence;*

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.

Cr Granozio left the meeting at 8.23pm and did not return.

The motion was put and carried unanimously.

Cr Minney 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 until the official announcement has been made.

Seconded by Cr Dottore and carried unanimously.

14.2 EAST WASTE RECYCLING CONTRACT – COMMITMENT OF RECYCLING TONNES

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; and
 - (ii) would, on balance, be contrary to the public interest;

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

RECOMMENDATION 2

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

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

Cr Stock moved:

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

- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which –*
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information; 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 Minney and carried unanimously.

Cr Duke returned to the meeting at 8.25pm.

Cr Knoblauch moved:

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

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

Seconded by Cr Dottore and carried unanimously.

15. CLOSURE

There being no further business, the Mayor declared the meeting closed at 8.26pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)