



ORDINARY COUNCIL MEETING

NOTICE OF MEETING

To: Deputy Mayor Jan-Claire Wisdom

Councillors	Ward
Councillor Ron Nelson	Manoah
Councillor Ian Bailey Councillor Jan Loveday	Marble Hill
Councillor Kirrilee Boyd Councillor Nathan Daniell Councillor John Kemp	Mt Lofty
Councillor Lynton Vonow Councillor Andrew Stratford	Onkaparinga Valley
Councillor Linda Green Councillor Malcolm Herrmann	Torrens Valley

Notice is hereby given pursuant to the provisions under Section 83 of the *Local Government Act 1999* that the next meeting of the Council will be held on:

Tuesday 24 July 2018
6.30pm
63 Mt Barker Road Stirling

A copy of the Agenda for this meeting is supplied under Section 83 of the Act.

Meetings of the Council are open to the public and members of the community are welcome to attend. Public notice of the Agenda for this meeting is supplied under Section 84 of the Act.

Andrew Aitken
Chief Executive Officer



ORDINARY COUNCIL MEETING

AGENDA FOR MEETING
Tuesday 24 July 2018
6.30pm
63 Mt Barker Road Stirling

ORDER OF BUSINESS

Council Vision

Nurturing our unique place and people

Council Mission

Delivering activities and services which build a resilient community, sustain our built and natural environment and promote a vibrant economy

1. COMMENCEMENT

2. OPENING STATEMENT

“Council acknowledges that we meet on the traditional lands of the Peramangk and Kaurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children’s ability to live on this land.”

3. APOLOGIES/LEAVE OF ABSENCE

- 3.1. Apology
Apologies were received from
- 3.2. Leave of Absence
Mayor Bill Spragg 14 July to 28 July 2018
- 3.3. Absent

4. MINUTES OF PREVIOUS MEETINGS

Council Meeting – 26 June 2018

That the minutes of the ordinary meeting held on 26 June 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

Special Council Meeting – 19 June 2018

That the minutes of the special meeting held on 19 June 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

6. PRESIDING MEMBER'S OPENING REMARKS

7. QUESTIONS ADJOURNED/LYING ON THE TABLE

7.1. Questions Adjourned

7.2. Questions Lying on the Table

8. PETITIONS / DEPUTATIONS / PUBLIC FORUM

8.1. Petitions

8.1.1. Skatepark near Lobethal (Jackson & Hamish Edwards)

8.2. Deputations

8.3. Public Forum

Tom Doherty, flooding in Woodside

9. PRESENTATIONS (by exception)

Nil

10. QUESTIONS ON NOTICE

10.1. Historic Watering Troughs

10.2. Green Organic Waste

11. MOTIONS ON NOTICE

11.1. Stormwater, Henry Street Woodside

That the CEO provides a report as part of Budget Review 1, on a request to advance proposed expenditure for "Henry Street Stormwater" scheduled for 2019/20 to 2018/19.

11.2. Use of Recycled Material in Capital Works

That Council measures, and reports on, the amount of recycled material it uses in Council's Capital works programs.

11.3. Magarey Road access

That, before the commencement of the bushfire season, the CEO, in consultation with residents and the Bushfire Advisory Committee, provides a report on possibilities to improve access by fire-fighting appliances and other emergency vehicles to properties on Magarey Road, Mount Torrens.

12. OFFICER REPORTS – DECISION ITEMS

12.1. By-Laws

1. *That the report be received and noted.*
2. *In exercise of the powers contained in section 246 of the Local Government Act 1999, having satisfied the consultation requirements of the Act and having regard to the submissions received from the public, the National Competition Policy Report, the Certificates of Validity provided by the Council's legal practitioner and the comments from the Dog and Cat Management Board in relation to By-laws number 5 and 6, the majority of Council in the presence of at least two thirds of its members, hereby makes and passes the following By-laws as attached and marked as Appendices 1 to 6 of this report*
3. *That the Chief Executive officer be authorised to undertake all steps necessary to finalise the By-law review process and to give effect to the newly adopted By-laws.*

12.2. Volunteer Management Policy

1. *That the report be received and noted.*
2. *With an effective date of 7 August 2018, to revoke the 25 August 2014 Volunteers Policy and to approve the Volunteer Management Policy.*

12.3. Cities Power Partnership Membership Application

1. *That the report be received and noted*
2. *That Council resolves to proceed with the application for Cities Power Partnership membership and that the Mayor be authorised to sign the letter on behalf of Council.*

12.4. Road Widening Edward Avenue Crafers

1. *That the report be received and noted*
2. *To purchase the area of land, being 45m², identified in red on the plan attached as Appendix 1 ("Land") from Zara Marina Parent and Guy Damien Parent for the consideration of \$9,500 (excl GST) plus all reasonable costs to vest the Land as public road.*
3. *That the Mayor and CEO be authorised to sign all necessary documentation to effect this resolution.*

12.5. Street Lighting Policy Review

1. *That the report be received and noted*
2. *With an effective date of 7 August 2018, to revoke the 28 July 2015 Street Lighting Policy and to adopt the 7 August 2018 Street Lighting Policy in Appendix 1.*

12.6. Flags & Tributes Policy

1. *That the report be received and noted.*
2. *That with an effective date of 7 August 2018 to revoke the 14 July 2015 Flags Policy and adopt the Flags Policy contained in Appendix 1.*
3. *That with an effective date of 7 August 2018 to revoke the 14 July 2015 Tributes for Commemorative Services Policy and adopt the Tributes for Commemorative Services Policy contained in Appendix 2.*

12.7. Review of Physical Models for Major Development Policy

1. *That the report be received and noted*
2. *With an effective date of 7 August 2018, to revoke the 14 July 2015 Policy for Provision of Physical Models or other Visual Representation Tools for Major Development Proposals which require Public Notification and adopt the Policy for Provision of Physical Models or other Visual Representation Tools for Major Development Proposals which require Public Notification as contained in Appendix 1 of this report.*

12.8. Council Member Training & Development Policy

1. *That the report be received and noted*
2. *With an effective date of 7 August 2018, to revoke the 8 September 2015 Council Member Training and Development Policy and to adopt the Council Member Training and Development Policy, as contained in Appendix 1.*

12.9. Status Report – Council Resolutions Update

Refer to Agenda

13. OFFICER REPORTS – INFORMATION ITEMS

- 13.1. Sport & Recreation Masterplans Status Report
- 13.2. Sport & Recreation Strategy Progress Report
- 13.3. Climate Change Adaptation Plan Status Report

14. MISCELLANEOUS ITEMS

Nil

15. QUESTIONS WITHOUT NOTICE

16. MOTIONS WITHOUT NOTICE

17. REPORTS

- 17.1. Council Member Reports
- 17.2. Reports of Members as Council/Committee Representatives on External Organisations
- 17.3. CEO Report

18. REPORTS OF COMMITTEES

- 18.1. Council Assessment Panel – 11 July 2018
That the minutes of the CAP meeting held on 11 July 2018 as supplied, be received and noted.
- 18.2. Strategic Planning & Development Policy Committee
Nil
- 18.3. Audit Committee
Nil
- 18.4. CEO Performance Review Panel
Nil

19. CONFIDENTIAL ITEMS

Nil

20. NEXT MEETING

Tuesday 28 August 2018, 6.30pm, 63 Mt Barker Road, Stirling

21. CLOSE MEETING

Council Meeting/Workshop Venues 2018

DATE	TYPE	LOCATION	MINUTE TAKER
AUGUST 2018			
Tues 7 August	Community Forum	Montacute	N/A
Wed 8 August	Council Assessment Panel	TBA	Karen Savage
Thurs 9 August	CEO PRP	Stirling	TBA
Mon 13 August	Audit Committee	Stirling	TBA
Tues 14 August	Workshop	Woodside	N/A
Tues 21 August	Professional Development	Stirling	N/A
Tues 28 August	Council	Stirling	Pam Williams
SEPTEMBER 2018			
Tues 11 September	Workshop	Woodside	N/A
Wed 12 September	Council Assessment Panel	TBA	Karen Savage
<i>Caretaker Period begins 18 September until conclusion of Local Government elections in November</i>			
Tues 18 September	Professional Development	Stirling	N/A
Tues 25 September	Council	Stirling	Pam Williams
OCTOBER 2018			
Mon 8 October	Audit	TBA	TBA
Tues 9 October	Workshop	Woodside	N/A
Wed 10 October	Council Assessment Panel	TBA	Karen Savage
Tues 16 October	Professional Development	Stirling	N/A
Tues 23 October	Council	Stirling	Pam Williams
NOVEMBER 2018			
Mon 5 November	Audit	Stirling	TBA
Tues 6 November	CEO PRP	Stirling	TBA

Caretaker Period

Meetings are subject to change, please check agendas for times and venues. All meetings (except Elected Member Professional Development) are open to the public.

Community Forums 2018

DATE	LOCATION
Tuesday 13 March 2018	Kersbrook
Tuesday 1 May 2018	Bradbury/Longwood
Tuesday 7 August 2018	Montacute

Conflict of Interest Disclosure Form

CONFLICTS MUST BE DECLARED VERBALLY DURING MEETINGS

Councillor:

Date:

Meeting name:

Agenda item no:

1. I have identified a conflict of interest as:

MATERIAL ☐ ACTUAL ☐ PERCEIVED ☐

MATERIAL: Conflict arises when a council member or a nominated person will gain a benefit or suffer a loss (whether directly or indirectly and whether pecuniary or personal) if the matter is decided in a particular manner. If declaring a material conflict of interest, Councillors must declare the conflict and leave the meeting at any time the item is discussed.

ACTUAL: Conflict arises when there is a conflict between a council member's interests (whether direct or indirect, personal or pecuniary) and the public interest, which might lead to decision that, is contrary to the public interest.

PERCEIVED: Conflict arises in relation to a matter to be discussed at a meeting of council, if a council member could reasonably be taken, from the perspective of an impartial, fair-minded person, to have a conflict of interest in the matter – whether or not this is in fact the case.

2. The nature of my conflict of interest is as follows:

(Describe the nature of the interest, including whether the interest is direct or indirect and personal or pecuniary)

3. I intend to deal with my conflict of interest in the following transparent and accountable way:

☐ I intend to **leave** the meeting *(mandatory if you intend to declare a Material conflict of interest)*

OR

☐ I intend to **stay** in the meeting *(complete part 4) (only applicable if you intend to declare a Perceived (Actual conflict of interest)*

4. The reason I intend to stay in the meeting and consider this matter is as follows:

(This section must be filled in. Ensure sufficient detail is recorded of the specific circumstances of your interest.)

and that I will receive no benefit or detriment direct or indirect, personal or pecuniary from considering and voting on this matter.

CONFLICTS MUST ALSO BE DECLARED VERBALLY DURING MEETINGS

Governance use only: Member voted FOR/AGAINST the motion.

Ordinary Business Matters

A **material, actual or perceived** Conflict of Interest does not apply to a matter of ordinary business of the council of a kind prescribed by regulation.

The following ordinary business matters are prescribed under Regulation 8AAA of the Local Government (General) Regulations 2013.

- (a) the preparation, discussion, conduct, consideration or determination of a review under section 12 of the Act
 - (b) the preparation, discussion, adoption or revision of a policy relating to allowances and benefits payable to members if the policy relates to allowances and benefits payable equally to each member (rather than allowances and benefits payable to particular members or particular office holders)
 - (c) the preparation, discussion, adoption or alteration of a training and development policy under section 80A of the Act
 - (d) the preparation, discussion, adoption or amendment of a strategic management plan under section 122 of the Act
 - (e) the adoption or revision of an annual business plan
 - (f) the adoption or revision of a budget
 - (g) the declaration of rates (other than a separate rate) or a charge with the character of a rate, and any preparation or discussion in relation to such a declaration
 - (h) a discussion or decision of a matter at a meeting of a council if the matter—
 - (i) relates to a matter that was discussed before a meeting of a subsidiary or committee of the council
 - (ii) the relevant interest in the matter is the interest of the council that established the committee or which appointed, or nominated for appointment, a member of the board of management of the council subsidiary or regional subsidiary.
- (2) For the purposes of section 75(3)(b) of the Act, a member of a council who is a member, officer or employee of an agency or instrumentality of the Crown (within the meaning of section 73(4) of the Act) will not be regarded as having an interest in a matter before the council by virtue of being a member, officer or employee.

Engagement and membership with groups and organisations exemption

A member will not be regarded as having a conflict of interest **actual or perceived** in a matter to be discussed at a meeting of council by reason only of:

- an engagement with a community group, sporting club or similar organisation undertaken by the member in his or her capacity as a member; or membership of a political party
- membership of a community group, sporting club or similar organisation (as long as the member **is not** an office holder for the group, club or organisation)
- the member having been a student of a particular school or his or her involvement with a school as parent of a student at the school
- a nomination or appointment as a member of a board of a corporation or other association, if the member was nominated for appointment by a Council.

However, the member will still be required to give careful consideration to the nature of their association with the above bodies. Refer Conflict of Interest Guidelines.

For example: If your **only** involvement with a group is in your role as a Council appointed liaison as outlined in the Council appointed liaison policy, you will not be regarded as having a conflict of interest actual or perceived in a matter, and are NOT required to declare your interest.

8. DEPUTATIONS

For full details, see Code of Practice for Meeting Procedures on www.ahc.sa.gov.au

1. A request to make a deputation should be made by submitting a Deputation Request Form, (available on Council's website and at Service and Community Centres) to the CEO seven clear days prior to the Council meeting for inclusion in the agenda.
2. Each deputation is to be no longer than ten (10) minutes in duration, excluding questions from Members.
3. Deputations will be limited to a maximum of two per meeting.
4. In determining whether a deputation is allowed the following considerations will be taken into account:
 - the subject matter of the proposed deputation;
 - whether it is within the powers of the Council;
 - relevance to the Council agenda nominated – and if not, relevance to the Council's powers or purpose;
 - the integrity of the request; and
 - the size and extent of the agenda for the particular meeting.

8.3 PUBLIC FORUM

For full details, see Code of Practice for Meeting Procedures on www.ahc.sa.gov.au

1. The public may be permitted to address or ask questions of the Council on a relevant and/or timely topic.
 2. The Presiding Member will determine if an answer is to be provided.
 3. People wishing to speak in the public forum must advise the Presiding Member of their intention at the beginning of this section of the meeting.
 4. Each presentation in the Public Forum is to be no longer than five (5) minutes (including questions), except with leave from the Council.
 5. The total time allocation for the Public Forum will be ten (10) minutes, except with leave from the Council.
 6. If a large number of presentations have been requested, with leave from the Council, the time allocation of five (5) minutes may be reduced.
 7. Any comments that may amount to a criticism of individual Council Members or staff must not be made. As identified in the Deputation Conduct section above, the normal laws of defamation will apply to statements made during the Public Forum.
 8. Members may ask questions of all persons appearing relating to the subject of their presentation.
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Item 4 Minutes of Council

**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 19 JUNE 2018
63 MT BARKER ROAD STIRLING**

In Attendance:

Presiding Member: Mayor Bill Spragg

Members:

Councillor	Ward
Councillor Ron Nelson	Manoah
	Marble Hill
Councillor Kirrilee Boyd Councillor Nathan Daniell Councillor John Kemp	Mt Lofty
Councillor Lynton Vonow Councillor Andrew Stratford	Onkaparinga Valley
Councillor Linda Green Councillor Malcolm Herrmann	Torrens Valley

In Attendance:

Andrew Aitken	Chief Executive Officer
Terry Crackett	Director Corporate Services
Peter Bice	Director Engineering & Assets
Marc Salver	Director Strategy & Development
David Waters	Director Community & Customer Service
Lachlan Miller	Executive Manager Governance & Performance
John McArthur	Manager Waste Health & Regulatory Services
Natalie Westover	Manager Property Services
Karen Bennink	CWMS Technical Officer
Pam Williams	Minute Secretary

1. COMMENCEMENT

The special council meeting commenced at 7.34pm.

2. OPENING STATEMENT

“Council acknowledges that we meet on the traditional lands of the Peramangk and Kaurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children’s ability to live on this land.”

**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 19 JUNE 2018
63 MT BARKER ROAD STIRLING**

3. APOLOGIES/LEAVE OF ABSENCE

3.1. Apology

Cr Jan-Claire Wisdom (attending the National General Assembly in Canberra)
Cr Ian Bailey

3.2. Leave of Absence

Cr Jan Loveday (30 May to 25 June 2018) approved 22 May 2018

3.3. Absent

Cr John Kemp

4. DECLARATION OF INTEREST BY MEMBERS OF THE COMMITTEE

Nil

5. BUSINESS OF THE MEETING

5.1. Revocation of Community Land – Lobethal Retirement Village

Moved Cr Malcolm Herrmann
S/- Cr Ron Nelson

127/18

Council resolves:

1. That the report be received and noted
2. A report be prepared and submitted to the Minister for Planning seeking approval to revoke the community land classification of Allotment 202 in Deposited Plan No. 75850 contained in Certificate of Title Volume 6017 Folio 705 known as 3 Jeffrey Street Lobethal.

	Carried Unanimously
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5.2. Corporate Planning & Reporting Framework

Moved Cr Linda Green
S/- Cr Nathan Daniell

128/18

Council resolves:

1. That the report be received and noted
2. With an effective date of 1 July 2018, to adopt the draft Corporate Planning & Performance Framework contained in Appendix 1.

	Carried Unanimously
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**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 19 JUNE 2018
63 MT BARKER ROAD STIRLING**

5.3. Gawler River Floodplain Management Authority – Northern Floodway Project

Moved Cr Malcolm Herrmann
S/- Cr Lynton Vonow

129/18

Council resolves:

1. That the report be received and noted.
2. That the Gawler River Flood Management Authority is advised that Council is committed to and supports the progression of the Northern Floodway Project subject to the planning, design and construction being funded entirely by the Federal and State Governments, with the ongoing maintenance of the Project being funded by the GRFMA via subscriptions from Constituent Councils.

	Carried Unanimously
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6. CONFIDENTIAL ITEM

6.1. Community Wastewater Management System Expression of Interest Outcomes – Exclusion of the Public

Moved Cr Linda Green
S/- Cr Andrew Stratford

130/18

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Director Engineering & Assets, Peter Bice
- Director Strategy & Development, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community & Customer Service, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Manager Waste, Health and Regulatory Services, John McArthur
- CWMS Technical Officer, Karen Bennink
- Minute Secretary, Pam Williams

**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 19 JUNE 2018
63 MT BARKER ROAD STIRLING**

be excluded from attendance at the meeting for Agenda Item 6.1: (Community Wastewater Management Systems Expression of Interest Outcomes) in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3)(b) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which –

- (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
- (ii) would, on balance, be contrary to the public interest;

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

	Carried Unanimously
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**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 19 JUNE 2018
63 MT BARKER ROAD STIRLING**

6.1.1 Community Wastewater Management System Expression of Interest Outcomes – Confidential Item

Moved Cr Linda Green
S/- Cr Nathan Daniell

131/18

Council resolves:

1. That the report be received and noted.
2. The Administration is to continue to work collaboratively with the City of Onkaparinga and Rural City of Murray Bridge for the potential divestment of Council's CWMS.
3. To inform future decision making in relation to divestment of Council's CWMS or otherwise an independent Prudential Review is to be conducted in accordance with Section 48 of the Local Government Act 1999.
4. Community consultation is to be undertaken as outlined in this report, including a drop in session in Gumeracha, to inform future decision making in relation to divestment of Council's CWMS or otherwise.
5. That probity advice services are maintained throughout the CWMS review process.
6. A further report be provided to Council outlining the outcome of community consultation and prudential review to inform its consideration of progressing to a second stage request for tender for the divestment of Council's CMWS.

	Carried Unanimously
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**ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 19 JUNE 2018
63 MT BARKER ROAD STIRLING**

6.1.2 Community Wastewater Management System Expression of Interest Outcomes – Period of Confidentiality

Moved Cr Lynton Vonow
S/- Cr Linda Green

132/18

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 6.1 in confidence under sections 90(2) and 90(3)(b) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until 31 December 2019.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.

	Carried
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7. CLOSE SPECIAL COUNCIL MEETING

The meeting closed at 8.25pm.

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 26 JUNE 2018
63 MT BARKER ROAD STIRLING**

In Attendance:

Presiding Member: Mayor Bill Spragg

Members:

Councillor	Ward
Councillor Ron Nelson Councillor Jan-Claire Wisdom (until 8.40pm)	Manoah
Councillor Ian Bailey	Marble Hill
Councillor Kirrilee Boyd Councillor Nathan Daniell	Mt Lofty
Councillor Lynton Vonow Councillor Andrew Stratford	Onkaparinga Valley
Councillor Linda Green Councillor Malcolm Herrmann	Torrens Valley

In Attendance:

Andrew Aitken	Chief Executive Officer
Terry Crackett	Director Corporate Services
Marc Salver	Director Strategy & Development
David Waters	Director Community & Customer Service
Lachlan Miller	Executive Manager Governance & Performance
David Collins	Manager Sustainable Assets
Mike Carey	Manager Financial Services
Steven Watson	Governance & Risk Coordinator
Pam Williams	Minute Secretary

1. COMMENCEMENT

The meeting commenced at 6.32pm.

2. OPENING STATEMENT

“Council acknowledges that we meet on the traditional lands of the Peramangk and Kaurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children’s ability to live on this land.”

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
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3. APOLOGIES/LEAVE OF ABSENCE

3.1. Apology

Cr John Kemp
Cr Jan Loveday

3.2. Leave of Absence

Moved Cr Nathan Daniell
S/- Cr Kirrilee Boyd

133/18

That Leave of Absence be granted for:

- Cr Ron Nelson 28 June to 7 July 2018
- Mayor Bill Spragg 14 July to 28 July 2018

Carried Unanimously

3.3. Absent
Nil

4. MINUTES OF PREVIOUS MEETINGS

4.1. Council Meeting – 22 May 2018

Moved Cr Malcolm Herrmann
S/- Cr Ian Bailey

134/18

That the minutes of the ordinary meeting held on 22 May 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

Carried Unanimously

4.2. Special Council Meeting – 12 June 2018

Moved Cr Linda Green
S/- Cr Lynton Vonow

135/18

That the minutes of the Special Council meeting held on 12 June 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
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63 MT BARKER ROAD STIRLING**

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL
Nil

6. PRESIDING MEMBER'S OPENING REMARKS

The Mayor advised that he attended the funeral of Frank Hurren who was a Council Member on the antecedent District Council of Stirling for 26 years.

7. QUESTIONS ADJOURNED/LYING ON THE TABLE

7.1. Questions Adjourned
Nil

7.2. Questions Lying on the Table
Nil

8. PETITIONS / DEPUTATIONS / PUBLIC FORUM

8.1. Petitions
Nil

8.2. Deputations

Piccadilly Valley Community Recreation Centre – Marilyn Hansford & Lisa Jeffery
Ultimate Motorsport Events, Andrew Admiraal & Michael Clements re Adelaide Hills Rally

8.3. Public Forum

Paul Gregory re safety issues Golflinks Road, Stirling

9. PRESENTATIONS

Professor Chris Daniels, Presiding Member NRM Board

10. QUESTIONS ON NOTICE
Nil

11. MOTIONS ON NOTICE
Nil

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 26 JUNE 2018
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12. OFFICER REPORTS – DECISION ITEMS

12.1. Adelaide Hills Council PLEC Projects

Moved Cr Malcolm Herrmann
S/- Cr Linda Green

136/18

Council resolves:

1. That the report be received and noted.
2. That the CEO be authorised to lodge a formal application to the Power Line Environment Committee for stage 1 of undergrounding power lines in the township of Gumeracha to be undertaken in 2019/2020, with stage 2 to be undertaken at a later date.
3. That future allocation and prioritisation of PLEC projects be considered as part of the next review of the LTFP January 2019.

Carried Unanimously

12.2. Draft Annual Business Plan 2018 – 2019 Community Consultation Outcomes

Moved Cr Ron Nelson
S/- Cr Nathan Daniell

137/18

That, in accordance with Section 123(6) of the *Local Government Act 1999*, Council:

- 1) Receives the submissions prepared by and with its residents; and
- 2) Notes that the comments and results of the Community Consultation have been considered in finalising the 2018-19 Annual Business Plan & Budget.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
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12.3. Draft Annual Business Plan 2018 – 2019 Adoption

Moved Cr Ian Bailey
S/- Cr Jan-Claire Wisdom

138/18

Council resolves that:

- 1.1 Pursuant to and in accordance with Section 123(6) of the *Local Government Act 1999* ("the Act") and Regulation 6 of the *Local Government (Financial Management) Regulations 2011* and having considered all submissions received, the Annual Business Plan as laid before Council for the financial year ending 30 June 2019 be adopted.
- 1.2 Pursuant to and in accordance with Section 123(7) of the Act and Regulation 7 of the *Local Government (Financial Management) Regulations 2011*, having considered the Budget in conjunction and determined the Budget to be consistent with, the Council's Annual Business Plan, the Budget for the financial year ending 30 June 2019 as laid before the Council at this meeting, be adopted.
- 1.3 Determination and Adoption of Valuations – 2018-19
 - 1.3.1 Rates assessed on rateable land in the area of the Council will be based on the capital value of land for all rateable land.
 - 1.3.2 Pursuant to Section 167(2)(a) of the *Local Government Act 1999* the most recent valuations of the Valuer General available to the Council of the capital value of land within the Council area, be adopted for rating purposes for the financial year ending 30 June 2019, totalling \$10,000,439,900.
- 1.4 Determination of Basis for Differential Rating

Having taken into account the general principles of rating contained in Section 150 of the Act and the requirements of Section 153(2) of the *Local Government Act 1999*, and in order to raise the amount in paragraph 1.2.3, pursuant to Section 152(1)(c) of the *Local Government Act 1999* the Council declares that general rates for the financial year ending 30 June 2019 will consist of two components:

 1. one being based on the value of the land;
 2. the other being a fixed charge

**ADELAIDE HILLS COUNCIL
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Pursuant to Sections 153(1)(b) and 156(1)(a) of the Local Government Act 1999 the Council declares the following differential general rates for the financial year ending 30 June 2019 on rateable property within the Council area, based upon the capital value of the land and varying according to land use categories in accordance with Regulation 14 of the *Local Government (General) Regulations 2013*:

1.4.1 On rateable land assigned Category 1, 7, 8 & 9 (Residential, Primary Production, Vacant and Other), a rate of 0.2421 cents in the dollar of the capital value of such land;

1.4.2 On rateable land assigned Category 2, 3, 4, 5 and 6 (Commercial and Industrial) a rate of 0.2784 cents in the dollar of the capital value of such land.

1.5 Declaration of General Rates – Annual Fixed Charge

Pursuant to Section 152(1)(c)(ii) of the Local Government Act 1999, the Council declares a fixed charge of \$634 in respect of all rateable land in the Council area for the financial year ending 30 June 2019.

1.6 Imposition of NRM Levy

In accordance with Section 95 of the Natural Resource Management Act 2004, and Section 154 of the Local Government Act 1999, in order to reimburse the Council the amount contributed to Regional NRM Boards, the Council declares the following separate rates based upon the capital value of rateable land for the financial year ending 30 June 2019:

1.6.1 0.01014 cents in the dollar on all rateable land in the Council area and in the area of Adelaide and Mt Lofty Natural Resource Management Board;

1.6.2 0.02536 cents in the dollar on all rateable land in the Council area and in the area of the SA Murray-Darling Basin Natural Resource Management Board.

1.7 Annual Service Charge

Pursuant to Section 155 of the Local Government Act 1999, for the financial year ending 30 June 2019 the Council imposes the following annual service charges based on the nature of the service and the level of usage of the service:

1.7.1 In respect of all land to which the Council provides or makes available the prescribed services known as:

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- the Woodside Community Wastewater Management System
- the Woodside Extension Community Wastewater Management System
- the Birdwood and Mt Torrens Community Wastewater Management System
- the Kersbrook Township Community Wastewater Management System
- the Charleston Community Wastewater Management System
- the Verdun Community Wastewater Management System
- the Mt Lofty Ward Community Wastewater Management System

an annual service charge of \$823 in respect of land which is occupied and an annual service charge of \$578 in respect of land which is vacant.

1.8 Rebates

1.8.1 Rate Cap

Pursuant to Section 153(3) and (4) of the *Local Government Act 1999*, the Council has determined to fix a maximum increase in general rates to be charged on any rateable land within its area which constitutes the principal place of residence of a principal ratepayer upon application by the principal ratepayer, in circumstances where:

- the general rates payable for the financial year ending 30 June 2019 exceed the general rates paid in the previous year by 15% or more

and where the increase in general rates is not as a result of:

- (i) improvements made to the property worth more than \$20,000; or
- (ii) a change to the land use of the property since 1 January 2017; or
- (iii) a change in ownership of the rateable property since 1 January 2017;

the amount of any cap being the difference between the amount of general rates in monetary terms imposed for the 2018-19 financial year and the amount of rates in monetary terms (after any rebate was applied) for the 2017-18 financial year plus 15% of those rates.

Principal ratepayers with multiple assessments (such as primary producers) will be entitled to the rate cap only in respect of the assessment containing the principal place of residence of the principal ratepayer.

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1.9 Separate Rates

Declaration of Separate rate – Stirling Business Separate Rate

1.9.1 Pursuant to Section 154 of the *Local Government Act 1999* for the financial year ending 30 June 2019 in order to raise the amount of \$85,000 to carry out the activity of promoting and enhancing business viability, profitability, trade and commerce in that part of the Council's area comprising rateable land within the precinct known as the District Centre (Stirling) Zone and businesses fronting both sides of Mt Barker Road east of the District Centre (Stirling) Zone to Pine Street, excluding land attributed a land use category 1 (residential) and government owned land, the Council declares a differential separate rate of 0.0876 cents in the dollar on all other land uses based on the capital value of the rateable land within that part of the Council area.

1.9.2 In exercise of the powers contained in Section 158(1)(a) of the *Local Government Act 1999* the minimum amount that is payable by way of this separate rate is \$240 (affecting all properties within the area to which this separate rate applies for which the capital value is below \$273,972).

1.9.3 In exercise of the powers contained in Section 158(1)(b) of the *Local Government Act 1999* the amount that would otherwise be payable by way of rates in respect of this separate rate is altered by fixing the maximum amount of the separate rate payable at \$2,145 (affecting all properties within the area to which this separate rate applies which have a capital value in excess of \$2,448,630).

1.10 Payment of Rates

1.10.1 That pursuant to the provisions of Section 181 of the *Local Government Act 1999*, the above rates including charges which have been imposed for the financial year ending 30 June 2019 are payable by four equal (or approximately equal) quarterly instalments (unless otherwise agreed with the principal ratepayer), falling due during the months of September and December 2018 and March and June 2019.

1.10.2 In exercise of the powers contained in section 44 of the *Local Government Act 1999*, the Council delegates to the Chief Executive Officer

- the power pursuant to Section 181(2) of the *Local Government Act 1999* to determine the day on which each instalment falls due in the months specified in part 1.10.1 of this resolution; and.

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- the power pursuant to Section 181(4)(b) of the *Local Government Act 1999*, to enter into agreements with principal ratepayers relating to the payment of rates in any case of hardship or financial difficulty.

1.11 Adoption of Rating Policy

- 1.11.1** With an effective date of 1 July 2018, to revoke the 27 June 2017 Rating Policy and adopt the Rating Policy, in Appendix 3 of the 2018-19 Annual Business Plan in Appendix 1 of this report.
- 1.11.2** That the Chief Executive Officer, or delegate, be authorised to make any formatting, nomenclature or other minor changes to the Policy.

1.12 Borrowings

Council resolves to borrow:

- 1.12.1** The sum of \$3.9m for the purpose of funding the 2018-19 Budget.
- 1.12.2** Council authorise the Chief Executive to negotiate and agree the interest rate and any terms and conditions of the borrowing arrangements in accordance with the Treasury Policy as adopted by Council.
- 1.12.3** Council authorises the affixation of the common seal as necessary to give effect to Council's resolutions in this matter and that this be undertaken by the Mayor and the Chief Executive Officer.

1.13 Publication of the 2018-19 Annual Business Plan and Budget

The Chief Executive Officer be delegated the authority to make formatting and minor changes/corrections to the 2018-19 Annual Business Plan and Budget documentation prior to publication.

Carried

8.40pm Cr Wisdom left the Chamber and did not return

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12.4. Enforcement Policy

Moved Cr Linda Green
S/- Cr Ron Nelson

139/18

Council resolves:

1. That the report be received and noted
2. With an effective date of 10 July 2018, to rescind the February 2001 Reporting of Offences Policy and adopt the draft *Enforcement Policy* contained in *Appendix 1*.

Carried Unanimously

12.5. Review of Confidential Items Register

Moved Cr Malcolm Herrmann
S/- Cr Ian Bailey

140/18

Council resolves:

1. That the report be received and noted
2. Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence for a period as specified below:

Council Meeting 25 October 2016
CWMS Expression of Interest

Section 90(3)(d) – commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.

Until 31 December 2019.

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3. Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council resolves that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence for a period as specified below:

**Council Meeting 28 February 2017
Community Wastewater Management Systems Review**

Section 90(3)(d) – commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.

Until 31 December 2019.

4. Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council resolves that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence for a period as specified below:

**Council Meeting 22 August 2017
Adelaide Hills Region Waste Management Authority Tender Landfill Compactor**

Section 90(3)(d) – commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.

Until 3 August 2019.

5. Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council resolves that an order be made under the provisions of sections 91(7) and (9) of the Local Government Act 1999 that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence for a period as specified below:

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**Council Meeting 26 September 2017
Community Wastewater Management Systems Review**

Section 90(3)(d) – commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and would, on balance, be contrary to the public interest.

Until 31 December 2019.

Carried Unanimously

12.6. CEO Performance Targets

**Moved Cr Kirrilee Boyd
S/- Cr Ron Nelson**

141/18

Council resolves:

- 1. That the report be received and noted**
- 2. To adopt the proposed 2018-2019 CEO Performance Targets recommended by the CEO Performance Review Panel in Appendix 1 of this report.**

Carried Unanimously

**Moved Cr Ian Bailey
S/- Cr Linda Green**

142/18

That the meeting adjourn for a short break (8.45pm).

Carried Unanimously

8.45pm The meeting adjourned.

8.58pm The meeting resumed.

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12.7. Delegations Review

Moved Cr Malcolm Herrmann
S/- Cr Andrew Stratford

143/18

Council resolves:

- 1. That the report be received and noted**
- 2. That, having conducted its quarterly review of Council's Delegations Register, in accordance with Section 44(6) of the Local Government Act 1999, the Council:**

2.1 Revocation

Hereby revokes its previous delegations to the Chief Executive Officer of those powers and functions under the following Acts:

- 2.1.1 Development Act 1993 and Development Regulations 2008**
- 2.1.2 Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010**
- 2.1.3 Expiation of Offences Act 1996**
- 2.1.4 Fences Act 1975**
- 2.1.5 Freedom of Information Act 1991 & Freedom of Information (Fees & Charges) Regulations 2003**
- 2.1.6 Land & Business (Sale and Conveyancing) Act 1994**
- 2.1.7 Local Government Act 1999**
- 2.1.8 Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005**
- 2.1.9 Real Property Act 1886**
- 2.1.10 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014**

2.2 Delegations made under the Local Government Act 1999

2.2.1 In exercise of the power contained in Section 44 of the *Local Government Act 1999* the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Appendices 4, 5, 6, 7, 8, 9, 10, 11 and 12 (each of which is individually identified as indicated below) are hereby delegated this 26th day of June 2018 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.

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- *Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010 (Appendix 4)*
- *Expiation of Offences Act 1996 (Appendix 5)*
- *Fences Act 1975 (Appendix 6)*
- *Freedom of Information Act 1991 & Freedom of Information (Fees & Charges) Regulations 2003 (Appendix 7)*
- *Land & Business (Sale and Conveyancing) Act 1994 (Appendix 8)*
- *Local Government Act 1999 (Appendix 9)*
- *Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005 (Appendix 10)*
- *Real Property Act 1886 (Appendix 11)*
- *Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014 (Appendix 12)*

2.2.2 Such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the *Local Government Act 1999* as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.

2.3 Delegations made under the Development Act 1993

2.3.1 In exercise of the power contained in Section 20 and 34(23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 and specified in the proposed Instrument of Delegation contained in Appendix 3 are hereby delegated this 26th day of June 2018 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations specified herein or in the Schedule of Conditions in the proposed Instrument of Delegation under the Development Act 1993.

2.3.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.

2.3.3 In exercise of the powers contained in Section 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 and specified in the proposed Instrument of Delegation contained in Appendix 3, are hereby

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delegated on this 26th day of June 2018 to the Council's Assessment Panel, subject to any conditions specified herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993:

2.4 Authorisations and Subdelegation under the Road Traffic Act 1961

2.4.1 In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the 'Instrument') the Council authorises the following person(s) pursuant to Clause A.7 of the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such person(s) shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements: Peter Bice, Ashley Curtis.

2.4.2 In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following person(s) is/are experienced traffic engineering practitioner(s) for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument: Peter Bice, Ashley Curtis.

2.4.3 In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in Section 33(1) of the Road Traffic Act 1961 and delegated to the Council pursuant to Clause G of the Instrument and contained in the proposed Instrument of Subdelegation (Appendix 10) is hereby sub-delegated this 26th day of June to the person occupying the office of Chief Executive Officer of the Council subject to:

- (i) the conditions contained in the Instrument; and
- (ii) any conditions contained in this Resolution or in the Instrument of Subdelegation; and
- (iii) the creation of a separate instrument in writing reflecting such subdelegation under the Instrument and this Resolution.

2.4.4 In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following person(s) has (have) an appropriate level of knowledge and expertise in the preparation of traffic management Plans: Peter Bice and Ashley Curtis.

Carried Unanimously

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12.8. Status Report – Council Resolutions Update

**Moved Cr Lynton Vonow
S/- Cr Nathan Daniell**

144/18

That Council resolves:

- 1. The Council Action List be received and noted**
- 2. The following completed item be removed from the Action List:**

Date	Meeting	No	Heading
23/01/2018	Ordinary Council	3/18	Capital Program Review & Amendments
27/02/2018	Ordinary Council	42/18	Rural Property Addressing Consultation Outcomes
27/03/2018	Ordinary Council	69/18	Play Space Policy
24/04/2018	Ordinary Council	89/18	Adelaide Hills Tourism 2 year Funding Agreement
24/04/2018	Ordinary Council	94/18	Draft Annual Business Plan & Budget
24/04/2018	Ordinary Council	96/18	Community Loans Policy
22/05/2018	Ordinary Council	107/18	Intersection North East & South Para Roads, Chain of Ponds
22/05/2018	Ordinary Council	109/18	East Waste 2018/19 Business Plan & Draft Budget
22/05/2018	Ordinary Council	110/18	AHRWMA Draft 2018/19 Annual Business Plan & Budget
22/05/2018	Ordinary Council	111/18	Communications & Marketing Plan 2014 – Progress Report
22/05/2018	Ordinary Council	112/18	Budget Review 3
22/05/2018	Ordinary Council	113/18	Safe Environments Policy
22/05/2018	Ordinary Council	114/18	Audit Committee Recommendations to Council
22/05/2018	Ordinary Council	115/18	SHLGA 2018/19 Budget
22/05/2018	Ordinary Council	116/18	Caretaker Policy
22/05/2018	Ordinary Council	117/18	Location of Council's Principal Office
22/05/2018	Ordinary Council	118/18	Fee Waiver Request - Bridgewater Uniting Church
22/05/2018	Ordinary Council	119/18	GRFMA Business Plan & Budget
22/05/2018	Ordinary Council	120/18	Attendance at National General Assembly, Canberra
22/05/2018	Ordinary Council	113/18	Safe Environments Policy
12/06/2018	Special Council	6.1	Residents Win Stage 2 Funding Increase Proposal - Gumeracha Main Street

Carried Unanimously

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13. OFFICER REPORTS – INFORMATION ITEMS

13.1. World Heritage Bid Annual Report

Moved Cr Linda Green
S/- Cr Kirrilee Boyd

145/18

Council resolves:

- 1. That the report be received and noted**
- 2. That the contents of the Annual Report 2017-18 for the World Heritage Listing Project for the Mount Lofty Ranges are received and notes the future actions will include:**
 - **An External Expert Review of the project**
 - **A continuation of discussions with state government in order to secure their support and potential funding for the project**
 - **A progression of the development of a Digital Knowledge Bank to better engage with industry groups**

Carried Unanimously

Mayor Bill Spragg advised Council that he had a Perceived Conflict of Interest in relation to Item 13.2 Code of Conduct, as he is the subject of the complaint, and intends to leave the Chamber.

9.16pm The Mayor left the Chamber.

As the Deputy Member was also absent, the Chief Executive Officer asked for a Council Member to act as Presiding Member and, with the leave of the meeting, Cr Linda Green was selected.

Cr Linda Green assumed the Chair.

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13.2. Code of Conduct Complaint

**Moved Cr Lynton Vonow
S/- Cr Nathan Daniell**

146/18

Council resolves that the report be received and noted.

Carried Unanimously

9.21pm Mayor Spragg returned to the Chamber and resumed his duties as Presiding Member.

13.3. Policy Review Schedule

**Moved Cr Ian Bailey
S/- Cr Ron Nelson**

147/18

Council resolves that the report be received and noted.

Carried Unanimously

14. MISCELLANEOUS ITEMS
Nil

15. QUESTIONS WITHOUT NOTICE

Cr Stratford – Adelaide Hills Swimming Centre Committee re future of pool
Cr Bailey – National General Assembly motions, articles in Advertiser
Cr Herrmann – appointment of Arts & Cultural Hub Director

16. MOTIONS WITHOUT NOTICE
Nil

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17. REPORTS

17.1. Council Member Activities

Mayor Bill Spragg

6 June 2018, Crafers Primary School Year 6 Civics class, Crafers
 13 June 2018, Queen's Birthday reception, Government House, Adelaide
 14 June 2018, Lions Club of Onkaparinga & Woodside Primary School unveiling of mural, Woodside
 15 June 2018, Member for Morialta, John Gardner MP, Rostrevor
 18 June 2018, Refugee Week and Poster launch, Adelaide
 19 June 2018, Liberal candidate for Mayo by-election, Georgina Downer, Stirling
 19 June 2018, RDA Chair, James Sexton & CEO, Damien Cooke, Stirling
 20 June 2018, Refugee Day launch, Adelaide
 21 June 2018, funeral for local resident, Crafers

Media:

Advertiser Renato Castello re retirement
 Courier Elisa Rose re Woodside Swimming Pool
 Courier Elisa Rose re By-Election wish list
 Courier Lisa Pahl re Air BNB
 ABC 891 David Bevan re Air BNB

Cr Ron Nelson

14 June 2018, Scott Creek Progress Association
 15 June 2018, Community Planning For Recovery
 21 June 2018, Longwood Agriculture Bureau
 24 June 2018, Community Planning For Recovery open day

Cr Kirrilee Boyd

26 June 2018, Sturt Valley Road Trail onsite meeting, Stirling
 31 May 2018, May Business Month - Public Speaking Workshop, Stirling

Cr Linda Green

5 June 2018, LGA Waste Pathways Workshop "Beyond China Sword"
 22 June 2018, TVCC Peterborough reactivation presentation, Gumeracha

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Cr Jan-Claire Wisdom (as Acting Mayor)

22 May 2018, Social Planning Advisory Group, Stirling
 28 May 2018, Project Steering Group World Heritage Project, Stirling
 29 May 2018, CEORP meeting, Stirling
 31 May 2018, CEDA 'Arts and Innovation' presentation, Adelaide
 31 May 2018, DEW Focus Group re Belair Golf course land, Mitcham
 02 June 2018, Women's LGASA Networking Forum for those interested in standing for Council, Charles Sturt Council, Woodville
 12 June 2018, Council workshop, Woodside
 17 June 2018, ALGA Regional Forum, Canberra
 18-20 June 2018, ALGA National Assembly, ALGA (see documents/written report to follow)
 22 June 2018, Johnston Memorial Park upgrades launch, Balhannah
 23 June 2018, CPR Trailer review, Scott Creek

Media (as Acting Mayor)

7 June 2018, Article for Weekender Herald on 'Lest we forget – man's best friend'
 13 June 2018, Hills Radio 88.9FM radio chat segment on 'China Sword and recycling'

17.2. Reports of Members as Council/Committee Representatives on External Organisations

Cr Malcolm Herrmann

21 June 2018, GRFMA, Nuriootpa

Cr Linda Green

18 May 2018, East Waste teleconference

Cr Jan-Claire Wisdom

30 May 2018, State Library SA (SLSA) Director retirement event, Adelaide
 13 June 2018, Special Meeting Local Government Assn SA (LGASA) Board, Adelaide
 22 June 2018, Southern and Hills LGA (SHLGA) Board meeting, Goolwa

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17.3. CEO Report

Andrew Aitken, CEO, provided Council with a verbal Corporate Update, including:

- CWMS, Mt Torrens
- Bridge, drainage, footpaths, guardrails
- ChemClear collection service
- Development approvals
- ERD Court decision re pool safety
- Development Service website upgrade
- CSIRO Local Voices project
- SHLGA meeting Goolwa re rate capping, governance structure in LGA
- Welcome to Steven Watson, Governance & Risk Coordinator

18. REPORTS OF COMMITTEES

18.1. Council Assessment Panel – 13 June 2018

Moved Cr Linda Green
S/- Cr Lynton Vonow

148/18

That the minutes of the Council Assessment Panel meeting of 13 June 2018 as distributed, be received and noted.

Carried Unanimously

18.2. Strategic Planning & Development Policy Committee

Nil

18.3. Audit Committee

Nil

18.4. CEO Performance Review Panel – 29 May 2018

Moved Cr Nathan Daniell
S/- Cr Ian Bailey

149/18

That the minutes of the CEO Performance Review Panel meeting of 29 May 2018 as distributed, be received and noted.

Carried Unanimously

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19. CONFIDENTIAL ITEMS

19.1. Special Event – Exclusion of the Public

Moved Cr Kirrilee Boyd
S/- Cr Linda Green

150/18

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except:

- CEO, Andrew Aitken
- Manager Sustainable Assets, David Collins
- Director Strategy & Development, Marc Salver
- Director Corporate Services, Terry Crackett
- Director Community & Customer Service, David Waters
- Executive Manager Governance & Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 19.1: Event Opportunity to be considered in confidence.

The Council is satisfied that it is necessary that the public, with the exception of Council staff in attendance as specified above, be excluded to enable Council to consider the report at the meeting on the following grounds:

Section 90(3) (j) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which –

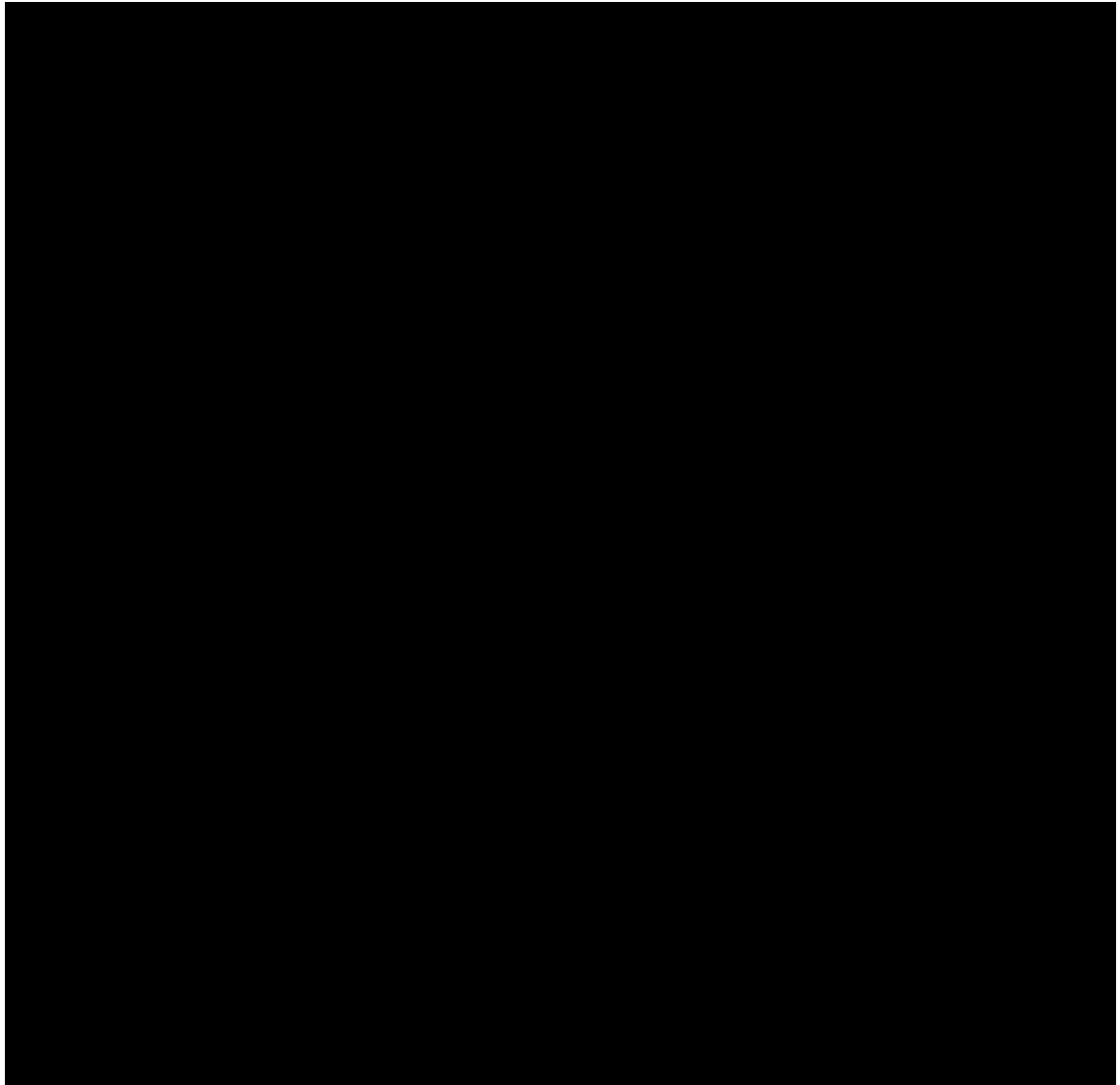
- (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
- (ii) would, on balance, be contrary to the public interest.

Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Carried Unanimously

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19.1.1. Special Event – Confidential Item



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19.1.2. Special Event – Period of Confidentiality

Moved Cr Nathan Daniell
S/- Cr Ian Bailey

152/18

Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 19.1 in confidence under sections 90(2) and 90(3) (j) of the *Local Government Act 1999*, resolves that an order be made under the provisions of sections 91(7) and (9) of the *Local Government Act 1999* that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the event agreements are signed and the race routes are announced by the relevant Minister but not longer than 31 December 2018.

Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.

Carried Unanimously

20. NEXT MEETING

The next ordinary meeting of the Adelaide Hills Council will be held on Tuesday 24 July 2018 from 6.30pm at 63 Mt Barker Road, Stirling.

21. CLOSE MEETING

The meeting closed at 9.56pm.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 8.1.1

Originating Officer: Lachlan Miller, Executive Manager Governance & Performance

Responsible Director: Andrew Aitken, Chief Executive Officer

Subject: Petition – Skate Park in Lobethal area

For: Decision

SUMMARY

A petition has been received with 304 signatories stating:

We, the undersigned community of Lobethal and surrounds, request a skate park be provided for the young people of the area.

RECOMMENDATION

Council resolves that the petition signed by 304 signatories, requesting a skate park in the Lobethal area, be received and noted.

Council has received a petition organised by Jackson & Hamish Edwards and signed by 304 signatories.

Following Council's consideration, the head petitioner will be advised of Council's noting of the petition and of any other resolutions arising from the matter.

The petition states:

We, the undersigned community of Lobethal and surrounds, request a skate park be provided for the young people of the area.

Background / Context – Renee O'Connor, Sport & Recreation Planner

Council has identified a need for additional unstructured recreation facilities for youth, including facilities like skate parks, bike tracks, and dirt BMX tracks throughout our Council area. Requests from the community and previous consultation opportunities have also highlighted this issue.

As part of the implementation of the Sport and Recreation Strategy, Council have undertaken an audit of every recreation asset in the region. Data gathered from the audit will provide a clear understanding of the maintenance requirement of the assets, helps identify priorities for upgrade and demonstrates gaps in current service.

This audit data, along with requests from the community are helping Council to develop and implement a Play Space Framework (that includes facilities like skate parks, bike tracks, and dirt BMX tracks) that will incorporate an upgrade & development program that is transparent and sustainable and responds to community need.

The Play Space Framework and associated upgrade program is still being developed and it is expected that the document should come before Council in early to mid 2019.

It is important to note that there are currently three Play Spaces in Lobethal. While the current amenity of these sites may not suit the demographics needs, there is sufficient space for recreation in the town. At the end of the Play Spaces useful life, the anticipated Play Space Framework and its associated upgrade program may allow for a site to be repurposed and upgraded to accommodate a Skate style facility, as per the community's requests.

In the meantime, Council could consider placing its portable Skate Ramp in Lobethal for a period of time. The ramp is currently at Birdwood until the end of 2018.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 10.1 Question on Notice

Originating from: Cr Malcolm Herrmann

Subject: Historic Watering Troughs

1. QUESTION

Which authority owns and is responsible for the repairs and maintenance of historic watering troughs situated near 249 Torrens Valley Road Gumeracha and Mount Bera, Gorge Road Cudlee Creek?

2. BACKGROUND

The attached photos show two historic watering troughs used by horses travelling to and from Adelaide. Residents are concerned that the troughs have received little or no maintenance in recent years and that they will fall into disrepair and be demolished.



3. OFFICER'S RESPONSE – David Collins, Manager Sustainable Assets

The watering troughs are located adjacent Gorge Road and Torrens Valley Road within the road reserve. Whilst the roads come under the care and control of the Department for Planning Transport and Infrastructure, the adjacent road reserve and items within the road reserve that are not associated with the traffic function of the road, fall under the care and control of Local Government.

In this instance, the water troughs are not associated with the traffic function of the road, and are the responsibility of the Council.

A search of the State Government State Heritage register and the Council Development Plan does not highlight these water troughs as heritage items. In addition, the water troughs are not on Council's asset registers.

Council subsequently has no maintenance regime in place for these assets as they currently do not have a functional purpose. A Council officer will need to arrange for a subsequent inspection to assess the condition and what, if any, maintenance is required. Given the potential age of the structures, specialist advice may be required to assess and develop a maintenance plan should Council deem that it wishes to maintain these items. Note that there is no current funding allocated in Council's Budget for this inspection or subsequent maintenance.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 10.2 Question on Notice

Originating from: Cr Malcolm Herrmann

Subject: Green Organic Waste

1. QUESTION

For the years 2016/2017 and 2017/2018:

1. How many days at each site were made available to public for Green Organic Waste drop offs?
2. For each site, how many tonnes of Green Organic Waste were received?
3. What was the budgeted amount and what was the actual expenditure?

For 2018/19:

1. What funds have been provided in the budget?
2. What Green Organic Waste Drop off days are proposed?

2. OFFICER'S RESPONSE – Aliza Fuller, Waste Management Coordinator

For the years 2016/2017 and 2017/2018:

1. How many days at each site were made available to public for Green Organic Waste drop offs?
2. For each site, how many tonnes of Green Organic Waste were received?
3. What was the budgeted amount and what was the actual expenditure?

2016/2017

Green Organic Drop Off Days	Number of days	Tonnes	Budgeted amount	Actual Amount
Gumeracha	8	156	\$75,000	\$74,390
Woodside	8	219		
Heathfield	14	1402		
TOTAL	30	1777		

The large tonnages of green organic material received for 2016/17 were a result of storms that occurred in late 2016 and early 2017. The tonnages of green organics received during the January/February 2017 collections were high as a direct result of the storm damage and the resident's response to clearing away debris.

2017/2018

Green Organic Drop Off Days	Number of days	Tonnes	Budgeted amount	Actual Amount
Gumeracha	8	52.5	\$65,000	\$54,675
Woodside	7	64		
Heathfield	12	379		
TOTAL	27	495		

For 2018/19:

- 1. What funds have been provided in the budget?**
- 2. What Green Organic Waste Drop off days are proposed?**

The budget for Green Organic Drop Off days for 2018/19 is \$65,000.

Planning for the green organic drop off days in 2018/2019 is still underway and therefore dates have not yet been set. It is anticipated the dates will be made public at the end of August 2018 with the first drop off days scheduled in October 2018.

It is intended that the scheduling will be similar to previous years where the days will be scheduled around the bushfire season, weather conditions and large events being held within the Council area and prior to the winter months. Collection days will be provided on weekends as well as providing weekday options for residents. Weekday options have proven to be popular during the 2017/2018 collection period and have been set in response to customer feedback.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 11.1 Motion on Notice

Originating from: Cr Malcolm Herrmann

Subject: Stormwater, Henry Street, Woodside

1. MOTION

I move that the CEO provide a report as part of Budget Review 1, on a request to advance proposed expenditure for "Henry Street Stormwater" scheduled for 2019/20 to 2018/19.

2. BACKGROUND

In the adopted 2018/19 Annual Budget and Business Plan, the following appears under the heading of Storm Water Renewal.

2019/20

Henry Street- Woodside Stormwater - Investigate and design of back of block drain replacement

2020/21

Henry Street Stormwater-Woodside - Replace back of block stormwater

Residents in Evans Street (near Henry Street) have had their premises flooded due to the failure of the drain. Council has a responsibility to ensure that premises do not get flooded again. Affected residents request that the investigation be undertaken this financial year. Depending on the findings, any remedial works can be considered in the preparation of the 2019/20 budget.

3. OFFICER'S RESPONSE – David Collins, Sustainable Assets

During the events of 2016 Council officer became aware that 2 Evans Street was impacted by stormwater. There is an easement at the rear of properties between Henry Street and Evans Street with a 150mm pipe installed. The 2 Evans Street property is at the lowest point in the land is this residential area bordered by Henry Street, Charles and Evans Street.

Rear of allotment drainage systems are installed at the time of land development to provide connection from new property rooflines to manage the additional discharge directly created from roof run-off. The rear of allotment drainage systems typically do not

cater for overland flow. In large storm, lower lying properties may be impacted by the natural flow of water from higher to lower ground.

Council staff have undertaken cleaning of the system previously to the extent that is possible. It has been noted that some intrusion with roots is likely given the type of vegetation along the easement and hence the system has been scheduled for detailed investigation in 2019/20 financial year to determine the most cost effective way to ultimately replace the existing rear of allotment system. The organisation has the capacity to bring the investigation forward in the 2018/19 subject to additional funding being made available. The investigation and preliminary design option could be in the range of \$10,000 – \$15,000.



**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 11.2 Motion on Notice

Originating from: Cr Linda Green

Subject: Use of Recycled Materials in Capital Works

1. MOTION

I move that Council measures, and reports on, the amount of recycled material it uses in Council's Capital works programs.

2. BACKGROUND

In responding to the impact of China Sword, a multi-pronged approach is needed locally to reduce, recycle and reuse recycled material. One of the opportunities is for new businesses to process local recycled material into material that can be reused. For this to be a viable proposition the recycled material will need markets.

In the short term to have Council measuring the amount of recycled material it is using, I feel, shows our support for using recycled material. Council already has an education program of reduce, reuse, recycle.

In the long term, I feel, Council could further play our part in working towards a certain percentage of recycled material purchased to be used in Council's Capital works. At the moment with local recycling businesses being established to recycle local material, and allowing for this material to come onto the market, I feel more information needs to be available to be able to make such a commitment.

In supporting this motion, measuring the amount of recycled material Council uses is a way of supporting "reduce, reuse, recycle".

3. OFFICER'S RESPONSE – John McArthur, Manager Waste and Emergency Management

To provide additional context over and above that provided in the background to the motion on notice, the following examples of actions utilising recycled material in Council's Capital Works Program are provided:

- Use of 10 - 20% of Recycled Asphalt Product in reseal program – this equates to 385 Tonnes of recycled asphalt
- Reconstruction of Heathfield Road – 425 Tonnes of recycled asphalt used
- Recycled Bollards to control traffic flow movements – off street car park Aldgate
- Recycled concrete as footpath base and maintenance (current quantities unknown)

Noting the proactive actions taken thus far by Council's Infrastructure and Operations Directorate relating to the use of recycled material in the Capital Works Program the motion on notice is supported.

Measuring and reporting on the use of recycled material in Council's Capital Works Program will formalise and establish a baseline as a reference for future decision making. For example, the baseline information obtained could be used to establish an aspirational target with a view to ultimately supporting local and national recycling markets to maximise environmental outcomes.

To ensure a holistic approach is undertaken across Council it is proposed to consider the use of recycled material in Council's Capital Works Programs concurrently with the delivery of the Chief Executive Officers recently adopted Recycling Performance Target:

“Develop a strategy, to Council's satisfaction, that considers approaches, including long term approaches, for the future collection and processing of recyclables with a view to maximising environmental outcomes, reduce contamination rates and provide a cost effective kerbside recycling service.”

Developing these actions simultaneously will ensure both are considered within a broader context of Council's operations which is particularly important in relation to any additional resources that may be required to deliver environmental outcomes.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 11.3 Motion on Notice

Originating from: Cr Malcolm Herrmann

Subject: Magarey Road Mt Torrens

1. MOTION

That, before the commencement of the bushfire season, the CEO, in consultation with residents and the Bushfire Advisory Committee, provides a report on possibilities to improve access by fire-fighting appliances and other emergency vehicles to properties on Magarey Road, Mount Torrens.

2. BACKGROUND

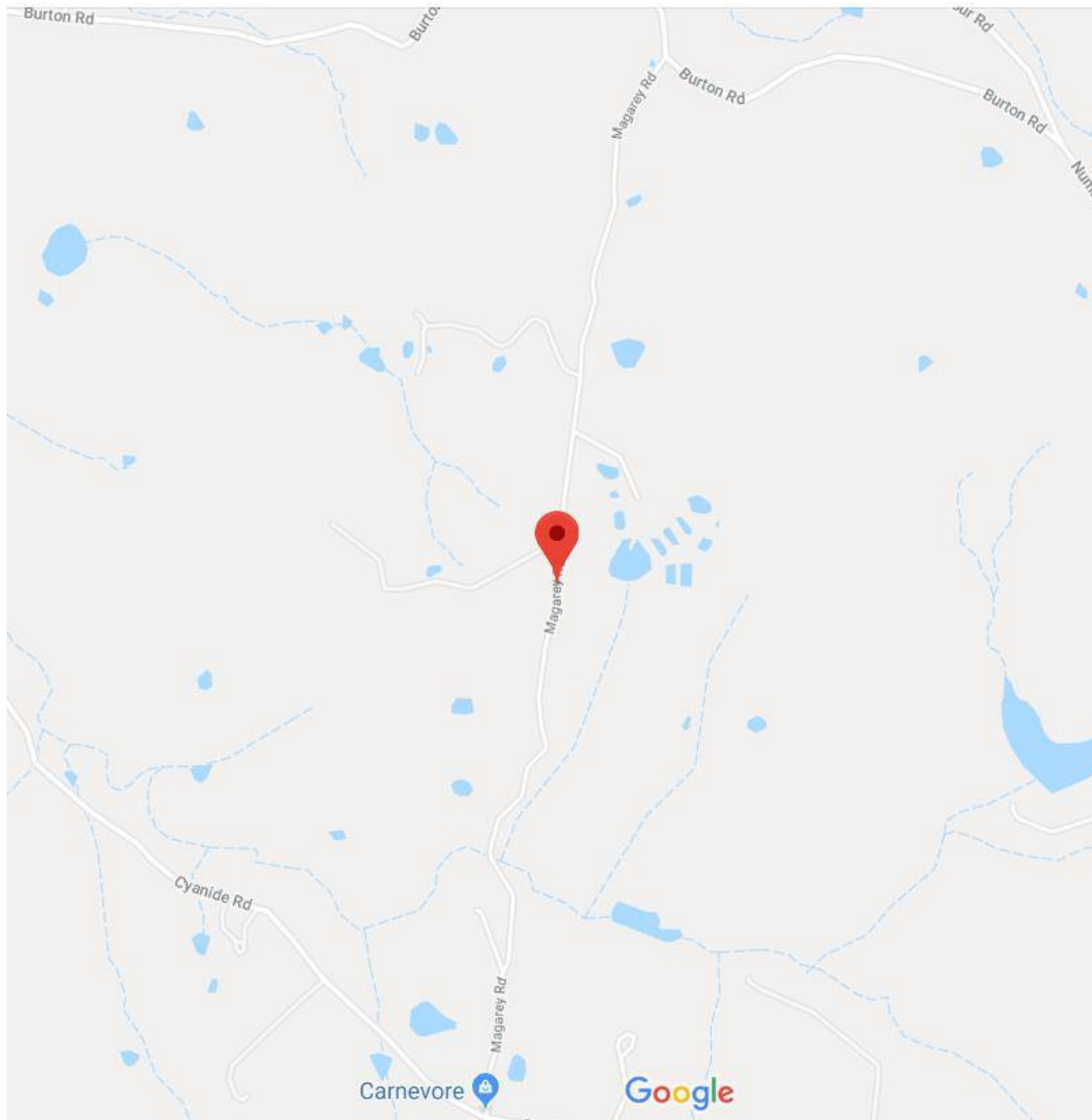
Magarey Road is an unsealed Road which runs in a generally north/south direction between Burton and Cyanide roads Mount Torrens (see attached map).

Whilst each end of the road is sign posted “No Through Road”, there is a part which runs through a creek bed which makes the road impassable - hence the signs. Residents are aware of this and use the appropriate exits.

However, it has been pointed out that, should visiting fire appliance drivers attempt to use the wrong end of the road to gain access, they would have to turn around (which in itself could prove difficult) and enter from the other end thus wasting valuable time. Staff have also been advised that ambulances services have experienced this.

One solution offered was to rename Magarey Road as Magarey Road North and Magarey Road South.

Council took this action some years ago when it renamed Sires Road Kersbrook as Sires Road East and Sires Road West.



3. OFFICER'S RESPONSE – David Collins, Manager Sustainable Assets

The northern open section of Magarey Road is approximately 1100 metres in length and contains three properties. The southern open section of Magarey Road is approximately 300 metres in length and contains one residence. The approximate distance of the closed section of Magarey Road is 900 metres measured as the crow flies. In total Magarey Road is approximately 2300 metres in length.

The approximate additional distance a vehicle would have to travel if needed to travel to the other end of Magarey Road is 7.3 kilometres.

If resolved, Engineering and Fire Prevention Staff would undertake an investigation of the accessibility of Magarey Road to residents and emergency services. This investigation would include seeking advice from Magarey Road residents and the Bushfire Advisory Group. On completion of the investigation a report would then be provided to Council, identifying the outcome of the investigation undertaken and any recommended options.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 July 2018
AGENDA BUSINESS ITEM**

Item: 12.1

Originating Officer: Dennis Rainsford, Team Leader Regulatory Services

Responsible Director: Marc Salver, Director Development & Regulatory Services

Subject: Making and Adoption of By-Laws (waiting on outcome from Special Meeting 17/7)

For: Decision

SUMMARY

Section 246 of the *Local Government Act 1999* (the Act) allows councils to make By-laws. By-laws are local laws designed for the good rule and government of council areas, and for the convenience, comfort and safety of the community.

By-laws remain in force for a period of seven years. Adelaide Hills Council's current suite of By-laws expires on 1 January 2019 and, therefore, there is a need to review and adopt new By-laws for the subsequent seven years. Draft By-laws have been developed to replace the existing By-laws. When replacing By-Laws agency and public consultation is required by the Act.

Consultation was conducted on the following draft suite of By-Laws from 18 May 2018 to 9 June 2018:

- No. 1 – Permits and Penalties
- No. 2 – Moveable Signs
- No. 3 – Local Government Land
- No. 4 – Roads
- No. 5 – Dogs
- No. 6 – Cats

The purpose of this report is to seek Council's approval of the proposed draft By-laws in order that they come into effect on 1 January 2019 when the current By-laws expire.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
2. In exercise of the powers contained in section 246 of the *Local Government Act 1999*, having satisfied the consultation requirements of the Act and having regard to the submissions received from the public, the National Competition Policy Report, the Certificates of Validity provided by the Council's legal practitioner and the comments from the Dog and Cat Management Board in relation to By-laws number 5 and 6, the majority of Council in the presence of at least two thirds of its members, hereby makes and passes the following By-laws as attached and marked as *Appendices 1 to 6* of this report
3. That the Chief Executive officer be authorised to undertake all steps necessary to finalise the By-law review process and to give effect to the newly adopted By-laws.

1. GOVERNANCE

➤ Strategic Management Plan/Council Policy

Goal 3	Places for people and nature
Strategy 3.6	We will reduce the impact of cats on native flora and fauna

Proposed amendments to the draft Cats By-law will assist to reduce the impact of cats on native flora and fauna.

Goal 2	Connect
Strategy 2.5	We will support opportunities for learning in our community to increase the confidence, wellbeing and health of our citizens

By endorsing the draft By-laws Council will ensure community views have been considered in making a final decision in this regard.

Effective By-laws are essential to ensure the good governance of Council's area and the comfort, convenience and safety of the community.

➤ Legal Implications

Chapter 12, Part 1 of the Act provides councils with the ability to make By-laws for the benefit of the community as a whole. It is noted that councils are not legally obliged to have By-laws in place. However, as By-laws are in place for the benefit of the community, the adoption of By-laws is considered essential for good governance of community and council owned land within the Adelaide Hills Council.

The Act outlines the scope of Council's By-law making powers and prescribes the procedure that Council must observe when making By-laws. Any By-laws made by Council must comply with the rules and principles contained in Sections 247 and 248 of the Act.

The *Dog and Cat Management Act 1995* requires By-laws relating to dogs and cats be referred to the Dog and Cat Management Board for comment prior to being made by Council.

➤ **Risk Management Implications**

Council resolving to endorse the draft By-laws will assist in mitigating the risk of:

Council not having By-Laws in place leading to less desirable community outcomes and delays in the By-law review process.

Inherent Risk	Residual Risk	Target Risk
Extreme (4A)	Extreme (3A)	Low

The report recommendation results in the creation of new By-laws to achieve community outcomes in specific service areas. Community consultation occurred from 18 May 2018 through to 9 June 2018. Resolving to endorse the draft By-laws ensures compliance with Council's obligations under the Act.

➤ **Financial and Resource Implications**

The majority of By-law education, encouragement and enforcement is covered by existing staff resources. The introduction of a cats registration scheme, similar to that in place for dogs, is a mechanism for obtaining revenue to fund and resource increased and meaningful cat management activities.

The draft Cats By-law includes the provision for Council to introduce, by resolution, a cat registration scheme at any time in the future.

➤ **Customer Service and Community/Cultural Implications**

By endorsing the By-laws Council will ensure local laws are in place designed to provide for the good rule and government of Council areas, and for the convenience, comfort and safety of the community.

➤ **Environmental Implications**

The Local Government Land, Dogs and Cats By-laws do have provisions that have beneficial environmental outcomes.

➤ **Engagement/Consultation conducted with Council Committee, Regional Subsidiary, Advisory Group, the Administration and Community**

Council Committees: Nil

Council Workshops: 23 January 2018 Council meeting (By-Law Review Schedule)
13 February 2018 (By-law review process)
13 March 2018 (By-law content)
10 April 2018 (By-law content discussion)

Advisory Groups:	Biodiversity Advisory Group. Feedback from the Biodiversity Advisory Group was reported to Council in the 'By-Law Consultation Results' report presented at the Special Council meeting held 17 July 2018.
Administration:	Director Development & Regulatory Services Executive Manager Governance and Performance Manager Property Services Manager Development Services Manager Civil Services Manager Open Space Team Leader Regulatory Services
Community:	Community and agency consultation was undertaken from 18 May 2018 to 9 June 2018. The consultation was undertaken in two stages, the first of which occurred in developing Council's <i>Dog and Cat Animal Management Plan 2018-2022</i> . The feedback received has been used to assist in the development of the draft By-laws. The second stage occurred most recently when the draft By-laws were consulted on.

2. BACKGROUND

Council's current By-laws were made by resolution at the 23 August 2011 Council meeting and expire on 1 January 2019 pursuant to the Act. Failure to endorse the new draft By-laws may result in Council not having By-laws in place after 1 January 2019.

A report tabled at the 24 April 2018 Council meeting outlined the draft suite of By-laws proposed for public consultation. At that meeting Council resolved the following:

12.1. By-Law Making

Cr Jan Loveday declared a Perceived Conflict of Interest at Agenda Item 5 'Declaration of Interest by Members of the Council' in relation to Item 12.1. Cr Jan Loveday remained in the chamber and voted.

Cimon Burke, Kelledy Jones Lawyers, answered Council Members' queries regarding the legislative impact of various By-law scenarios.

Moved Cr Lynton Vonow
S/- Cr Kirrilee Boyd

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1. That the report be received and noted.
2. The draft By-laws contained within Appendix 1 through to Appendix 6 (inclusive) of this report be released for community consultation for a period of at least twenty one clear days.
3. The draft Dogs By-law No. 5 and draft Cats By-law No. 6 be referred to the Dog and Cat Management Board at least 21 days before being released for community consultation.
4. To authorise the Chief Executive Officer to make any minor changes to the draft By-laws that the Chief Executive Officer deems fit prior to the agency referral and commencement of community consultation.
5. That the Administration undertakes an analysis of introducing a cat registration scheme including options and potential fees and a further report in this regard be provided to Council in July 2018.
6. That Clause 9.1 of the draft Cats By-law be amended to read 'As of 1 January 2022 the owner or person responsible for the control of a cat must take steps to ensure that the cat is confined to the premises occupied by that person at all times', and that Clause 9.2 be removed.

AMENDMENT

Moved Cr Linda Green
S/- Cr John Kemp

6. That Clause 9.1 of the draft Cats By-law be amended to read 'As of 1 January 2022 the owner or person responsible for the control of a cat must take steps to ensure that the cat is confined to the premises occupied by that person at all times, unless the cat is under effective control by physical restraint', and that Clause 9.2 be removed.

Carried Unanimously

Leave of the meeting was granted for Cr John Kemp to speak again to the motion.

Motion as Amended:

1. That the report be received and noted.
2. The draft By-laws contained within Appendix 1 through to Appendix 6 (inclusive) of this report be released for community consultation for a period of at least twenty one clear days.
3. The draft Dogs By-law No. 5 and draft Cats By-law No. 6 be referred to the Dog and Cat Management Board at least 21 days before being released for community consultation.
4. To authorise the Chief Executive Officer to make any minor changes to the draft By-laws that the Chief Executive Officer deems fit prior to the agency referral and commencement of community consultation.
5. That the Administration undertakes an analysis of introducing a cat registration scheme including options and potential fees and a further report in this regard be provided to Council in July 2018.
6. That Clause 9.1 of the draft Cats By-law be amended to read 'As of 1 January 2022 the owner or person responsible for the control of a cat must take steps to ensure that the cat is confined to the premises occupied by that person at all times, unless the cat is under effective control by physical restraint', and that Clause 9.2 be removed.

Carried Unanimously

Relevant to the By-law review is Council's *Dog and Cat Animal Management Plan 2018-2022* (DCAMP) adopted by Council at the 24 October 2017. During the review of DCAMP there was support within the community for increased cat control. In response to this feedback, the DCAMP adopted by Council included a strategy to explore tighter cat controls such as possible confinement and registration of cats in the forthcoming By-law making process.

In response to resolution 2 above the draft By-laws were released for community consultation between 18 May and 9 June 2018. The feedback received from the By-law consultation was reported to Council in the 'By-Law Consultation Results' information report presented at the Special Council meeting held 17 July 2018. As a result of the 17 July report Council resolved the following:

6.2. By-law Consultation Submissions



Moved Cr Kemp
S/- Cr Nelson

154/18



Council resolves:

- 1. That the report be received and noted**
- 2. Notes that the comments and results of the Agency and Community Consultation have been considered in finalising the Draft By-laws which will be reported to Council to consider for adoption at its 24 July 2018 Ordinary meeting.**

	Carried Unanimously
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Relevant to the draft Cats By-law Council also considered a 'Cat Registration' analysis information report at the Special Council meeting held 17 July 2018 in response to resolution 5 from the 24 April 2018 Council meeting. In response to the Cat Registration analysis report Council resolved the following:

6.3. Cat Registration Scheme

Moved Cr Kemp
S/- Cr Bailey

155/18

Council resolves that the report be received and noted.

	Carried Unanimously
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In accordance with the objectives of DCAMP and the community feedback received during the consultation phase of the DCAMP, along with feedback received during the recent By-law consultation, provisions have been included in the draft Cats By-law in relation to nuisance, confinement and registration. This change, along with proposed changes to the other By-laws is discussed in more detail below.

3. ANALYSIS

The overarching intent of Council's suite of By-laws is to provide for the good rule and government of the Council area. The By-laws have the following objectives in common:

- Protect the convenience, comfort and safety of members of the public
- Enhance the amenity of an area
- Prevent nuisance, interference and damage.

In addition to the above, each By-law contains subject specific objectives relevant to each By-law such as encouraging responsible dog ownership within the Dogs By-law and preventing damage to buildings and structures on roads within the Roads By-law.

The enforcement of any breach of the By-laws is at Council's discretion. If the conduct giving rise to the offence occurred with mitigating circumstances, then this may support a decision not to take any enforcement action or, to simply issue a warning or use the opportunity to educate and encourage the persons involved.

Currently, Council has in place a By-law to manage and regulate the prescribed uses of bird scaring devices in the Council area. The regulation of bird scaring devices is now specifically included within the *Local Nuisance and Litter Control Act 2016* and, therefore, a By-law relating to this activity is no longer required.

In regard to the proposed amendments to each of Council's remaining By-laws, all have undergone legal review resulting in amendments being made relating to legislative changes. Some formatting and administrative changes have also been made. In addition to these legislative and formatting changes, a number of key changes are being proposed to each By-law.

Public consultation on the entire suite of draft By-Laws commenced on 18 May 2018 and continued until 9 June 2018. Copies of the draft By-laws were available online and in all Council libraries and community centres. Interested people were invited to make written submissions on the draft By-laws or provide feedback online through the online portal.

The consultation process included three drop in sessions:

- Saturday 19 May 2018 at Woodside Library 10am to 12pm
- Thursday 24 May 2018 at Stirling Library 6.00pm to 7.30pm
- Thursday 7 June 2018 at Stirling Library 6.00pm to 7.30pm.

Overall, the drop in sessions were not well attended with only the 7 June 2018 session having 15 people attend.

The feedback received on all By-laws was as follows:

- No. 1 – Permits and Penalties - 5 responses
- No. 2 – Moveable Signs - 18 responses
- No. 3 – Local Government Land - 8 responses
- No. 4 – Roads - 10 responses
- No. 5 – Dogs - 40 responses
- No. 6 – Cats - 123 responses

A summary of the consultation feedback was outlined in a report presented to Council at the Special Meeting held on 17 July 2018. A brief description of the purpose of each of the By-laws and a summary of the consultation outcomes are provided below.

A copy of draft By-law No. 5 - Dogs and By-law No. 6 - Cats was also provided to the Dog and Cat Management Board for feedback. The Board provided some minor drafting amendments. However, none of these changes affects the substance of the aforementioned By-laws.

Other than the minor draft amendments mentioned above, there have been no alterations to the draft By-Laws as presented to Council at the 24 April 2018 meeting.

By-law No. 1 - Permits and Penalties By-law

Purpose

The Permits and Penalties By-law (refer to **Appendix 1**) provides a system for the issuing of permits for those activities within the suite of By-laws that require permission, and also provides for the enforcement of breaches of Council's By-laws and the fixing of penalties.

Proposed Key Changes

- An expiation fee clause has been included. The expiation fee for breaches of any Council By-law is fixed as per the fee prescribed by the Act. Inclusion of the expiation fee clause in the By-law provides Council with flexibility to vary the fee by resolution of the Council. Under the Act, any expiation fee set by the Council cannot exceed \$187.50. Council's current By-law expiation fee is at the maximum level and therefore the fee can only be varied downwards.
- Clause 7.2 of the By-law clarifies that permission of the Council under a By-law may be given by way of a permit (ie to an individual) or by way of the Council adopting a policy that applies generally for this purpose.

Once the By-laws have been formally adopted, Council is able to delegate the power to grant, revoke or vary permission to undertake the various activities regulated under its By-laws to Council staff or may otherwise authorise persons (by way of resolution) to exercise these powers.

This approach is recommended to increase operational efficiency and avoids the need for every By-law permit application to be determined by Council. A recommendation to this effect will be included in the final report to be presented to Council seeking adoption of the By-laws in July 2018.

Consultation Feedback

There were five responses received and comments related to private property matters beyond the scope of the By-Law, comments supporting the By-Law and one comment referring to the By-Law as regulation that is not required.

By-law No. 2 – Moveable Signs

Purpose

The purpose of the Moveable Signs By-law (*refer **Appendix 2***) is to set standards for moveable signs.

The Moveable Signs By-law gives blanket permission for the placement of moveable signs that comply with the requirements of the By-law. The Council can still give permission for the placement of a sign contrary to a requirement of the By-law (e.g. allow a business to display more than one sign), where it is satisfied that such permission is appropriate having regard to the location in which the sign is proposed to be placed.

Proposed Key Changes

- Some additional definitions have been included in Clause 6 to assist the public in understanding the By-law and the Council in enforcing it.
- Clause 11.3 (showing as deleted Clause 10.1 in the By-law) has been removed because it is redundant. This is because:
 - former Clause 10.1.1 is superfluous as the Council cannot adopt a By-law that is inconsistent with existing requirements at law;
 - former Clause 10.1.2 relates to a sign permanently attached to a vehicle, such a sign forms part of the vehicle and is not within the meaning of a ‘moveable sign’ under the Act;
 - former Clause 10.1.3 is already covered by Clause 12.3 of the By-law, which confirms that Council may give permission for the display of a moveable sign contrary to the By-law.

To assist in enforcing clauses relating to moveable signs on vehicles, a new clause has been included to enable regulatory staff to pursue either the owner or driver (if known) of a vehicle that is in contravention of this clause. The same clause has also been included in By-law numbers 3 and 4 since these By-laws also include provisions creating offences involving vehicles.

Consultation Feedback

There were 18 responses received. Comments received supported the By-Law, other comments related to the condition of signage, numbers of signs, placement and location of signs.

By-law No. 3 – Local Government Land

Purpose

The purpose of the Local Government Land By-law (*refer **Appendix 3***) is to regulate the access to and use of Council land (excluding roads and certain public places). The By-law lists those activities that require Council permission (Section 9) and those activities that are prohibited (Section 10).

Proposed Key Changes

Clauses 5.3 and 5.4 list those provisions of the By-law that only apply to areas that the Council has either resolved they apply, or don't apply (similar clauses are also contained in By-law numbers 4 and 5). These provisions are drafted this way to avoid a 'blanket' application (which may be unacceptable to Parliament) and to provide flexibility for the Council so that it has the freedom, at any time, to determine the areas (if any) in respect of which the provisions will (or won't) apply, without the need to amend the By-law itself.

Clause 9.24.4 relating to golf is an amended version of the old Clause 9.23.3 and allows golf to be played without permission on a properly constructed golf course or practice fairway and in accordance with any conditions determined by the Council.

Two new Clauses 9.24.5 and 9.26.2 have been included to allow Council, if required, to resolve that permission is required to play or practice any game or sport, or fly or operate a model or drone aircraft, boat or model or remote control vehicle on specific areas of Council land.

A new clause has been included in relation to rubbish and rubbish dumps effectively making it an offence to interfere with waste management infrastructure and waste material. Two new Clauses 9.34.2 and 9.34.3 have been included in relation to preventing persons from carrying on any business or to set up any structures or equipment for buying and selling of goods on Council land without permission. Note that this By-law does not refer to mobile food trucks/vans as they are covered by separate legislation.

A new provision has been included in the By-law in relation to wheeled recreational devices. A wheeled recreational device means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play. The definition of wheeled recreational devices includes roller-blades, roller-skates, skateboards, scooters, unicycles or similar wheeled devices. Bicycles are not classed as wheeled recreational devices in this instance. This new provision would require Council permission to use a wheeled recreational device only in those areas if and where Council resolved that the clause applies.

The clause relating to 'Interference with Land' has been moved from Section 10, as a prohibited activity, and to Section 9 as an activity requiring permission. This adjustment has been made as the actions listed in the clause are activities that the community may need to undertake from time to time and therefore it is appropriate that these activities are not prohibited.

As a result of the introduction of the *Local Nuisance and Litter Control Act 2015* the 'litter', 'waste' and bill posting provisions from the Local Government Land By-law have been removed or refined. These changes were necessary to avoid duplication with the *Local Nuisance and Litter Control Act 2015* and inconsistency with this legislation that would be contrary to the rules and principles that apply to the making of By-laws under the Act.

Consultation Feedback

There were eight responses received. Responses were supportive while others related to issues outside the scope of the By-Law.

By-law No. 4 – Roads

Purpose

The Roads By-law (refer to **Appendix 4**) provides for the management, control and regulation of the prescribed uses of roads.

Proposed Key Changes

Under the existing Roads By-law the use of a caravan or motorhome on a road to sleep overnight is an activity requiring permission from Council. A person is otherwise permitted to park a caravan or motorhome on a road as they are 'vehicles' for the purposes of the *Road Traffic Act 1961*. As a result, this means that the parking of a caravan/motorhome on a road does not give rise to an offence under the By-law. For this reason the definition relating to camping has been amended in the proposed Roads By-law to provide clarity that the use of caravans and motorhomes can be parked lawfully on a road in accordance with the *Road Traffic Act 1961*.

The camping clause has been refined to provide Council with greater powers to more effectively regulate camping on roads by inserting provisions to give Council the flexibility to resolve that permission is not required to camp on certain roads.

A new advertising clause is included in the Roads By-law to regulate the placement of any sign on a road that is not a moveable sign displayed pursuant with Council's Moveable Signs By-law. This would require any person wanting to place a sign or poster on a road to obtain Council's permission. However, as outlined in the section relating to the Permit and Penalties By-law, it is intended to recommend to Council to adopt a general policy to permit activities, with conditions, such as the placement of advertising signs.

A provision for Preaching has been included where it is a requirement to seek Council permission to preach, harangue, solicit or canvas for religious or charitable purposes. An existing clause for soliciting has been modified to broaden the scope so that any activity that requests, receives or does anything to indicate a desire for a donation of money, or any other thing, requires Council's permission.

Consistent with the Local Government Land By-law a new clause to prevent the disposal of domestic, commercial or trade waste into Council street litter bins has been included.

Consultation Feedback

There were ten responses received. Responses were supportive while the majority related to issues outside the scope of the By-Law. For example, vehicles parking on footpaths (Australian Road Rules), cyclists and road side drainage.

By-law No. 5 – Dogs

Purpose

The Local Government Dogs By-law (refer to **Appendix 5**) is to provide for the control and management of dogs in the Council area.

Proposed Key Changes

Clause 8 has been updated so that it serves to reinforce a person's obligation under the *Dog and Cat Management Act 1995* to ensure that when exercising a dog in a park, the dog is under effective control (ie which may or may not be by means of physical restraint).

The term 'assistance dog' has been included as a result of Parliament having passed the *Dog and Cat Management (Miscellaneous) Amendment Act 2016*. The definition of 'working dog' has been updated so it is consistent with the definition now contained in the *Dog and Cat Management Act 1995*.

A new provision has been included in the Dogs By-law in response to smaller property sizes that are appearing in some areas of the Council such as apartments, flats and townhouses. This proposed provision restricts the number of dogs allowed on these types of properties to one, without Council permission. The provision has been included to minimise the potential for nuisance from dogs housed on small allotments, or within apartments or flats.

The Dogs By-law includes a provision to enable Council to issue an exemption from compliance with any requirements of the By-law should it see fit to do so. For example, if Council wished to exempt the occupier of a small dwelling from compliance with the one dog limit.

Consultation Feedback

There were 40 responses received. Responses were generally supportive of the By-Law. There were a variety of comments regarding the number of dogs allowed on a property, some for and some against. There were also a number of comments regarding off-leash areas and the need to provide more off-leash areas.

By-law No. 6 – Cats

Purpose

The Local Government Cats By-law (refer to **Appendix 6**) is to provide for the control and management of cats in the Council area.

The extent of regulation relating to cat management provided in the existing Cats By-law is restricted to limiting the number of cats on a property without permission to two. In assessing applications for additional cats over and above the prescribed amount, the existing By-law requires the administration to consider whether a nuisance would be caused by the additional cat(s).

In considering the proposed change outlined below, Council needs to note that the success or otherwise of any cat management regulation put in place is dependent upon Council regulatory staff being able to catch and then identify an offending cat. Whilst the introduction of mandatory microchipping and the Dogs and Cats Online (DACO) registration system will assist with cat identification, the catching of cats will be an ongoing challenge given their characteristics as compared to dogs that are relatively easy (in most cases) to seize.

For the above reason, it is considered paramount that education and encouragement is the primary mechanism for achieving Council's cat management objectives ahead of enforcement activity. This will assist to ensure voluntary compliance which is preferable and more effective and efficient than forced compliance through regulation and enforcement.

Proposed Key Changes

The requirement for cats to be desexed in relation to applications for keeping more than two cats has been removed from the By-law to avoid any future inconsistency with the mandatory desexing provisions under the *Dog and Cat Management Act 1999*.

As with the Dogs By-law, a provision has been included in the Cats By-law to enable the Council to issue an exemption from compliance with any requirements of the By-law.

In response to feedback received during the community engagement undertaken when developing Council's Dog and Cat Animal Management Plan 2018-2022, the knowledge of the damage cats cause to the environment, and in particular native fauna, the following changes are proposed to the Cats By-law:

A cat nuisance clause has been included and proposed to be effective in the new By-law from 1 January 2019. The nuisance clause included in the draft By-law is based on the definition of nuisance in the current By-law (that currently only applies to assessment for additional cats) with additional provisions added in relation to native flora and fauna.

Subject to Council ultimately adopting a Cats By-law that includes the nuisance clause as proposed, it is anticipated there will be an increased community demand to enforce the new provisions. Council's Animal Management area is currently resourced for dog management activities only, funded through dog registrations fees, and has limited capacity to undertake any meaningful cat management activities, including education and enforcement of the proposed nuisance provisions, within the current budget allocation.

The proposed Cats By-law also includes provisions for Council to introduce cat confinement from 1 January 2022.

It is considered that not introducing cat confinement from 1 January 2019 when the By-law comes into effect, if adopted by Council, provides an opportunity for community education, and the proposed nuisance provisions to produce beneficial change in cat management practices undertaken by Council and the community.

Consultation Feedback

There were 123 responses received. Responses were generally supportive of the By-law with 87 comments in favour and 36 comments against the introduction of the By-law.

Referral to Legislative Review Committee

Once the By-laws have been endorsed by Council and signed by the Chief Executive, they must be submitted to the Legislative Review Committee.

Publication & Commencement

If adopted as presented, the By-laws must be published in the Government Gazette. A notice of the making of the By-laws must also be published in the local newspaper in accordance with Section 249(7) of the *Local government Act 1999*.

Once adopted, the By-laws will commence operation four months from the date that they are published in the Gazette. This will need to occur prior to the 1 January 2019 commencement date when the current By-laws will expire.

4. OPTIONS

Council has the following options:

- I. To resolve that the draft By-laws contained within **Appendices 1 to 6** be adopted. The By-laws will then be advertised in the Government Gazette in accordance with Section 249(7) of the *Local Government Act 1999*. The By-laws will also be sent to the Legislative Review Committee as required. This option is recommended as it meets statutory requirements.
- II. To resolve that the draft By-laws contained in **Appendices 1 to 6** be amended. This option is not recommended as any substantial changes other than grammatical or formatting will require further community consultation before adoption.
- III. To resolve that the draft By-laws contained within **Appendices 1 to 6** not be adopted. This option is not recommended as Council will not have a new suite of By-laws in place when the current By-laws expire on 1 January 2019.

In considering either Options II or III, Council needs to be mindful of the timeline required to have in place adopted By-laws. Any significant delays to this process will potentially result in a period where there are no By-laws in effect for the Adelaide Hills Council beyond 1 January 2019.

5. APPENDICES

- (1) Draft By-law 1 Permits and Penalties
- (2) Draft By-law 2 Moveable Signs
- (3) Draft By-law 3 Local Government Land
- (4) Draft By-law 4 Roads
- (5) Draft By-law 5 Dogs
- (6) Draft By-law 6 Cats

Appendix 1

Draft By-law 1 Permits and Penalties for Adoption

**ADELAIDE HILLS COUNCIL****PERMITS AND PENALTIES BY-LAW 2018****By-law No. 1 of 2018**

This By-law is to create a permit system for Council By-laws, to fix maximum and continuing penalties for offences, and to clarify the construction of Council By-laws.

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PART 1 -PRELIMINARY

1. Title

This By-law may be cited as the *Permits and Penalties By-law 2018* and is By-law No. 1 of the Adelaide Hills Council.

2. Authorising law

This By-law is made under section 246 of the Act.

3. Purpose

The objectives of this By-law are to provide for the good rule and government of the Council area, and for the convenience, comfort and safety of its inhabitants by:

- 3.1 creating a permit system for Council By-laws;
- 3.2 providing for the enforcement of breaches of Council By-laws and fixing penalties; and
- 3.3 clarifying the construction of Council By-laws.

4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹:

By-Law No.1 – Permits and Penalties 2010.²

- 4.2 This By-law will expire on 1st January 2026.³

Note

- 1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

This By-law applies throughout the Council's area.

6. Interpretation

In this By-law, unless the contrary intention appears;

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **Council** means the Adelaide Hills Council; and
- 6.3 **person** includes a natural person, a body corporate, an incorporated association or an unincorporated association a body corporate.

Note-

Section 14 of the Acts *Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Act.

7. Construction of By-laws generally

- 7.1 Every By-law of the Council is subject to any Act of Parliament and Regulations made thereunder.
- 7.2 In any By-law of the Council, unless the contrary intention appears **permission** means permission of the Council, or such other person as the Council may authorise, granted in writing (including, by way of the Council adopting a policy of general application for this purpose) prior to the act, event or activity to which it relates.

PART 2 – PERMITS AND PENALTIES**8. Permits**

- 8.1 Where a By-law requires that permission be obtained any person seeking the grant of permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.
- 8.2 The Council (or such other person as the Council may authorise) may attach such conditions as it thinks fit to a grant of permission and may vary or revoke such conditions or impose new conditions by notice in writing to the person granted permission.
- 8.3 A person granted permission must comply with every such condition. Failure to do so is an offence (to the extent that it gives rise to a contravention of a By-law).
- 8.4 The Council (or such other person authorised by the Council) may suspend or revoke a grant of permission at any time by notice in writing to the person granted permission.

9. Offences and Penalties

- 9.1 A person who commits a breach of any By-law of the Council is guilty of an offence and may be liable to pay:
- 9.1.1 a maximum penalty being the maximum penalty referred to in the Act that may be fixed by a By-law for any breach of a By-law; or
- 9.1.2 subject to any resolution of the Council to the contrary, the expiation fee fixed by the Act for alleged offences against By-laws, being a fee equivalent to 25 per cent of the maximum penalty fixed for any breach of a By-law.
- 9.2 A person who commits a breach of a By-law of the Council of a continuing nature is guilty of an offence and, in addition to any other penalty that may be imposed, is liable to a further penalty for every day on which the offence continues, such penalty being the maximum amount referred to in the Act that may be fixed by a By-law for a breach of a By-law of a continuing nature.

Note-

The maximum penalty for a breach of a By-law is currently \$750.00, and the maximum penalty for every day in which a breach of a continuing nature continues is currently \$50.00 – see section 246(3)(g) of the Act.

Pursuant to section 246(5) of the Act expiation fees may be fixed for alleged offences against by-laws either by a by-law or by resolution of the Council. However, an expiation fee fixed by the Council cannot exceed 25 per cent of the maximum penalty for the offence to which it relates.

This By-law was duly made and passed at a meeting of the Adelaide Hills Council held on **INSERT DATE** 2018 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
ANDREW AITKEN
Chief Executive Officer

Appendix 2

Draft By-law 2 Moveable Signs for Adoption



ADELAIDE HILLS COUNCIL

MOVEABLE SIGNS BY-LAW 2018

By-law No. 2 of 2018

A By-law to set standards for moveable signs on roads and to provide conditions for the placement of such signs for the purpose of protecting visual amenity and public safety.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Moveable Signs By-law 2018* and is By-law No. 2 of the Adelaide Hills Council.

2. Authorising law

This By-law is made under sections 226, 238, 239 and 246 of the Act.

3. Purpose

The objectives of this By-law are to set standards for moveable signs on roads:

- 3.1 to protect the comfort and safety of road users and members of the public;
- 3.2 to enhance the amenity of roads and surrounding parts of the Council area;
- 3.3 to prevent nuisances occurring on roads;
- 3.4 to prevent unreasonable interference with the use of a road; and
- 3.5 for the good rule and government of the Council area.

4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation:

By-Law No.2 - Moveable Signs 2011.²

- 4.2 This By-law will expire on 1 January 2026.³

NOTE -

- 1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2018*.
- 5.2 This By-law applies throughout the Council's area and is subject to the exemptions set out in clause 12.

6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **authorised person** means a person appointed as an authorised person pursuant to section 260 of the Act;
- 6.3 **banner** means a slip of cloth, plastic or other material hung up or carried on a pole, fence or other structure;
- 6.4 **business premises** means premises from which a business is being conducted excluding any place where a home activity (as defined in the *Development Regulations 2008*) is being conducted;
- 6.5 **Council** means the Adelaide Hills Council;
- 6.6 **footpath area** means:
- 6.6.1 that part of a road between the property boundary of the road and the edge of the carriageway on the same side as that boundary;
- 6.6.2 a footway, lane or other place made or constructed for the use of pedestrians and not for the use of vehicles;
- 6.7 **Local Government land** has the same meaning as in the Act;
- 6.8 **moveable sign** has the same meaning as in the Act;
- 6.9 **road** has the same meaning as in the Act; and
- 6.10 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

NOTE-

Section 14 of the Acts *Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

PART 2 – MOVEABLE SIGNS

7. Construction and design

A moveable sign must:

- 7.1 be of kind known as an 'A' frame or sandwich board sign, an inverted 'T' sign, a flat sign or, with the permission of the Council (including as may be set out in a Council policy of general application from time to time), a sign of some other kind;
- 7.2 be designed, constructed and maintained in good quality and condition;
- 7.3 be of strong construction and sufficiently stable or securely fixed so as to keep its position in any weather conditions;
- 7.4 have no sharp or jagged edges or corners;
- 7.5 not be unsightly or offensive in appearance or content;
- 7.6 be constructed of timber, metal, plastic or plastic coated cardboard, or a mixture of such materials;

- 7.7 not exceed 900mm in height, 600mm in width and 600mm in depth;
- 7.8 in the case of an 'A' frame or sandwich board sign:
 - 7.8.1 be hinged or joined at the top;
 - 7.8.2 be of such construction that its sides are securely fixed or locked in position when erected; and
 - 7.8.3 not have a base area in excess of 0.6 square metres; and
- 7.9 in the case of an inverted 'T' sign, not contain struts or members that run between the display area and the base of the sign.

8. Placement

A moveable sign must not be:

- 8.1 placed on any part of a road other than the footpath area;
- 8.2 placed on a footpath that is less than 2.5 metres wide;
- 8.3 tied, fixed or attached to, or placed closer than 2 metres from another structure, object (including another moveable sign), tree, bush or plant;
- 8.4 placed on a designated parking area or within 1 metre of an entrance to any business or other premises;
- 8.5 placed on the sealed part of a footpath if there is an unsealed part on which the sign can be placed in accordance with this By-law;
- 8.6 placed so as to interfere with the reasonable movement of persons or vehicles using the footpath or road in the vicinity of where the moveable sign is placed;
- 8.7 placed closer than 1.5 metres to the kerb (or, if there is no kerb, to the edge of the carriageway of a road or the shoulder of the road, whichever is the greater);
- 8.8 placed on a landscaped area, other than landscaping that comprises only lawn;
- 8.9 placed within 10 metres of an intersection of two or more roads;
- 8.10 placed on a footpath area with a minimum height clearance from a structure above it of less than 2 metres;
- 8.11 displayed during the hours of darkness unless it is clearly lit; or
- 8.12 be placed in such a position or in such circumstances that:
 - 8.12.1 it compromises the safety of any person or places a person at risk of harm; or
 - 8.12.2 it obstructs or impedes (or would be likely to obstruct or impede) a vehicle door when opened, provided that the vehicle is parked lawfully on a road.

9. Appearance

A moveable sign placed on the footpath area of a road must, in the opinion of an authorised person:

- 9.1 be painted or otherwise detailed in a competent and professional manner;
- 9.2 be attractive, legible and simply worded to convey a precise message;
- 9.3 be of such design and contain such colours which are compatible with the architectural design of the premises adjacent to the sign, and which relate well to the town scope and overall amenity of the locality in which it is situated;
- 9.4 contain combinations of colour and typographical styles which blend in with and reinforce the heritage qualities of the locality and the buildings where it is situated;
- 9.5 not have balloons, flags, streamers or other things attached to it; and
- 9.6 not rotate or contain flashing parts.

10. Banners

A person must not erect or display a banner on a building or structure on a road without the Council's permission.

Note-

A person must not erect or display a banner on a public road for a business purpose without a permit from the Council issued under section 222 of the Local Government Act 1999.

11. Restrictions

- 11.1 The owner or operator of a business must not, without the permission of the Council, cause or allow more than one moveable sign for each business premises to be displayed on the footpath area of a road at any time.
- 11.2 A person must not, without the Council's permission, display a moveable sign on or attached to or adjacent to a vehicle that is parked on Local Government land or a road primarily for the purpose of advertising or offering for sale a product (including the vehicle) or business to which the sign relates.
- 11.3 A person must not, without the permission of the Council, cause or allow a moveable sign to be placed on a footpath area unless:
 - 11.3.1 it only displays material which advertises a business being conducted on premises adjacent to the moveable sign or the goods and services available from that business; and
 - 11.3.2 the business premises to which it relates is open to the public.
- 11.4 If in the opinion of the Council a footpath area is unsafe for a moveable sign to be displayed, the Council may by resolution prohibit or restrict the display of a moveable sign on such conditions as the Council thinks fit.

12. Exemptions

- 12.1 Subclauses 11.1 and 11.3 of this By-law do not apply to a moveable sign which:

- 12.1.1 advertises a garage sale taking place from residential premises;
- 12.1.2 is a directional sign to an event run by a community organisation or charitable body;
- 12.2 Subclauses 11.1 and 11.3 of this By-law do not apply to a flat sign which only contains a newspaper headline and the name of a newspaper or magazine.
- 12.3 A requirement of this By-law will not apply where the Council has granted permission (which may include by way of adopting a policy for this purpose) for a moveable sign (or class of moveable sign) to be displayed contrary to that requirement.

Note-

This By-law does not apply to moveable signs placed and maintained on a road in accordance with section 226(3) of the Act, which includes any sign:

- placed there pursuant to an authorisation under another Act;
- designed to direct people to the open inspection of any land or building that is available for purchase or lease;
- related to a State or Commonwealth election and is displayed during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day;
- related to an election held under this Act or the *Local Government (Elections) Act 1999* and is displayed during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
- the sign is of a prescribed class.

PART 3- ENFORCEMENT**13. Removal of moveable signs**

- 13.1 A person must immediately comply with the order of an authorised person to remove a moveable sign made pursuant to section 227(1) of the Act.

Note-

Pursuant to section 227(1) of the Act, an authorised person may order the owner of a moveable sign to remove the sign from the road if:

- the design, construction or positioning of a Moveable Sign does not comply with a requirement of this By-law; or
 - any other requirement of this By-law is not complied with; or
 - the Moveable Sign unreasonably restricts the use of the Road or endangers the safety of other persons.
- 13.2 The owner of or other person entitled to recover a moveable sign removed by an authorised person pursuant to section 227(2) of the Act, may be required to pay to the Council any reasonable costs incurred by the Council in removing, storing, and/or disposing of the moveable sign before being entitled to recover the moveable sign.
 - 13.3 The owner, or other person responsible for a moveable sign must remove or relocate the moveable sign at the request of an authorised person:
 - 13.3.1 if, in the opinion of an authorised person, and notwithstanding compliance with this By-law, there is any hazard or obstruction or there is likely to be a hazard or obstruction arising out of the location of the moveable sign; or
 - 13.3.2 for the purpose of special events, parades, roadworks or in any other circumstances which, in the opinion of the authorised person, require relocation or removal of the moveable sign to protect public safety or to protect or enhance the amenity of a particular locality.

14. Liability of vehicle owners

- 14.1 For the purposes of this clause 14, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 14.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Adelaide Hills Council held on the **INSERT DATE 2018** by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

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ANDREW AITKEN
Chief Executive Officer

Appendix 3

Draft By-law 3 Local Government Land for Adoption



ADELAIDE HILLS COUNCIL

LOCAL GOVERNMENT LAND BY-LAW 2018

By-law No. 3 of 2018

A By-law to manage and regulate the access to and use of Local Government land (other than roads), and certain public places.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Local Government Land By-law 2018* and is By-law No. 3 of the Adelaide Hills Council.

2. Authorising law

This By-law is made under sections 238 and 246 of the Act and section 18A of the *Harbors and Navigation Act 1993*.

3. Purpose

The objectives of this By-law are to regulate the access to and use of Local Government land (other than roads), and certain public places:

- 3.1 to prevent and mitigate nuisances;
- 3.2 to prevent damage to Local Government land;
- 3.3 to protect the convenience, comfort and safety of members of the public;
- 3.4 to enhance the amenity of the Council area; and
- 3.5 for the good rule and government of the Council's area.

4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹:
By-law No. – Local Government Land 2010.²
- 4.2 This By-law will expire on 1 January 2026.³

Note-

- 1. Generally, a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

- 5.1 This By-law operates subject to the Council's Permits and Penalties By-law 2018
- 5.2 Subject to subclauses 5.3 and 5.4, this By-law applies throughout the Council area.
- 5.3 Subclauses 9.3, 9.10.1, 9.10.5, 9.14.1, 9.24.1, 9.24.3, 9.24.5, 9.26.2, 9.37, 10.3 and 10.8 of this By-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246(3)(e) of the Act.
- 5.4 Subclauses 9.5.3, 9.10.3, 9.14.2 and 9.33 of this By-law apply throughout the Council area except in such parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal** includes birds and insects but does not include a dog;
- 6.3 **aquatic life** means any animal or plant living or growing in water including, but not limited to, yabbies, molluscs, fish, insects, insect pupa or larvae and water plants
- 6.4 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.5 **boat** includes a raft, pontoon, houseboat, personal watercraft or other similar device;
- 6.6 **boat ramp** means a facility constructed, maintained and operated for the launching and retrieval of a boat;
- 6.7 **camp** includes setting up a camp, or causing a tent, swag and/or similar bedding, a caravan or motor home to remain on the land for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the land;
- 6.8 **Council** means Adelaide Hills Council;
- 6.9 **electoral matter** has the same meaning as in the *Electoral Act 1985* provided that such electoral matter is not capable of causing physical damage or injury to any person within its immediate vicinity;
- 6.10 **effective control** means a person exercising effective control of an animal either:
 - 6.10.1 by means of a physical restraint; or
 - 6.10.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.11 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules-Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.12 **foreshore** means land extending from the edge of any other navigable waterway or body of water in the Council's area to the nearest road or section boundary or for a distance of 50 metres (whichever is the lesser);
- 6.13 **funeral ceremony** means a ceremony only (i.e. a memorial service) and does not include a burial;
- 6.14 **liquor** has the same meaning as in the *Liquor Licensing Act 1997*;
- 6.15 **Local Government land** means all land owned by the Council or under the Council's care, control and management (except roads);
- 6.16 **offensive** includes threatening, abusive, insulting or annoying behaviour and offend has a complementary meaning;
- 6.17 **open container** means a container which after the contents of the container have been sealed at the time of manufacture:
 - 6.17.1 being a bottle, it has had its cap, cork or top removed (whether or not it has since been replaced);
 - 6.17.2 being a can, it has been opened or punctured;
 - 6.17.3 being a cask, it has had its tap placed in a position to allow it to be used;

- 6.17.4 being any other form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to its contents; or
- 6.17.5 is a flask, glass, mug or other container able to contain liquid.
- 6.18 **personal watercraft** means a device that –
 - 6.18.1 is propelled by a motor; and
 - 6.18.2 has a fully enclosed hull; and
 - 6.18.3 is designed not to retain water if capsized; and
 - 6.18.4 is designed to be operated by a person who sits astride, stands, or kneels on the device,and includes the device commonly referred to as a jet ski;
- 6.19 **tobacco product** has the same meaning as in the *Tobacco Products Regulation Act 1997*;
- 6.20 **vehicle** has the same meaning as in the *Road Traffic Act 1961*;
- 6.21 **waters** includes a body of water, including a pond, lake, river, creek or wetlands under the care, control and management of the Council; and
- 6.22 **wheeled recreational device** has the same meaning as in the *Road Traffic Act 1961*.

Note-

Section 14 of the Acts *Interpretation Act 1915* provides that an expression used in a By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

PART 2 – ACCESS TO LOCAL GOVERNMENT LAND

7. Access

Note-

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

The Council may:

- 7.1 close, or regulate or restrict access to, any part of Local Government land to the public for specified times and days; and
- 7.2 fix charges or fees payable for entry onto any part of Local Government land.

8. Closed lands

A person must not without permission, enter or remain on any Local Government land:

- 8.1 which has been closed, or in respect of which access by the public is regulated or restricted in accordance with subclause 7.1;
- 8.2 where entry fees or charges are payable, without paying those fees or charges; or

- 8.3 where the land has been enclosed by fences and/or walls and gates that have been closed and locked.

PART 3 – USE OF LOCAL GOVERNMENT LAND

9. Activities requiring permission

Note

Pursuant to section 238(3) of the Act, if a Council makes a By-law about access to or use of a particular piece of Local Government land (under section 238), the Council should erect a sign in a prominent position on, or in the immediate vicinity of, the land to which the By-law applies.

A person must not without the permission of the Council, do any of the following on Local Government land or, where stated, the foreshore.

9.1 Advertising

Display, paint or erect or cause to be displayed, painted or erected, on Local Government Land or a structure, building or fixture on Local Government Land any sign, advertising or hoarding for the purpose of commercial advertising or any other purpose.

9.2 Aircraft

Subject to the *Civil Aviation Act 1988*, land any aircraft on, or take off any aircraft from the land.

9.3 Alcohol

Consume, carry or be in possession or in charge of any liquor on Local Government land comprising parks or reserves to which the Council has determined this paragraph applies.

9.4 Amplification

Use an amplifier or other mechanical or electrical device for the purpose of amplifying sound or broadcasting announcements or advertisements.

9.5 Animals

9.5.1 Cause or allow an animal to stray onto, move over, graze or be left unattended on Local Government land.

9.5.2 Cause or allow an animal to enter, swim, bathe or remain in any waters located on Local Government land.

9.5.3 Lead, herd or exercise an animal, except where the Council has set aside a track or other area for use by or in connection with an animal of that kind, and provided that the animal or animals are under effective control.

9.6 Annoyance

Do anything likely to offend or unreasonably interfere with any other person:

9.6.1 using that land; or

- 9.6.2 occupying nearby premises,
by making noise or creating a disturbance.

9.7 **Aquatic Life**

Introduce any aquatic life to any waters located on Local Government Land.

9.8 **Attachments**

Subject to subclause 9.1, attach or cause to be attached, hang or fix anything to a tree, plant, equipment, fence, post, structure or fixture on Local Government land.

9.9 **Bees**

Place a hive of bees on such land or allow it to remain thereon.

9.10 **Boats & Mooring**

Subject to the provisions of the *Harbors and Navigation Act 1993* and the *Marine Safety (Domestic Commercial Vessel) National Law*:

- 9.10.1 launch or retrieve a boat to or from any waters adjacent to or on any Local Government land or foreshore to which the Council has determined this subclause applies;
- 9.10.2 launch or retrieve a boat from or to the foreshore without using a boat ramp constructed and set aside by the Council for that purpose;
- 9.10.3 propel, float or otherwise use a boat on or in any waters except:
 - (a) in an area to which the Council has determined this subclause applies; and
 - (b) in accordance with any conditions that the Council may have determined by resolution apply to that use.
- 9.10.4 hire out a boat or otherwise use a boat for commercial purposes; or
- 9.10.5 moor any boat on or to Local Government land to which the Council has determined this subclause applies.

9.11 **Bridge Jumping**

Jump or dive from a bridge on Local Government land.

9.12 **Buildings**

Use a building, or structure on Local Government land for a purpose other than its intended purpose.

9.13 **Burials and Memorials**

- 9.13.1 Bury, inter or spread the ashes of any human or animal remains.

9.13.2 Erect any memorial

9.14 **Camping and Tents**

9.14.1 Erect a tent or other structure of calico, canvas, plastic or similar material as a place of habitation on Local Government land to which the Council has determined this subclause applies

9.14.2 Camp or sleep overnight on Local Government land except:

9.14.2.1 where a person is in a caravan park on Local Government land, the proprietor of which has been given permission to operate the caravan park on that land; or

9.14.2.2 other than on an area which has been designated by resolution of the Council for that purpose and only then, in accordance with such time limits and other conditions determined by resolution of the Council and contained in any signage erected thereon.

9.15 **Canvassing**

Subject to subclause 14.2, convey any advertising, religious or other message to any bystander, passer-by or other.

9.16 **Defacing Property**

Deface, remove, paint, spray, write upon, cut names, letters or make marks on any tree, rock, gate, fence, object, monument, building, sign, bridge or property of the Council.

9.17 **Distribution**

Subject to subclause 14.2 and the *Local Nuisance and Litter Control Act 2016*, place on a vehicle (without the consent of the owner of the vehicle), or give out or distribute any book, leaflet or other printed matter to any bystander, passer-by or other person.

9.18 **Donations**

Ask for or receive or indicate that he or she desires a donation of money or any other thing.

9.19 **Entertainment and Busking**

9.19.1 Sing, busk or play a recording or use a musical instrument for the apparent purpose of either entertaining others or receiving money.

9.19.2 Conduct or hold a concert, festival, show, public gathering, circus, meeting, performance or any other similar activity.

9.20 **Equipment**

Use an item of equipment, facilities or property belonging to the Council if that person is of or over the age indicated by a sign or notice as the age limit for using such equipment, facility or property.

9.21 Fires

Subject to the *Fire and Emergency Services Act 2005* light a fire except:

- 9.21.1 in a place provided by the Council for that purpose; or
- 9.21.2 in a portable barbeque, as long as the barbeque is used in an area that is clear of flammable material for a distance of at least four (4) metres.

9.22 Fireworks

Ignite or discharge any fireworks.

9.23 Flora and Fauna

Subject to the *Native Vegetation Act 1991* and the *National Parks and Wildlife Act 1972*:

- 9.23.1 plant, damage, pick, cut, disturb, interfere with or remove any plant, tree or flower thereon;
- 9.23.2 cause or allow an animal to stand or walk on any flower bed or garden plot;
- 9.23.3 deposit, dig, damage, disturb, interfere with or remove any soil, stone, wood, clay, gravel, pebbles, timber, bark or any part of the land;
- 9.23.4 take, interfere with, tease, harm or disturb any animal, bird or aquatic life or the eggs or young of any animal, bird or aquatic life;
- 9.23.5 pick, collect, take, interfere with or disturb any fruit, nuts, berries or native seeds;
- 9.23.6 disturb, interfere with or damage any burrow, nest or habitat of any animal or bird;
- 9.23.7 use, possess or have control of any device for the purpose of killing or capturing any animal, bird or aquatic life; or
- 9.23.8 burn any timber or dead wood –

with the exception that subclauses 9.23.4 and 9.23.7 do not apply to lawful fishing activities.

9.24 Games & Sport

- 9.24.1 Participate in, promote or organise any organised competition or sport, as distinct from organised social play on Local Government land to which the Council has resolved this subclause applies.
- 9.24.2 Play or practise any game which involves kicking, hitting or throwing a ball or other object on Local Government land which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of that land or detract from or be likely to detract from another person's lawful use and enjoyment of that land.

- 9.24.3 Engage or participate in or conduct any organised group fitness activity or training on Local Government land to which the Council has resolved this subclause applies.
- 9.24.4 Play or practice the game of golf on Local Government Land other than on a properly constructed golf course or practice fairway and in accordance with any conditions determined by the Council (or its agent) that apply to such play or practice.
- 9.24.5 Play or practice any game or sport on Local Government land to which the Council has resolved this subclause applies except at the times determined by the Council and indicated on a sign on or in the vicinity of the land.

9.25 Interference with Land

Interfere with, alter or damage the land (including a building, structure or fixture located on the land) including:

- 9.25.1 altering the construction or arrangement of the land to permit or facilitate access from an adjacent property;
- 9.25.2 erecting or installing a structure in, on, across, under or over the land;
- 9.25.3 changing or interfering with the construction, arrangement or materials of the land;
- 9.25.4 planting a tree or other vegetation on the land, interfering with the vegetation on the land or removing vegetation from the land; or
- 9.25.5 otherwise use the land in a manner contrary to the purpose for which the land was designed to be used.

9.26 Model Aircraft, Boats and Cars

Subject to the *Civil Aviation Safety Regulations 1998*:

- 9.26.1 fly or operate a model or drone aircraft, boat or model or remote control vehicle in a manner which may cause or be likely to cause injury or discomfort to a person being on or in the vicinity of the land or detract from or be likely to detract from another person's lawful use of and enjoyment of the land; or
- 9.26.2 fly or operate a model or drone aircraft, boat or model or remote control vehicle on any Local Government Land to which the Council has resolved this subclause applies.

9.27 Overhanging Articles or Displaying Personal Items

Suspend or hang an article or object from a building, verandah, pergola, post or other structure on Local Government land where it might present a nuisance or danger to a person using the land or be of an unsightly nature.

9.28 Playing Area

Use or occupy a playing area:

- 9.28.1 in such a manner as to damage or be likely to damage the surface of the playing area or infrastructure (above and under ground level);
- 9.28.2 in a manner contrary to the purpose for which the playing area was intended to be used or occupied; or
- 9.28.3 contrary to directions of the Council made by resolution and indicated on a sign displayed adjacent to the playing area.

9.29 **Pontoons**

Install or maintain a pontoon, jetty or similar structure.

9.30 **Preaching**

Preach, harangue or solicit for religious purposes.

9.31 **Ropes**

Place a buoy, cable, chain, hawser, rope or net in or across any waters.

9.32 **Rubbish and Rubbish Dumps**

- 9.32.1 Interfere with, remove or take away any rubbish that has been discarded at any rubbish dump on Local Government Land.
- 9.32.2 Remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging) that has been discarded in a bin on any Local Government Land, or placed on Local Government Land for collection by the Council (or its agent).

9.33 **Swimming**

Subject to the provisions of the *Harbors and Navigation Act 1993* enter, swim or bathe in any waters on Local Government land except:

- 9.33.1 in an area which the Council has designated and set aside for such purposes; and
- 9.33.2 in accordance with any conditions that the Council may have determined by resolution apply to such use, which are exhibited on any signage on land adjoining the body of water.

9.34 **Trading**

- 9.34.1 Sell buy, offer or display anything for sale or hire or lease any goods, merchandise, commodity, article or thing.
- 9.34.2 Carry on any business or promote or advertise the same.
- 9.34.3 Set up a van or other vehicle, stall, stand, table or other structure, tray, carpet or device for the apparent purpose of buying, selling, offering, displaying or exposing for sale or the hiring or leasing of any goods, merchandise, commodity, article, service or thing.

9.35 Vehicles

- 9.35.1 Drive or propel a vehicle except on an area or road constructed and set aside by the Council for that purpose.
- 9.35.2 Promote, organise or take part in a race, test or trial of any kind in which vehicles take part, except on an area properly constructed for that purpose.
- 9.35.3 Repair, wash, paint, panel beat or carry out other work to a vehicle, except for running repairs in the case of a breakdown.

9.36 Weddings, Functions and Special events

- 9.36.1 Hold, conduct or participate in a marriage ceremony, funeral service or special event.
- 9.36.2 Erect a marquee, stage or structure for the purpose of holding or conducting a wedding, funeral service or special event.
- 9.36.3 Hold or conduct any filming where the filming is for a commercial purpose.

9.37 Wheeled Recreational Devices

Subject to the *Road Traffic Act 1961*, ride a wheeled recreational device on Local Government land to which the Council has determined this subclause applies.

10. Prohibited activities

A person must not do any of the following on Local Government land.

10.1 Animals

- 10.1.1 Cause or allow any animal to enter, swim, bathe or remain in any waters to the inconvenience, annoyance or danger of any other person bathing or swimming.
- 10.1.2 Cause or allow an animal to damage a flowerbed, garden plot, tree, lawn or like thing or place.
- 10.1.3 Lead, herd or exercise a horse in such manner as to cause a nuisance or endanger the safety of a person.

10.2 Equipment

Use any item of equipment, facilities or property belonging to the Council other than in the manner and for the purpose for which it was designed, constructed or intended to be used or in such manner as is likely to damage or destroy it.

10.3 Fishing

Fish in any waters to which the Council has determined this subclause applies.

10.4 Glass

Willfully break any glass, china or other brittle material.

10.5 Interference with Permitted Use

Interrupt or unreasonably interfere with any other person's use of Local Government land where the person is using the land in a manner permitted by the Council or in accordance with any permission that has been granted by the Council.

10.6 Nuisance

Behave in such an unreasonable manner as to cause discomfort, inconvenience, annoyance or offence to any other person including by using profane, indecent or obscene language.

10.7 Playing games

Play or practise a game:

10.7.1 which is likely to cause damage to the land or anything on it; or

10.7.2 in any area where a sign indicates that the game is prohibited.

10.8 Smoking

Subject to the *Tobacco Products Regulation Act 1997*, smoke, hold or otherwise have control over an ignited tobacco product on any land to which the Council has determined this subclause applies.

10.9 Solicitation

Tout or solicit customers for the parking of vehicles or for any other purpose whatsoever.

10.10 Throwing objects

Throw roll, project or discharge a stone, substance or other missile, excluding sport and recreational equipment designed to be used in that way.

10.11 Toilets

In any public convenience on Local Government land:

10.11.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

10.11.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;

10.11.3 use it for a purpose for which it was not designed or constructed;

10.11.4 enter a toilet that is set aside for use of the opposite gender except:

- (a) where a child under the age of eight years is accompanied by a parent or adult guardian of that gender; or
- (b) to provide assistance to a person with a disability; or
- (c) in the case of a genuine emergency.

10.12 Waste

10.12.1 Deposit or leave thereon anything obnoxious or offensive.

10.12.2 Deposit in a receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs.

PART 4 - ENFORCEMENT

11. Directions

11.1 A person on Local Government land must comply with a reasonable direction from an authorised person relating to:

11.1.1 that person's use of the land;

11.1.2 that person's conduct and behaviour on the land;

11.1.3 that person's safety on the land; or

11.1.4 the safety and enjoyment of other persons on the land.

11.2 A person who, in the opinion of an authorised person, is likely to commit or has committed, a breach of this By-law must immediately comply with a direction of an authorised person to leave that part of Local Government land.

12. Orders

If a person fails to comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

Note –

Section 262(1) of the Act states:

- (1) *If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-*
- (a) *if the conduct is still continuing - to stop the conduct; and*
 - (b) *whether or not the conduct is still continuing- to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease smoking on Local Government land;
- remove an object or structure encroaching on Local Government land;
- dismantle and remove a structure erected on Local Government land without permission.

13. Removal of animals and objects

An authorised person may remove an animal or object that is on Local Government land in breach of a By-law if no person is in charge of, or apparently in charge of, the animal or object.

PART 5 - MISCELLANEOUS

14. Exemptions

- 14.1 The restrictions in this By-law do not apply to a police officer, emergency worker, Council officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of or in accordance with a direction from a Council officer.
- 14.2 The restrictions in subclauses 9.15 and 9.17 of this By-law do not apply to electoral matter authorised by a candidate and which is:
 - 14.2.1 related to a Commonwealth or State election and occurs during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or
 - 14.2.2 related to an election under the Act or the *Local Government (Elections) Act 1999* and occurs during the period commencing four weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or
 - 14.2.3 related to and occurs during the course of and for the purpose of a referendum.

15. Liability of vehicle owners

- 15.1 for the purposes of this clause 15, *owner* in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 15.2 the owner and the driver of a vehicle driven, parked or standing in contravention of this by-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Adelaide Hills Council held on the **INSERT DATE** 2018 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
ANDREW AITKEN
Chief Executive Officer

Appendix 4

Draft By-law 4 Roads for Adoption



ADELAIDE HILLS COUNCIL

ROADS BY-LAW 2018

By-law No. 4 of 2018

A By-law to manage, control and regulate certain activities on roads in the Council's area.

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PART 1– PRELIMINARY**1. Title**

This By-law may be cited as the *Roads By-law 2018* and is By-law No. of the Adelaide Hills Council.

2. Authorising law

This By-law is made under sections 239 and 246 of the Act and regulation 28 of the *Local Government (General) Regulations 2013*.

3. Purpose

The objectives of this By-law are to manage, control and regulate the prescribed uses of roads in the Council's area:

- 3.1 to protect the convenience, comfort and safety of road users and members of the public;
- 3.2 to prevent damage to buildings and structures on roads;
- 3.3 to prevent certain nuisances occurring on roads; and
- 3.4 for the good rule and government of the Council's area

4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation.¹
- 4.2 By-Law No. 4 - Roads 2010.²
- 4.3 This By-law will expire on 1 January 2026.³

Note-

- 1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2018*.
- 5.2 Subject to subclauses 5.3 and 5.4, this By-law applies throughout the Council's area.
- 5.3 Subclause 7.3.1 of this By-law only applies to such part or parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act;

- 5.4 Subclause 7.4.2 of this By-law applies throughout the Council's area except in such part or parts of the Council area as the Council may by resolution direct in accordance with section 246(3)(e) of the Act.

6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **animal** includes birds, insects and poultry but does not include a dog;
- 6.3 **authorised person** is a person appointed by the Council as an authorised person under section 260 of the Act;
- 6.4 **camp** includes setting up a camp, or causing:
- 6.4.1 a tent (including a tent trailer) or other structure of calico, canvas, plastic or other similar material; or
 - 6.4.2 a swag or similar bedding; or
 - 6.4.3 subject to the *Road Traffic Act 1961*, a caravan or motor home;
- to remain on a road for the purpose of staying overnight, whether or not any person is in attendance or sleeps on the road;
- 6.5 **Council** means the Adelaide Hills Council;
- 6.6 **effective control** means a person exercising effective control of an animal either:
- 6.6.1 by means of a physical restraint; or
 - 6.6.2 by command, the animal being in close proximity to the person and the person being able to see the animal at all times;
- 6.7 **emergency worker** has the same meaning as in the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*;
- 6.8 **moveable sign** has the same meaning as in the Act;
- 6.9 **road** has the same meaning as in the Act being, a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes—
- 6.9.1 a bridge, viaduct or subway; or
 - 6.9.2 an alley, laneway or walkway; and
- 6.10 **vehicle** has the same meaning as in the *Road Traffic Act 1961*.

Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law was made.

PART 2 – USE OF ROADS

7. Activities requiring permission

A person must not do any of the following activities on a road without the permission of the Council.

7.1 Advertising

Display or cause to be displayed on a road or on a structure on a road, any poster, advertising or sign for the purpose of advertising goods or services, other than a moveable sign that is displayed in accordance with the Council's Moveable Signs By-law.

7.2 Amplification

Use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound or magnifying sound including the broadcasting of announcements or advertisements.

7.3 Animals

7.3.1 Cause or allow an animal to stray onto, move over, or graze on a road to which the Council has determined this subclause applies.

7.3.2 Subject to clause 7.3, lead, herd, exercise or cause or allow an animal to stray onto or move over any road unless the animal is under effective control.

7.3.3 Lead, herd or exercise an animal in such a manner as to cause a nuisance or endanger the safety of a person.

7.4 Camping and Tents

7.4.1 Subject to this subclause 7.4, erect a tent or other structure of calico, canvas, plastic or other similar material as a place of habitation.

7.4.2 Camp or remain overnight except:

7.4.2.1 on a road to which the Council has resolved this subclause applies (if any); and

7.4.2.2 in accordance with any conditions determined by the Council and displayed on any signage on or near the road.

7.5 Obstructions

Erect, install or place or cause to be erected, installed or placed any structure, object or material of any kind so as to obstruct a road, footway, water-channel, or watercourse in a road.

7.6 Preaching

Preach, harangue, solicit or canvass for religious or charitable purposes.

7.7 Public Exhibitions and Displays

- 7.7.1 Sing, busk, play a recording or use a music instrument, or perform similar activities.
- 7.7.2 Conduct or hold a concert, festival, show, circus, performance or a similar activity.
- 7.7.3 Erect a stage or structure for the purpose of conducting or holding a concert, festival, show, circus, performance or a similar activity.
- 7.7.4 Cause any public exhibitions or displays.

7.8 Rubbish Bins

Deposit in any Council bin on a road any rubbish emanating from a domestic, commercial or trade source.

7.9 Soliciting

Ask for or receive or do anything to indicate a desire for a donation of money or any other thing.

7.10 Vehicles

Repair, wash, paint, panel beat or perform other work of a similar nature to a vehicle, except for running repairs in the case of a vehicle breakdown.

Note-

Movable signs on roads are regulated by sections 226 and 227 of the Act and the Council's Moveable Signs By law.

PART 3- ENFORCEMENT

8. Directions

A person who, in the opinion of an authorised person is committing or has committed a breach of this By-law, must immediately comply with a direction of an authorised person to leave that part of the road.

9. Orders

If a person does not comply with an order of an authorised person made pursuant to section 262 of the Act in respect of a breach of this By-law, the Council may seek to recover its costs of any action taken under section 262(3) of the Act from the person to whom the order was directed.

Note-

Section 262(1) of the Act states:

If a person (the offender) engages in conduct that is a contravention of this Act or a By-law under this Act, an authorised person may order the offender-

- (a) *if the conduct is still continuing – to stop the conduct; and*
- (b) *whether or not the conduct is still continuing – to take specified action to remedy the contravention.*

Subsections (2) and (3) of section 262 also provide that it is an offence to fail to comply with an order and that if a person does not comply, the authorised person may take action reasonably required to have the order carried out. For example, an authorised person may order a person to:

- cease busking on a road;
- remove an object or structure blocking a footpath;
- dismantle and remove a tent from a road.

10. Removal of animals and objects

- 10.1 The Council (or its delegate) may, pursuant to section 234 of the Act, remove an animal or object that is on a road in breach of a By-law if no person is in charge, or apparently in charge, of the animal or object.
- 10.2 The Council may recover from the owner or apparent owner of an object removed under subclause 10.1 the costs it incurs in removing that object.

PART 4- MISCELLANEOUS

11. Exemptions

The restrictions in this By-law do not apply to a police officer, emergency worker, Council officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of or in accordance with a direction from a Council officer.

12. Liability of vehicle owners

- 12.1 For the purposes of this clause 12, **owner** in relation to a vehicle has the same meaning as contained in section 4 of the Act.
- 12.2 The owner and the driver of a vehicle driven, parked or standing in contravention of this By-law are each guilty of an offence and liable to the penalty as prescribed for that offence.

This By-law was duly made and passed at a meeting of the Council held on **INSERT DATE** 2018 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
ANDREW AITKEN
Chief Executive Officer

Appendix 5

Draft By-law 5 Dogs for Adoption



ADELAIDE HILLS COUNCIL

DOGS BY-LAW 2018

By-law No. 5 OF 2018

A By-law to limit the number of dogs kept on premises and for the management and control of dogs in the Council's area.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Dog By-law 2018* and is By-law No. 5 of the Adelaide Hills Council.

2. Authorising law

This By-law is made under section 90(5) of the *Dog and Cat Management Act 1995*, sections 238 and 246 of the Act, and section 18A of the *Harbors and Navigation Act 1993*.

3. Purpose

The objectives of this By-law are to control and manage dogs in the Council area:

- 3.1 to reduce the incidence of environmental nuisance caused by dogs; and
- 3.2 to promote responsible dog ownership; and
- 3.3 to protect the convenience, comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council's area.

4. Commencement, revocation and expiry

- 4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹.

By-Law No. 5 – Dogs 2011.²

- 4.2 This By-law will expire on 1 January 2026.³

Note-

- 1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2018*.
- 5.2 Subject to subclause 5.3, this By-law applies throughout the Council's area.
- 5.3 Subclauses 9.1 and 10.2, of this By-law only apply in such part or parts of the Council area as the Council may, by resolution direct in accordance with section 246(3)(e) of the Act.

6. Interpretation

In this By-law, unless the contrary intention appears:

- 6.1 **Act** means the *Local Government Act 1999*;
- 6.2 **approved kennel establishment** means a building, structure or area approved by a relevant authority, pursuant to the *Development Act 1993* for the keeping of dogs on a temporary or permanent basis;
- 6.3 **assistance dog** means a dog trained and used for the purpose of assisting a person who is wholly or partially disabled;
- 6.4 **children's playground** means an enclosed area in which there is equipment or other installed devices for the purpose of children's play (or within 3 metres of such devices if there is no enclosed area);
- 6.5 **Council** means Adelaide Hills Council;
- 6.6 **dog** (except for in clause 7.1) has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.7 **effective control** means a person exercising effective control of a dog either:
 - 6.7.1 by means of a physical restraint (as defined under the *Dog and Cat Management Act 1995*); or
 - 6.7.2 by command, the dog being in close proximity to the person and the person being able to see the dog at all times;
- 6.8 **keep** includes the provision of food or shelter;
- 6.9 **park** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 6.10 **premises** includes land, whether used or occupied for domestic or non-domestic purposes;
- 6.11 **small dwelling** means a self-contained residence that is:
 - 6.11.1 a residential flat building;
 - 6.11.2 contained in a separate strata unit or community title;
 - 6.11.3 on an allotment less than 400 square metres in area; or
 - 6.11.4 without a secure yard of at least 100 square metres in area;
- 6.12 **working dog** means a dog-
 - 6.12.1 usually kept, proposed to be kept or worked on rural land by a person who is—
 - a. a primary producer; or
 - b. engaged or employed by a primary producer; and

- 6.12.2 kept primarily for the purpose of herding, droving, protecting, tending or working stock, or training for herding, droving, protecting, tending or working stock.
- 6.13 For the purposes of clause 9 of the By-law, a dog is (under **effective control by means of a leash**) if the dog is secured to a leash, chain or cord that does not exceed 2 metres in length and:
 - 6.13.1 the leash, chain or cord is either tethered securely to a fixed object; or
 - 6.13.2 held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

Note-

Section 14 of the *Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-laws was made.

PART 2 – LIMITS ON DOG NUMBERS

7. Limits on dog numbers in private premises

- 7.1 Subject to subclauses 7.3 and 7.5, a person must not, without the Council's permission keep or cause, suffer or permit to be kept:
 - 7.1.1 in a township, more than one dog in a small dwelling; or
 - 7.1.2 in a township, more than two dogs in any premises other than a small dwelling; or
 - 7.1.3 outside of a township, more than three dogs (other than working dogs) on any premises;
- 7.2 For the purposes of subclause 7.1, 'dog' means a dog that is three (3) months of age or older or, a dog that has lost its juvenile teeth.
- 7.3 Subclause 7.1 does not apply to:
 - 7.3.1 approved kennel establishments operating in accordance with all required approvals and consents; or
 - 7.3.2 any other business involving the keeping of dogs provided that the business is registered in accordance with the *Dog and Cat Management Act 1995* and operating in accordance with all required approvals and consents.
- 7.4 The Council may require that premises which are the subject of an application for permission to keep additional dogs, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing dogs.
- 7.5 No dog is to be kept on any premises where, in the opinion of an authorised person, there is no secure or appropriate area where a dog may be effectively confined.

PART 3 – DOG CONTROLS

8. Dog exercise areas

Subject to clauses 9 and 10 of this By-law, a person may enter a park in the Council's area for the purpose of exercising a dog under his or her effective control.

Note –

If a person is exercising a dog in a park as permitted under this clause and the dog is not under effective control as that term is defined by the *Dog and Cat Management Act 1995*, this gives rise to a dog wandering at large offence under section 43(1) of the *Dog and Cat Management Act 1995*, for which the owner of or person responsible for the dog may be liable.

9. Dog on leash areas

A person must not, without the Council's permission, allow a dog under that person's control, charge or authority (except an assistance dog that is required to remain off-lead in order to fulfil its functions) to be or remain:

9.1 on Local Government land or in a public place to which the Council has resolved that this subclause applies; or

9.2 on any park or reserve during times when organised sport is being played;

unless the dog is under effective control by means of a leash.

10. Dog prohibited areas

A person must not allow a dog under that person's control, charge or authority (except an assistance dog) to enter or remain:

10.1 on any children's playground on Local Government land; or

10.2 on any other Local Government land or public place to which the Council has determined that this subclause applies.

11. Dog faeces

No person is to allow a dog under that person's control, charge or authority to be in a public place or on Local Government land unless that person has in their possession a bag or other suitable container for the collection and lawful disposal of any faeces that the dog may deposit (for the purpose of complying with their obligation under section 45A(6) of the *Dog and Cat Management Act 1995*).

PART 4 – EXEMPTIONS

12. Council may grant exemptions

12.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.

12.2 An exemption—

12.2.1 may be granted or refused at the discretion of the Council; and

- 12.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
- 12.2.3 is subject to any conditions specified in the instrument of exemption.
- 12.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 12.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

PART 5 – ENFORCEMENT

13. Orders

- 13.1 If a person engages in conduct that is in contravention of this By-law, an authorised person may order that person:
- 13.1.1 if the conduct is still continuing – to stop the conduct; and
- 13.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 13.2 A person must comply with an order under this clause.
- 13.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.
- 13.4 However, an authorised person may not use force against a person under this section.

Note-

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of dogs on that person's premises; or
- remove a dog from a dog prohibited area.

This By-law was duly made and passed at a meeting of the Adelaide Hills Council held on **INSERT DATE** 2018 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
ANDREW AITKEN
Chief Executive Officer

Appendix 6

Draft By-law 6 Cats for Adoption



ADELAIDE HILLS COUNCIL

CATS BY-LAW 2018

By-law No. 6 of 2018

A By-law to limit the number of cats kept on premises and for the management and control of cats in the Council's area.

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PART 1 – PRELIMINARY

1. Title

This By-law may be cited as the *Cats By-law 2018* and is By-law No. 6 of the Adelaide Hills Council.

2. Authorising law

This By-law is made under section 90(5) of the *Dog and Cat Management Act 1995* and section 246 of the Act.

3. Purpose

The objectives of this By-law are to control and manage cats in the Council's area:

- 3.1 to promote responsible cat ownership;
- 3.2 to reduce the incidence of the public and environmental nuisance caused by cats;
- 3.3 to protect the comfort and safety of members of the public; and
- 3.4 for the good rule and government of the Council's area.

4. Commencement, revocation and expiry

4.1 The following By-laws previously made by the Council are revoked from the day on which this By-law comes into operation¹:

4.1.1 By-law No 6 – Cats 2011.²

4.2 This By-law will expire on 1 January 2026.³

Note-

- 1. Generally a By-law comes into operation 4 months after the day on which it is gazetted: section 249(5) of the Act.
- 2. Section 253 of the Act provides that the revocation of a By-law by another By-law that contains substantially the same provisions, does not affect certain resolutions such as those applying a By-law to a part or parts of the Council area.
- 3. Pursuant to section 251 of the Act, a By-law will expire on 1 January following the seventh anniversary of the gazettal of the By-law.

5. Application

- 5.1 This By-law operates subject to the Council's *Permits and Penalties By-law 2018*.
- 5.2 This By-law applies throughout the Council's area.
- 5.3 The operation of clause 10 is subject to a resolution of the Council.

6. Interpretation

In this By-law, unless the contrary intention appears;

- 6.1 **Act** means the *Local Government Act 1999*;

- 6.2 **approved cattery** means a building, structure, premises or area approved by the relevant authority pursuant to the *Development Act 1993* for the keeping of cats on a temporary or permanent basis or, for use in connection with a business involving the keeping of cats, that is operating in the accordance with all approvals;
- 6.3 except for in clauses 8 and 9 **cat** means an animal of the species *felis catus*, which is three months of age or has lost its juvenile canine teeth;
- 6.4 **Council** means Adelaide Hills Council;
- 6.5 **effective control by means of physical restraint** means
- 6.5.1 a person is exercising effective control of a cat by means of a chain, cord or leash that does not exceed 2 metres in length restraining the cat; or
- 6.5.2 a person has effectively secured the cat by placing it in a cage, vehicle or other object or structure;
- 6.6 **keep** includes the provision of food or shelter;
- 6.7 for the purposes of clause 8, a cat (or cats) causes a **nuisance** if it:
- 6.7.1 unreasonably interferes with the peace, comfort or convenience of a person, including but not limited to by displaying aggressive nature or creating unpleasant noise or odour; or
- 6.7.2 damages or otherwise has an adverse impact upon native flora or fauna; or
- 6.7.3 acts in a manner that is injurious to a person's real or personal property; or
- 6.7.4 wanders onto premises without the consent of the owner or occupier of the premises; or
- 6.7.5 defecates or urinates on premises without the consent of the owner or occupier of the premises;
- 6.8 **owner** of a cat has the same meaning as in section 5 of the *Dog and Cat Management Act 1995*;
- 6.9 **premises** includes any land (whether used or occupied for domestic or non-domestic purposes) and any part thereof; and
- 6.10 the **person responsible for the control of a cat** has the same meaning as in section 6 of the *Dog and Cat Management Act 1995*.

Note-

Section 14 of the *Acts Interpretation Act 1915* provides that an expression used in this By-law has, unless the contrary intention appears, the same meaning as in the Acts under which the By-law is made.

PART 2 – LIMITS ON CAT NUMBERS**7. Limits on cat numbers**

- 7.1 Subject to this clause 7, a person must not, without the Council's permission keep, or cause suffer or permit to be kept more than two (2) cats on any premises.

- 7.2 Subclause 7.1 does not apply to premises comprising an approved cattery.
- 7.3 Council may require that premises which are the subject of an application for permission to keep additional cats, must be inspected by an authorised person for the purpose of assessing the suitability of the premises for housing cats.
- 7.4 Permission under subclause 7.3 may be given if the Council is satisfied that:
 - 7.4.1 no insanitary condition exists or is likely to arise on the premises as a result of the keeping of cats; and
 - 7.4.2 a nuisance is not or is not likely to be caused to any neighbour as a result of the keeping of cats on the premises.

PART 3 –CAT CONTROLS

8. Cats not to be a nuisance

- 8.1 An owner or occupier of premises is guilty of an offence if a cat (or cats) kept or allowed to remain on the premises causes a nuisance.
- 8.2 Without limiting liability under clause 8.1, the owner of or person responsible for the control of a cat is guilty of an offence under this By-law if the cat causes a nuisance.
- 8.3 For the purposes of this subclause 8, **cat** means an animal of the species *felis catus* (of any age).

9. Effective confinement of cats

- 9.1 As and from 1 January 2022, the owner or person responsible for the control of a cat must take steps to ensure that the cat is confined at all times to the premises occupied by that person unless the cat is under effective control by means of physical restraint.
- 9.2 For the purposes of this subclause 9, **cat** means an animal of the species *felis catus* (of any age).

10. Registration of cats

- 10.1 Where the Council has resolved to adopt a registration scheme for cats, a person must not keep a cat in the Council's area for more than 14 days unless the cat is registered in accordance with this By-law.
- 10.2 An application for registration of a cat must:
 - 10.2.1 be made to the Council in the manner and form (if any) and accompanied by the fee (if any) as prescribed by the Council; and
 - 10.2.2 nominate a person of or over sixteen (16) years of age who consents to the cat being registered in his or her name; and
 - 10.2.3 identify with reference to an address the premises at which the cat is kept; and
 - 10.2.4 otherwise comply with any other requirements determined by the Council.

- 10.3 Registration under this By-law remains in force until 30 June next following the grant of registration and may be renewed from time to time for further periods of up to twelve (12) months.
- 10.4 Subclause 10.1 does not apply to premises comprising an approved cattery.
- 10.5 The Council may, by resolution, revoke a resolution to adopt a registrations scheme under subclause 10.1 should it see fit to do so.

PART 3 – EXEMPTIONS

11. Council may grant exemptions

- 11.1 The Council may, by notice in writing, on application or on its own initiative, exempt a person (or a class of persons) from the operation of a specified provision of this By-law.
- 11.2 An exemption—
 - 11.2.1 may be granted or refused at the discretion of the Council; and
 - 11.2.2 may operate indefinitely or for a period specified in the instrument of exemption; and
 - 11.2.3 is subject to any conditions specified in the instrument of exemption.
- 11.3 The Council may, by notice in writing, vary, revoke or add a condition of an exemption.
- 11.4 The Council may, in its discretion, revoke an exemption for a contravention of a condition of the exemption, or for any other reason it thinks fit.

PART 4 – ENFORCEMENT

12. Orders

- 12.1 If a person engages in conduct that is a contravention of this By-law, an authorised person may order that person:
 - 12.1.1 if the conduct is still continuing – to stop the conduct; and
 - 12.1.2 whether or not the conduct is still continuing – to take specified action to remedy the contravention.
- 12.2 A person must comply with an order under this clause.
- 12.3 If a person does not comply with an order, the authorised person may take action reasonably required to have the order carried out, and the Council may seek to recover its costs of any action so taken from the person to whom the order was directed.
- 12.4 However, an authorised person may not use force against a person under this section.

Note-

For example, an authorised person may order a person to:

- cease keeping more than the permitted number of cats on that person's premises; or
- take the necessary steps to mitigate a nuisance caused by howling cats.

This By-law was duly made and passed at a meeting of the Adelaide Hills Council held on **INSERT DATE** 2018 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.

.....
ANDREW AITKEN
Chief Executive Officer

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 24 JULY 2018
AGENDA BUSINESS ITEM**

Item: 12.2

Originating Officer: Michelle Wende, Coordinator Volunteering

Responsible Director: David Waters, Director Community Capacity

Subject: Volunteer Management Policy

For: Decision

SUMMARY

The purpose of this report is to provide the Volunteer Management Policy to Council for adoption following its scheduled review noting that minor amendments are being proposed to the existing Policy.

The Policy states Council's commitment to volunteering and provides a best practice framework for the management of volunteers to ensure consistent practices are undertaken across Council.

It provides direction and structure to the way volunteers are managed for the benefit of Council, the community and those individuals participating in the program by stating Council's expectations and standards for volunteers and the rights and responsibilities of volunteers.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
 - 2. With an effective date of 7 August 2018, to revoke the 25 August 2014 Volunteers Policy and to approve the Volunteer Management Policy.**
-

1. GOVERNANCE

➤ **Strategic Management Plan/Council Policy**

Goal 2	Activities and Opportunities to Connect
Strategy	No specific strategy

In Goal 2, the Strategic Plan defines success as "a welcoming and inclusive community where people support, respect and celebrate each other for their differences as much as for their shared values."

This Policy has been reviewed as scheduled and amendments are being proposed to the existing Policy which clarify guidelines for the effective engagement of volunteers.

➤ **Legal Implications**

The Policy covers the following Acts:

- *Volunteer Protection Act 2001*
- *Children’s Protection Act 1993 (SA) and Children’s Protection Regulations 2010 (SA)*
- *Work Health Safety Act 2012*
- *Equal Employment Opportunity Act 1992*
- *Local Government Act 1999*

The Policy covers the legal requirements of involving volunteers and ensures appropriate processes are in place to manage volunteers in Council. Legal requirements are further supported through compliance to the National Standards for Volunteer Involvement (Volunteering Australia 2015) which sets out best practice guidelines to managing volunteers.

➤ **Risk Management Implications**

The adoption of the Volunteer Management Policy will continue to assist in mitigating the risk of:

Those registered as Council volunteers being inappropriately engaged in the organisation which leads to inconsistent management practices, increased risk of workplace injury, decreased retention and overall reduction in human capital to achieve organisational goals.

Inherent Risk	Residual Risk	Target Risk
High (4C)	Low (2D)	Low (1E)

This Policy and associated processes are existing controls.

➤ **Financial and Resource Implications**

There are no new financial and resource implications of adopting the Policy as they reflect existing practice and resource allocations.

➤ **Customer Service and Community/Cultural Implications**

This policy is placed to highlight the commitment Council has to volunteering. It provides a best practice framework for the management of volunteers articulating the structure and expectations around how volunteers are managed for the benefit of council, the community and those individuals participating in the program.

➤ **Environmental Implications**

Not applicable.

➤ **Engagement/Consultation conducted with Council Committee, Regional Subsidiary, Advisory Group, the Administration and Community**

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

Administration: Desktop audit of other organisations policies
Consultation with Council volunteer support staff

Community: Not Applicable

2. BACKGROUND

Council supports a range of volunteer programs that serve the local community. These services are particularly focused around Libraries and Community Development and include but are not limited to:

- Transport
- Shopping assistance
- Library services
- Community Sheds
- Community Centres.

To confirm Council's volunteer management practices are contemporary and meet best practice, the Policy was updated from the previous document to ensure its currency, to more clearly articulate Council's commitment to volunteering and to reflect changes in the volunteering sector.

3. ANALYSIS

Amendments to the Policy ensures the value and impact of volunteering is clearly articulated to stakeholders and a consistent and effective approach towards volunteer management is defined. The changes made to the Policy are reflected in **Appendix 1** and are discussed below.

The Policy reflects current practice and legislative requirements in the stated Acts, and other guidelines such as the:

- *Volunteer Protection Act 2001 and Volunteers Protection Regulations 2004*
- *Children’s Protection Act 1993 (SA) and Children’s Protection Regulations 2010 (SA)*
- *Work Health Safety Act 2012*

The addition of reference to Volunteering Australia’s updated guidelines ‘National Standards for Volunteer Involvement’ (2015) highlights Council’s commitment to best practice and benchmarks to help attract, manage and retain volunteers, and to also help manage risk and safety when involving volunteers.

The updated Policy contains the following amendments:

- Policy name change from ‘Volunteers’ to ‘Volunteer Management’
- The introduction and stated objectives more clearly state Council’s value of volunteering
- Definitions have been updated and included
- Policy statement articulates the benefits of volunteering to individuals and community and highlights areas where Council engages volunteers
- The Policy has been updated to the correct Council template.

Finally, the policy continues to reference roles and responsibilities of Council and volunteers in order to clearly set expectations, accepted behaviours and confirm boundaries.

4. OPTIONS

Council has the following options:

- I. Adopt the Volunteer Management Policy. This Policy shows Council’s commitment to meeting its legal responsibilities under the various Acts and effective involvement of volunteers through adhering to national standards. (Recommended).
- II. Defer adoption of the Volunteer Management Policy to investigate any suggested amendments (Not Recommended).
- III. Not adopt the Volunteer Management Policy (Not Recommended).

Should the Council identify the need for substantial amendments to the revised Policy, it is recommended that they be referred to staff for review to allow for analysis of the implications of the amendments, prior to the matter being brought back to Council for further consideration.

5. APPENDIX

- (1) Volunteer Management Policy

Appendix 1

Volunteer Management Policy

CHANGES TO POLICY LEGEND

~~Removed from old Policy~~

Added to New Policy

Moved within Document

Unchanged

COUNCIL POLICY

 Adelaide Hills COUNCIL	VOLUNTEERS VOLUNTEER MANAGEMENT
----------------------------------------------------------------------------------------------------------------	--------------------------------------------

Policy Number:	COM-04
Responsible Department(s):	Community Development
Other Relevant Policies:	WHS & IM Policy
Relevant Procedure(s):	Volunteer Management Administrative Procedure <u>Code of Conduct for a Child Safe Organisation</u> <u>Criminal and Relevant History Screening Procedure</u>
Relevant Legislation:	<u>Volunteer Protection Act 2001</u> <u>Children's Protection Act 1993 (SA)</u> and <u>Children's Protection Regulations 2010 (SA)</u> <u>Work Health Safety Act 2012</u> <u>Work Health and Safety Regulations 2012</u> <u>Equal Employment Opportunity Act 1992</u> <u>Local Government Act 1999</u>
Policies and Procedures Superseded by this policy on its Adoption:	<u>Volunteers, 12/08/14</u> , 15 February 2005, FS & P Committee
Adoption Authority:	Strategic Planning and Development Policy Committee
Date of Adoption:	<i>To be updated administratively</i>
Effective From:	<i>To be updated administratively</i>
Minute Reference for Adoption:	<i>To be updated administratively</i>
Next Review:	<u>No later than July 2021 or as required by legislation or changed circumstances</u>

VOLUNTEER MANAGEMENT POLICY

1. INTRODUCTION

~~Adelaide Hills Council respects and values the many volunteers who provide a wide range of services to the community. Volunteerism builds local social capital and assists communities to become healthy, vibrant, economically and socially sustainable and resilient in the face of adversity. Volunteerism promotes participation and provides benefits to the community and to the individuals involved.~~

- 1.1 Adelaide Hills Council recognises the importance and the role of volunteering in strengthening connections and understanding between people which promotes a sense of belonging and social wellbeing for individuals, communities and society.
- 1.2 Council acknowledges volunteers are motivated by diverse factors and is committed to engaging volunteers in meaningful activities suited to their skills and interests. Council provides the support and recognition needed to assist volunteers perform their roles effectively. Council values diversity and we are committed to supporting a diverse volunteer base which is representative of our community.
- 1.3 Council demonstrates effective volunteer engagement delivered through a volunteer management framework and in accordance with the 'National Standards for Volunteer Involvement' (Volunteering Australia 2015).

2. OBJECTIVES

~~This Policy establishes a framework to provide direction and structure to the way Council manages its volunteer programs and its dealings with volunteers.~~

~~This Policy has been developed with consideration for Goal 1 of Council's Strategic Plan 2014-2018, 'A Safe and Connected Community'.~~

- 2.1 This policy confirms Council's commitment to volunteering and provides a best practice framework for the management of volunteers by:
 - Articulating the basis for involving and providing direction and structure to the way volunteers are managed for the benefit of Council, the community and those individuals participating in the program
 - Provides understanding of Council's expectations and standards for volunteers and the rights and responsibilities of volunteers in accordance with the National Standards for Involving Volunteers.
- 2.2 The policy demonstrates Council's compliance with the:
 - *Volunteer Protection Act 2001 and Volunteers Protection Regulations 2004*
 - *Children's Protection Act 1993 (SA) and Children's Protection Regulations 2010 (SA)*
 - *Work Health Safety Act 2012*
 - *Equal Employment Opportunity Act 1992*
 - *Local Government Act 1999*

and

- *Volunteering Australia's National Standards for Volunteer Involvement 2015*

- 2.3 This policy has been developed with consideration to Goal 2 of Council's Strategic Plan, which defines success as "a welcoming and inclusive community where people support, respect and celebrate each other for their differences as much as for their shared values."

3. SCOPE

- 3.1 This policy is intended as a guide for all Council departments which involve volunteers that are registered with Adelaide Hills Council. It also guides Council's vision for the ongoing engagement and involvement of volunteers.

The policy applies to all volunteers and to those employees who work in activities, programs and services where volunteers are involved.

4. DEFINITIONS

- 4.1 ~~Volunteer~~ **"Volunteer"** Volunteering is time willingly given for the common good and without financial gain (Volunteering Australia 2015).

A **volunteer** is an individual who is registered with and has approval by Council to undertake activities:

- of the volunteer's own free will and without coercion
- for no financial reward from Council
- in designated volunteer positions only.

~~People undertaking volunteering to meet Centrelink requirements are considered volunteers.~~

The following persons, for the purpose of this policy, are not considered volunteers:

- People on ~~work~~ **student** placement and work experience programs
- ~~Students undertaking volunteering as part of the education curriculum.~~
- Council Members of Adelaide Hills Council
- Persons receiving payment outside of the volunteer reimbursement framework
- People working on a voluntary basis for organisations with which the Council partners or supports.

- 4.2 **"Volunteer Leader"** in Council are defined as paid staff members who are directly responsible for the day to day management and leadership of volunteers undertaking duties on behalf of Council.

5. POLICY STATEMENT

5.1 Policy Principles

Council supports volunteering and encourages the recruitment and training of volunteers to assist in appropriate Council activities which do not threaten job security or replace the activities of paid employees. Council understands that effective engagement of volunteers provides the organisation with skills, talents, and perspectives that are essential to remaining relevant and sustainable and extends our capacity to accomplish our goals.

Council recognises that the volunteer program provides several benefits to both the volunteers and the community including:

- Community participation
- Enhanced personal development and self esteem
- Increased access to resources and information
- Social interaction and satisfaction
- Participation with established Council services and events
- Improvement to the well being of the community.

Council supports a range of volunteer programs that serve the local community in a variety of areas including, but not limited to:

- Transport
- Shopping assistance
- Library services
- Community Sheds
- Community Centres.

Volunteer responsibilities are formalised and documented for each volunteer program, which clearly identify the role of each volunteer. Council provides adequate resources to manage its various volunteer programs to ensure that the objectives of this policy are met.

4.5 Volunteer Recognition

Council will recognise the importance of volunteers and the valuable contribution they make to our community. Volunteers will be acknowledged in an appropriate and timely manner.

4.6 Insurance

Council will ensure that appropriate Personal Accident and Public Liability insurance covers are provided to protect volunteers, the community and the organisation against damage, loss and injury. The *Volunteer Protection Act 2001* provides some protection to volunteers from personal liability for loss, injury or damage caused as a result of an action on their part while performing volunteer duties. Exclusions are applicable in cases where a volunteer has been deliberately negligent.

4.7 Procedures

The Chief Executive Officer, or delegate, is responsible for developing and maintaining procedures required in implementing this Policy.

6. ROLES AND RESPONSIBILITIES

6.1 Volunteers' Rights: Council recognises that volunteers have the right to:

- make a choice of type of involvement, commitment of time, and the right to say no
- be provided with a clearly written role statement and to receive appropriate orientation and ongoing training
- have access to designated employees with queries or support relating to their volunteer role
- receive ongoing support and direction from designated employees
- be provided with the appropriate resources to undertake their volunteer duties as required
- be treated with respect and as a valued member of the team
- receive reimbursement for approved out-of-pocket expenses
- be consulted, valued and welcomed regarding ideas and suggestions for improvements to the program with which they work
- have complaints or grievances heard by an appropriate People Leader and to be aware of the grievance procedures
- work in a safe environment
- be covered by appropriate insurances whilst engaged in their volunteer duties.

6.2 Volunteers' Responsibilities: Council recognises that volunteers have obligations and responsibilities to the Council including to:

- make a realistic commitment in terms of involvement and reliability
- understand and acknowledge the requirements of the Volunteer Code of Conduct and relevant policies and procedures
- participate in the appropriate induction and ongoing training as provided
- report to their People Leader any damage to property or a third party
- notify their People Leader if they are unable to undertake duties
- report any unsafe working conditions / potential hazards to their People Leader
- operate under the direction and supervision of Council employees to achieve the objectives required
- maintain confidentiality regarding Council business, program information or any other sensitive, private information they come across during their volunteer duties.

6.3 Council's Rights: Council has the right:

- to negotiate a commitment from a volunteer
- to expect a volunteer to undergo appropriate training
- to expect to be notified in advance if a volunteer is unable to undertake duties
- to refuse a volunteer placement
- to request that a volunteer undertakes a police check or medical check for fitness for the position, predetermined by the chosen area of work
- to expect a volunteer to observe privacy and confidentiality obligations.

6.4 Council's Responsibilities: Council will ensure that volunteers:

- do not undertake duties assigned to employees
- are offered reimbursement for approved out-of-pocket expenses

- have adequate skills and knowledge to undertake duties
- are provided with a ~~corporate~~-volunteer induction and local orientation and appropriate training
- receive appropriate support and supervision
- are registered with Council and insured within Council's Personal Accident and Public Liability policies whilst undertaking approved work activities
- have a safe working environment, safe equipment and safe systems of work
- have adequate resources to ensure the sustainability of the volunteer management system.

7. DELEGATION

7.1 The Chief Executive Officer has the delegation to:

- Approve, amend and review any procedures that shall be consistent with this Policy; and
- Make any formatting, nomenclature or other minor changes to the Policy during the period of its currency.

8. AVAILABILITY OF THE POLICY

8.1 This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.