



ORDINARY COUNCIL MEETING

NOTICE OF MEETING

To: Mayor Jan-Claire Wisdom

Councillor Kirrilee Boyd
Councillor Adrian Cheater
Councillor Nathan Daniell
Councillor Pauline Gill
Councillor Chris Grant
Councillor Malcolm Herrmann
Councillor Lucy Huxter
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Louise Pascale
Councillor Melanie Selwood

Notice is 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 14 February 2023
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.

A handwritten signature in blue ink, appearing to read 'David Waters', with a long, flowing horizontal line extending to the right.

David Waters
Chief Executive Officer



ORDINARY COUNCIL MEETING

AGENDA FOR MEETING
Tuesday 14 February 2022
6.30pm
63 Mt Barker Road Stirling

ORDER OF BUSINESS

1. COMMENCEMENT

2. OPENING STATEMENT

Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kaurna people. They are Custodians of this ancient and beautiful land and so we pay our respects to Elders past, present and emerging. We will care for this country together by ensuring the decisions we make will be guided by the principle that we should never 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 Jan-Claire Wisdom 2 March – 9 March, approved at Council 24 January 2023.
- 3.3. Absent

4. MINUTES OF PREVIOUS MEETINGS

Council Meeting – 24 January 2023
That the minutes of the ordinary meeting held on 24 January 2023 (adjourned to 6 February) 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. MAYOR'S OPENING REMARKS

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
Nil
- 8.3. Public Forum

9. PRESENTATIONS (by exception)

- 9.1. South Australian Tourism Commission re Santos Tour Down Under – Exclusion of the Public

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

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Director Infrastructure & Operations, Peter Bice
- Executive Manager Governance & Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson
- Manager, Communications, Engagement & Events, Jennifer Blake
- Events Officer, Stephanie Murgatroyd
- Executive Director, Events SA, SATC, Hitaf Rasheed
- Race Director, Tour Down Under, Stuart O’Grady
- Minute Secretary, Pam Williams

be excluded from attendance at the meeting for Agenda Item 9: (South Australian Tourism Commission re Santos Tour Down Under – Exclusion of the Public) 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.

10. QUESTIONS ON NOTICE

Nil

11. MOTIONS ON NOTICE

11.1. Glenside Road Crafers Land Division and Other Matters – Cr Osterstock

1. the Administration prepares a report for Council's consideration, by 28 March 2023, detailing the requirements required to initiate a Code Amendment for the Adelaide Hills Subzone to strengthen planning policy in relation to the Desired Outcomes and Performance Outcomes for land division to better respond to the median allotment requirements, including, yet not limited to, the investigations already undertaken and the process to be followed for a Code Amendment. (This report will also outline a proposed community engagement plan / strategy).
2. Council notes, and is supportive of, the decision made by the Adelaide Hills Council Assessment Manager to refuse to grant development approval, application (21018221) for land division of 1 into 2 allotments at Crafers which was lodged on 8 July 2021, and subsequently refused on 7 October 2021.
3. Council notes that this application proposed to create two allotments of 4392m² and 1114m², and:
 - a. that the larger allotment was a battle axe shape and contains a building used for accommodation associated with the existing dwelling on the land, and
 - b. that the smaller allotment was closer to Glenside Road and contains the existing dwelling.
4. Council notes, and is in full agreement with, the grounds for refusal, those grounds in summary being:
 - a. that the land division was not sympathetic or consistent with the established allotment pattern and the character of development within the locality.
 - b. that from a quantitative perspective the smaller proposed allotment failed to meet the median allotment size of 3,155m² within a radius of 200m (measured from the centre of the current allotment).
 - c. that the smaller allotment was considered inconsistent with the density and dimensions expressed in the Zone.
5. Council notes that under the former Development Plan, there was a detailed desired character statement, the minimum allotment was the greater of the median allotment size or 2000m² and that land division creating smaller allotments was non-complying development. Council reiterates its support

[and expectancy] for this desired character statement to be honoured and maintained under the Planning and Design Code.

6. *Council is extremely concerned that the weight of previous planning policy has been seriously weakened under the (new) Planning and Design Code.*
7. *Council, on behalf of the Adelaide Hills community which it is elected to represent, is opposed to the subject application, and in adopting this position, has clear and unequivocal support for the Council Administration to strongly pursue a Code Amendment to provide greater support for the policy position within the Adelaide Hills Subzone and the Rural Neighbourhood Zone, as detailed in the Planning and Design Code (formerly called the Country Living Zone in the Council Development Plan), that land divisions will not result in the creation of new allotments of a size that would be smaller than 2000m² or the size determined by the median allotment calculation (whichever is the greater).*

12. ADMINISTRATION REPORTS – DECISION ITEMS

12.1. Preserving Randell's Workers Cottages – 1 Beavis Court Gumeracha

1. *That the report be received and noted.*
2. *That the amount of \$20,000 be considered as part of the 2023/24 budget preparation process to prevent further deterioration of Randell's Cottages at 1 Beavis Court, Gumeracha.*

12.2. Uniting Church request to transfer ownership of Woodside & Inverbrackie Cemeteries

1. *That the report be received and noted.*
2. *That the CEO write to Uniting Church Synod in South Australia advising that the Adelaide Hills Council respectfully declines their proposed offer to transfer ownership of the Woodside and Inverbrackie Uniting Church Cemeteries to Council.*

12.3. Business Case GRFMA Contribution

1. *That the report be received and noted.*
2. *To decline the request to provide funding of \$100,000 to the Gawler River Floodplain Management Authority in support of a Business Case.*
3. *To offer a contribution of \$10,380 to the Gawler River Floodplain Management Authority in support of a Business Case, in line with Adelaide Hills Council's percentage share of capital works costs as per the adopted GRFMA charter.*

12.4. Policy Review – Meeting Procedures & Access

1. *That the report be received and noted.*
2. *That in relation to the Code of Practice for Council Meeting Procedures:*
 - a. *With an effective date of 28 February 2023, to revoke the 22 March 2022 (effective v2.1 – 21 June 2022) Code of Practice for Council Meeting Procedures and to adopt the 14 February 2023 Code of Practice for Council Meeting Procedures, as contained in Appendix 1.*

Refer to Agenda

13. ADMINISTRATION REPORTS – INFORMATION ITEMS

- 13.1. Quarterly Council Performance Report Q2

14. QUESTIONS WITHOUT NOTICE

15. MOTIONS WITHOUT NOTICE

16. REPORTS

- 16.1. Council Member Function or Activity on the Business of Council
- 16.2. Reports of Members/Officers as Council Representatives on External Organisations
- 16.3. CEO Report

17. REPORTS OF COMMITTEES

- 17.1. Council Assessment Panel – 8 February 2023
That the minutes of the CAP meeting held on 8 February 2023 as supplied, be received and noted.
- 17.2. Audit Committee
Nil
- 17.3. CEO Performance Review Panel
Nil
- 17.4. Boundary Change Committee
Nil

18. CONFIDENTIAL ITEMS

- 18.1. Substantive CEO Recruitment – Remuneration & Independent Advice

19. NEXT MEETING

Tuesday 28 February 2023, 6.30pm, 63 Mt Barker Road, Stirling

20. CLOSE MEETING



Council Meeting & Workshops 2023

DATE	TYPE	LOCATION	MINUTE TAKER
MARCH 2023			
Mon 6 March	Workshop	Woodside	N/A
Wed 8 March	CAP	Stirling	Karen Savage
Tues 14 March	Council	Stirling	Pam Williams
Tues 21 March	Professional Development	Stirling	N/A
Tues 28 March	Council	Stirling	Pam Williams
APRIL 2023			
Mon 3 April	Workshop	Woodside	N/A
Tues 11 April	Council	Stirling	Pam Williams
Wed 12 April	CAP	Stirling	Karen Savage
Mon 17 April	Audit	Stirling	TBA
Tues 18 April	Professional Development	Stirling	N/A
Wed 26 April *moved from ANZAC Day	Council	Stirling	Pam Williams
MAY 2023			
Mon 1 May	Workshop	Woodside	N/A
Tues 9 May	Council	Stirling	Pam Williams
Wed 10 May	CAP	Stirling	Karen Savage
Mon 15 May	Audit	Stirling	TBA
Tues 16 May	Professional Development	Stirling	N/A
Tues 23 May	Council	Stirling	Pam Williams

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

Conflict of Interest Disclosure Form

CONFLICTS MUST BE DECLARED VERBALLY DURING MEETINGS

Date: _____

Meeting Name (please tick one)

Ordinary Council ☐

Special Council ☐

CEO Performance Review Panel ☐

Audit Committee ☐

Boundary Change Committee ☐

Other: _____ ☐

Item No

Item Name:

(Only one conflict of interest entry per form)

I, Mayor / Cr _____ have identified a conflict of interest as:

GENERAL ☐

MATERIAL ☐

GENERAL

In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member's private interests might result in the Member acting in a manner that is contrary to their public duty.

MATERIAL

In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting.

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)

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

- ☐ I intend to **stay** in the meeting (please complete details below)
- ☐ I intend to **stay** in the meeting as exempt under s75A (please complete details below)
- ☐ I intend to **leave** the meeting (*mandatory if you intend to declare a Material conflict of interest*)

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

(This section must be completed and ensure sufficient detail is recorded of the specific circumstances of your interest.)

Office use only: Council Member voted FOR / AGAINST the motion.

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, 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 number of deputations that have already been granted for the meeting
 - the subject matter of the proposed deputation
 - relevance to the Council agenda nominated – and if not, relevance to the Council's powers or purpose
 - the integrity of the request (i.e. whether it is considered to be frivolous and/or vexatious)
 - the size and extent of the agenda for the particular meeting and
 - the number of times the depute has addressed Council (either in a deputation or public forum) on the subject matter or a similar subject matter.

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.

Item 4 Minutes of Council

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 24 JANUARY 2023
63 MT BARKER ROAD STIRLING**

In Attendance

Presiding Member: Mayor Jan-Claire Wisdom

Members:

Councillor Kirrilee Boyd
Councillor Adrian Cheater
Councillor Nathan Daniell
Councillor Pauline Gill
Councillor Chris Grant
Councillor Malcolm Herrmann
Councillor Lucy Huxter
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Louise Pascale
Councillor Melanie Selwood

In Attendance:

David Waters	A/Chief Executive Officer
Peter Bice	Director Infrastructure & Operations
Natalie Armstrong (electronic)	Director Development & Regulatory Services
Rebecca Shepherd	A/Director Community Capacity
Karen Cummings	Manager Property Services
Deryn Atkinson	Manager Development Services
James Szabo	Senior Strategic & Policy Planner
Lynne Griffiths	Community & Cultural Development Officer
Steven Watson	Governance & Risk Coordinator
Kira-Marie Laverty	Corporate Planning & Performance Coordinator
Pam Williams	Minute Secretary

1. COMMENCEMENT

The meeting commenced at 6.30pm.

2. OPENING STATEMENT

Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kaurna people. They are Custodians of this ancient and beautiful land and so we pay our respects to Elders past, present and emerging. We will care for this country together by ensuring the decisions we make will be guided by the principle that we should never decrease our children's ability to live on this land.

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
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3. Apology

Nil

3.1 Leave of Absence

Moved Cr Pauline Gill

S/- Cr Mark Osterstock

1/23

1. That a Leave of Absence from all duties of office be granted to Mayor Jan-Claire Wisdom from 2 March to 9 March 2023.
2. That any committee, panel or advisory group membership currently held by Mayor Jan-Claire Wisdom be undertaken by the Deputy during the leave of absence.

Carried Unanimously

3.2 Absent

Nil

4. MINUTES OF PREVIOUS MEETINGS

4.1 Council Meeting – 20 December 2022

Moved Cr Malcolm Herrmann

S/- Cr Chris Grant

2/23

That the minutes of the Ordinary Council meeting held on 20 December 2022 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

Carried Unanimously

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

5.1 Material Conflict of Interest, Cr Adrian Cheater - Item 11.2 First Nations use of Surplus Land

Under Section 75C of the *Local Government Act 1999* Cr Adrian Cheater disclosed a Material (section 75) Conflict of Interest in Item 11.2 First Nations use of Surplus Land, the nature of which is as follows:

- I undertake consulting work for relevant First Nations Groups relating to access and usage of referenced surplus lands.

Cr Adrian Cheater intends to leave the Chamber when this item is discussed.

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5.2 General Conflict of Interest, Cr Mark Osterstock - Item 11.1 Aldgate Main Street Amenity Upgrade Stage 2

Under Section 75B of the *Local Government Act 1999* Cr Mark Osterstock disclosed a General (section 74) Conflict of Interest in Item 11.1 Aldgate Main Street Amenity Upgrade Stage 2, the nature of which is as follows:

- I reside in Aldgate along with 3,361 other AHC residents (sourced from 2016 Australian census).

Cr Mark Osterstock intends to stay in the Meeting when this item is discussed.

5.3 General Conflict of Interest, Cr Melanie Selway - Item 12.2 Nomination for Premier's Climate Change Council

Under Section 75B of the *Local Government Act 1999* Cr Melanie Selway disclosed a General (section 74) Conflict of Interest in Item 12.2 Nomination for Premier's Climate Change Council, the nature of which is as follows:

- Due to my employment with a Member of Parliament, the advice given by the Premier's Climate Change council may be considered in my work and thus there may be a perception that I have a conflict.

Cr Melanie Selway intends to leave the Meeting when this item is discussed.

5.4 Material Conflict of Interest, Cr Leith Mudge - Item 12.2 Nomination for Premier's Climate Change Council

Under Section 75C of the *Local Government Act 1999* Cr Leith Mudge disclosed a Material (section 75) Conflict of Interest in Item 12.2 Nomination for Premier's Climate Change Council, the nature of which is as follows:

- I intend to nominate for this role. If nominated by Council and eventually selected by the Minister, a sitting fee is applicable which would be a direct material benefit.

Cr Leith Mudge intends to leave the Meeting when this item is discussed.

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5.5 General Conflict of Interest, Cr Leith Mudge - Item 12.4 Request to Waive Land Management Agreement Requirement for Building Setback at 9 Woodland Way Teringie

Under Section 75B of the *Local Government Act 1999* Cr Leith Mudge disclosed a General (section 74) Conflict of Interest in Item 12.4 Request to Waive Land Management Agreement Requirement for Building Setback at 9 Woodland Way Teringie, the nature of which is as follows:

- This item relates to a matter that is likely to come before the Council Assessment panel (CAP). As a member of CAP I am not able to participate in public discussion of a matter that may come before it prior to it being considered.

Cr Leith Mudge intends to leave the Meeting when this item is discussed.

5.6 General Conflict of Interest, Cr Nathan Daniell - Item 12.4 Request to Waive Land Management Agreement Requirement for Building Setback at 9 Woodland Way Teringie

Under Section 75B of the *Local Government Act 1999* Cr Nathan Daniell disclosed a General (section 74) Conflict of Interest in Item 12.4 Request to Waive Land Management Agreement Requirement for Building Setback at 9 Woodland Way Teringie, the nature of which is as follows:

- This item relates to a matter that is likely to come before the Council Assessment panel (CAP). As a deputy member of CAP I am not able to participate in public discussion of a matter that may come before it prior to it being considered.

Cr Nathan Daniell intends to leave the Meeting when this item is discussed.

6. PRESIDING MEMBER'S OPENING REMARKS

Mayor Jan-Claire Wisdom acknowledged the passing of Kristina Vonow of Lobethal and expressed her regret at the loss of a dedicated member of the community.

The Mayor commented that the 2023 Santos Tour Down Under, which is one of the biggest events on the tourism calendar, was very successful.

The Mayor noted that there were some road closure issues which will be reviewed with the State Government to improve future events.

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7. QUESTIONS ADJOURNED/LYING ON THE TABLE

7.1 Questions Adjourned (from 27 September 2022)

7.1.1 Options to reduce traffic congestion and improve child safety adjacent to Bridgewater Primary School

Moved Cr John Kemp
S/- Cr Pauline Gill

A traffic study covering the local area surrounding Bridgewater Primary School be conducted to consider traffic congestion arising from the school's own enrolment pressures and assessing the performance of the existing one-way zones, as well as pedestrian movements to and from the school. A report be presented to Council on the results of the traffic study with concepts and costings for any recommended treatment identified that could then be considered as part of a future Annual Business Plan and Budget.

Lost

Moved Cr Leith Mudge
S/- Cr Malcolm Herrmann

3/23

Council resolves:

- 1. That the report be received and noted.**
- 2. That following the completion of the Child Care development, and in liaison with the Department for Education, Council Staff undertake a Traffic Monitoring Study of the local road network in the vicinity of Bridgewater Primary School including Lezayre Avenue, Morella Grove, Trenouth Street and Shannon Road.**
- 3. That a report be brought back to Council within 6 months of the opening of the Childcare Centre.**

Carried

7.2 Questions Lying on the Table

Nil

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8. PETITIONS/DEPUTATIONS/PUBLIC FORUM

8.1 Petitions

Nil

8.2 Deputations

Nil

8.3 Public Forum

Nil

9. PRESENTATIONS

Nil

10. QUESTIONS ON NOTICE

Nil

11. MOTIONS ON NOTICE

Cr Mark Osterstock declared a General Conflict of Interest at Agenda Item 5 'Declaration of Interest by members of the council' in relation to Item 11.1.

Cr Mark Osterstock intends to remain in the meeting and vote.

Cr Kirrilee Boyd declared a General Conflict of Interest at Agenda Item 5 'Declaration of Interest by members of the council' in relation to Item 11.1. as she resides in Aldgate and can make a fair decision in the public interest.

Cr Kirrilee Boyd intends to remain in the meeting and vote.

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11.1 Aldgate Main Street Amenity Upgrade – Stage 2

**Moved Cr Mark Osterstock
S/- Cr Nathan Daniell**

4/23

- 1. A report be prepared for Council’s consideration on the feasibility (including costings) of:**
 - a. Refurbishing (high pressure cleaning, realignment, reseating and replacement where necessary) the paved footpath on the western side of Mount Barker Road, from Euston Road to Kingsland Road (landscaping, plantings, bin replacement, street furniture replacement, signage replacement), consistent with that of the recently completed Aldgate Main Street Amenity Upgrade – Stage 1.**
 - b. Maintenance (including yet not limited to, landscaping, plantings, signage replacement) of the Aldgate roundabout, consistent with that of the Stirling roundabout.**
 - c. Refurbishment (high pressure cleaning and sealing of the limestone supporting structures, including yet not limited to, replacement landscaping, plantings and signage) of the Aldgate Railway Bridge and its approaches.**
- 2. That the funding source for these works will be the Local Roads and Community Infrastructure Program (Phase 4), and where possible, and within existing budgetary parameters and commitments, the use of in-house staff for these proposed works, as opposed to external contractor/s.**
- 3. That the subject report be presented to Council for consideration in March 2023, or earlier, depending on the Local Roads and Community Infrastructure Program (Phase 4) requirements and guidelines.**
- 4. That the report also includes a strategic priority list of potential Main Street/Town Centre upgrades and the merits of implementing a Plan (including financial implications) to undertake upgrades aligned with the priority list.**

Carried

Cr Osterstock and Cr Boyd voted “for” the motion. The majority of persons who were entitled to vote at the meeting voted in favour of the motion.

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DIVISION

Cr Mark Osterstock called for a division.

The Mayor set aside the ruling.

In the affirmative (10)

Councillors Herrmann, Boyd, Cheater, Parkin, Huxter, Mudge, Pascale, Daniell, Selwood, Osterstock

In the negative (2)

Councillors Gill, Grant

On the basis of the results of the division, the Mayor declared the motion **Carried**.

11.2 First Nations use of Surplus Land

Cr Adrian Cheater declared a Material Conflict of Interest at Agenda Item 5, 'Declaration of Interest by Members of the Council' in relation to Item 11.2.

7.17pm Cr Adrian Cheater left the Meeting.

Moved Cr Leith Mudge

S/- Cr Kirrilee Boyd

1. The CEO investigates options for providing preference to traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills, to purchase, lease or use vacant land that is:
 - a. owned by Council; or
 - b. crown land under the care and control of Council,that is surplus to Council's needs.
2. The Adelaide Hills Reconciliation Working Group (AHRWG), traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills be consulted as part of this investigation.
3. The outcomes of the investigation be discussed at a workshop and a report including recommended changes to relevant policy be presented to Council for consideration not later than 30 June 2023.

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AMENDMENT (red text)

Moved Cr Mark Osterstock
S/- Cr Louise Pascale

1. That the CEO investigates ~~options~~ the feasibility, including yet not limited to the implications for Council, of providing preference to traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills, to purchase, lease or use vacant land, at no cost to Council, that is:
 - a. owned by Council; or
 - b. crown land under the care and control of Council, that is surplus to Council's needs.
2. That the Adelaide Hills Reconciliation Working Group (AHRWG), traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills be consulted, initially, as part of this investigation.
3. That the outcomes of the investigation be discussed at a workshop and a report ~~including recommended changes to relevant policy~~ be presented to Council for consideration ~~not~~ no later than 30 June 2023.

The Amendment was put and Carried

MOTION AS AMENDED

Moved Cr Leith Mudge
S/- Cr Kirrilee Boyd

5/23

1. That the CEO investigates the feasibility, including yet not limited to the implications for Council, of providing preference to traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills, to purchase, lease or use vacant land, at no cost to Council, that is:
 - a. owned by Council; or
 - b. crown land under the care and control of Council, that is surplus to Council's needs.

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2. The Adelaide Hills Reconciliation Working Group (AHRWG), traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills be consulted as part of this investigation.
3. The outcomes of the investigation be discussed at a workshop and a report including recommended changes to relevant policy be presented to Council for consideration not later than 30 June 2023.

Carried Unanimously

7.49pm Cr Adrian Cheater returned to the Meeting.

11.2.1 Short Adjournment

Moved Cr Pauline Gill
S/- Cr Chris Grant

6/23

That the Council meeting adjourns for a short break at 7.50pm.

Carried Unanimously

7.57pm The Council meeting resumed

11.3 First Nations and Australia Day

Moved Cr Melanie Selwood
S/- Cr Chris Grant

That Council

1. Reaffirms its commitment to being an inclusive council that respects First Nations culture and values
2. Acknowledges the 26th of January is a day of mourning for many First Nations people
3. Requests the Chief Executive Officer prepares a report for Council's consideration on the proposal to move citizenship ceremonies, award ceremonies and related events to a date other than 26 January from 2024 onwards.

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AMENDMENT 1 (red text)

The Mover with the consent of the Seconder sought and was granted leave of the meeting to vary the motion to replace the word "Ratepayers" with "Residents" in the amended paragraph below.

Moved Cr Lucy Huxter
S/- Cr Pauline Gill

1. Reaffirms its commitment to being an inclusive council that respects First Nations culture and values
2. Acknowledges the 26th of January is considered a day of mourning for many First Nations people
3. Notes that, in December 2022, the Federal Government updated the Australian Citizenship Ceremonies Code allowing councils to hold Australia Day Citizenship Ceremonies on another date but expecting that councils continue to conduct ceremonies on January 26;
4. Requests the Chief Executive Officer initiate a community survey to residents to determine the interest from residents on the possibility of moving citizenship ceremonies, award ceremonies and related events to a date other than the 26th of January from 2024 onwards
5. Following the results of the survey, and dependent on the level of support from the community, requests the Chief Executive to prepare a report for Council's consideration on the proposal, which includes, but is not limited to, costings and legislative requirements, to then enable Council to make a fully informed decision.

The Amendment was put and Lost

AMENDMENT 2 (red text)

Moved Cr Adrian Cheater
S/- Cr Mark Osterstock

1. Reaffirms its commitment to being an inclusive council that respects First Nations culture and values
2. Acknowledges the 26th of January is a day of mourning for many First Nations people
3. Acknowledges the celebration of attaining citizenship and other community achievements as highly valuable.
4. Exclude the of January 26th as a selectable date for citizenship and award ceremonies from 2024 onwards.

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5. Requests the Chief Executive Officer to prepare a report in consultation with the Adelaide Hills Council Reconciliation Work Group, relevant local Aboriginal groups and local community for Council's consideration on ~~the proposal to move~~ alternative dates for citizenship and awards ceremonies ~~and related events to a date other than Australia Day~~ from 2024 onwards.

The Amendment was put and Lost

Moved Cr Melanie Selwood
S/- Cr Chris Grant

7/23

That Council

- 1. Reaffirms its commitment to being an inclusive council that respects First Nations culture and values**
- 2. Acknowledges the 26th of January is a day of mourning for many First Nations people**
- 3. Requests the Chief Executive Officer prepares a report for Council's consideration on the proposal to move citizenship ceremonies, award ceremonies and related events to a date other than 26 January from 2024 onwards.**

Carried Unanimously

11.3.1 Personal Statement – Cr Mark Osterstock

Leave of the Meeting was sought and granted to Cr Mark Osterstock for the purposes of making a Personal Statement.

Cr Mark Osterstock advised Council that in relation to Item 11.1:

"In closing the debate I questioned some council members' contributions. I withdraw those comments and apologise to Council."

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12. OFFICER REPORTS – DECISION ITEMS

12.1 Adelaide Hills Reconciliation Working Group, AHC Representative

Moved Cr Nathan Daniell

S/- Cr Mark Osterstock

8/23

1. That the report be received and noted.
2. That the Reconciliation Update – January 2023, as contained in *Appendix 2*, be received and noted.
3. To continue to be a member of the Adelaide Hills Reconciliation Working Group under the current Terms of Reference, as contained in *Appendix 1*.
4. To determine that the method of selecting the Adelaide Hills Reconciliation Working Group Member to be by an indicative vote to determine the preferred person for the Elected Member position utilising the process set out in this Agenda report.
5. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for the Adelaide Hills Reconciliation Working Group Member role and for the meeting to resume once the results of the indicative vote have been declared.

Carried Unanimously

9.13pm The Council meeting adjourned

9.28pm The Council meeting resumed

12.1.1 Adelaide Hills Reconciliation Working Group, AHC Representative - Appointment

Moved Cr Chris Grant

S/- Cr Leith Mudge

9/23

1. That Cr Adrian Cheater be appointed to the Reconciliation Working Group for the term 28 February 2023 to 28 February 2025.
2. That Cr Kirrilee Boyd be appointed as Proxy to the Reconciliation Working Group for the term 28 February 2023 to 28 February 2025.

Carried Unanimously

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12.2 Nomination for Premier's Climate Change Council – Method of Selection

Cr Melanie Selway declared a General Conflict of Interest at Agenda Item 5, 'Declaration of Interest by Members of the Council' in relation to Item 12.2.

9.30pm Cr Melanie Selway left the Meeting.

Moved Cr Nathan Daniell

S/- Cr Chris Grant

10/23

Council resolves:

- 1. That the report be received and noted.**
- 2. To determine that the method of selecting Council Members to be nominated for the Premier's Climate Change Council be by an indicative vote utilising the process set out in this Agenda report.**
- 3. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred person for nomination for the Premier's Climate Change Council and for the meeting to resume once the results of the indicative vote have been declared.**

Carried Unanimously

9.32pm The Council meeting adjourned

9.49pm The Council meeting resumed with Cr Melanie Selway in attendance.

12.2.1 Nomination for Premier's Climate Change Council

Cr Leith Mudge, Cr Adrian Cheater and Cr Kirrilee Boyd declared a Material Conflict of Interest at Agenda Item 5, 'Declaration of Interest by Members of the Council' in relation to Item 12.2.1 as a sitting fee is applicable to this position.

9.51pm Cr Leith Mudge, Cr Adrian Cheater and Cr Kirrilee Boyd left the Meeting.

Moved Cr Mark Osterstock

S/- Cr Kirsty Parkin

11/23

Council resolves to nominate Cr Adrian Cheater & Cr Leith Mudge for the Premier's Climate Change Council and authorises the Chief Executive Officer to lodge the completed nomination form to the Local Government Association by COB Friday 10 February 2023.

Carried Unanimously

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9.52pm Cr Leith Mudge, Cr Adrian Cheater and Cr Kirrilee Boyd returned to the Meeting.

12.2.2 Extension of Meeting Time

Moved Cr Leith Mudge

S/- Cr Mark Osterstock

11/23

That Council extends the meeting by 30 minutes to 10.30pm.

Carried

9.57pm Cr Mark Osterstock left the Meeting

9.59pm Cr Mark Osterstock returned to the Meeting

12.3 Submission to the Expert Panel Planning System Implementation Review

Moved Cr Malcolm Herrmann

S/- Cr Leith Mudge

12/23

Council resolves:

- 1. That the report be received and noted.**
- 2. To approve the Adelaide Hills Council submission on the Expert Panel Planning Implementation Review as contained in Appendices 1 & 2.**
- 3. That the Acting Chief Executive Officer be authorised to make any additional non-substantive technical additions and minor editorial amendments to the submission prior to lodgement with the State Planning Commission no later than 30 January 2023.**

Carried Unanimously

10.08pm Cr Pauline Gill left the Meeting and did not return

12.4 Request to Waive Land Management Agreement requirement for Building Setback at 9 Woodland Way Teringie

Cr Leith Mudge and Cr Nathan Daniell declared a Material Conflict of Interest at Agenda Item 5, 'Declaration of Interest by Members of the Council' in relation to Item 12.4 as they are member and deputy member of the Council Assessment Panel.

10.09pm Cr Leith Mudge and Cr Nathan Daniell left the Meeting.

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Moved Cr Lucy Huxter
S/- Cr Malcolm Herrmann

Council resolves:

1. That the report be received and noted.
2. That pursuant to clause 9.2 of the Land Management Agreement registered on Certificate of Title Volume 5391 Folio 572, known as 9 Woodland Way Teringie, Council agrees to the waiver of the landowner's obligations in relation to clause 2 for building setbacks, subject to the Council Assessment Panel granting Planning Consent to Development Application 22022313 for the two-storey dwelling addition.
3. The Acting Chief Executive Officer be authorised to provide written communication of Council's agreement to the waiver of Land Management Agreement obligations above to the landowner.

LOST

Moved Cr Malcolm Herrmann
S/- Cr Lucy Huxter

13/23

1. That the report be received and noted.
2. That pursuant to clause 9.2 of the Land Management Agreement registered on Certificate of Title Volume 5391 Folio 572, known as 9 Woodland Way Teringie, Council does not agree to the waiver of the landowner's obligations in relation to clause 2 for building setbacks, subject to the Council Assessment Panel granting Planning Consent to Development Application 22022313 for the two-storey dwelling addition.
3. The Acting Chief Executive Officer be authorised to provide written communication of Council's refusal of the waiver of Land Management Agreement obligations above to the landowner.

Carried Unanimously

10.24pm Cr Leith Mudge & Cr Nathan Daniell returned to the Meeting

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12.5 37 Yanagin Road Greenhill – Revocation of Community Land Classification and Land Swap with Yanagin Reserve

Moved Cr Malcolm Herrmann
S/- Cr Chris Grant

14/23

Council resolves:

1. That the report be received and noted.
2. That Council commences a revocation of community land process for the land identified in Appendix 2 including consultation in accordance with Council's Public Consultation Policy and the *Local Government Act 1999* with the intention of undertaking a land swap with the owners of 37 Yanagin Road, Greenhill, together with varying the existing Heritage Agreement over Yanagin Reserve.
3. That a report be brought back to Council following completion of the Community Consultation process.

Carried Unanimously

12.5.1 Adjournment of Council Meeting to 6 February 2023

Moved Cr Nathan Daniell
S/- Cr Malcolm Herrmann

15/23

Council resolves to adjourn the meeting with resumption to occur at 6.30pm Monday 6 February at 36 Nairne Road Woodside.

Carried Unanimously

The Council meeting adjourned at 10.30pm on Tuesday 24 January 2023.

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The Council meeting resumed at 6.33pm on Monday 6 February 2023 at 36 Nairne Road Woodside with the following members present in the meeting:

Mayor Jan-Claire Wisdom
Councillor Kirrilee Boyd
Councillor Adrian Cheater
Councillor Nathan Daniell
Councillor Pauline Gill
Councillor Chris Grant
Councillor Malcolm Herrmann
Councillor Lucy Huxter
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Louise Pascale
Councillor Melanie Selwood

In Attendance:

David Waters	A/Chief Executive Officer
Peter Bice	Director Infrastructure & Operations
Natalie Armstrong	Director Development & Regulatory Services
Rebecca Shepherd	A/Director Community Capacity
Lachlan Miller	Executive Manager Governance and Performance
Kira-Marie Laverty	Corporate Planning & Performance Coordinator
Steven Watson	Governance & Risk Coordinator Minute Taker

12.6 Status Report – Council Resolutions Update

**Moved Cr Malcolm Herrmann
S/- Cr Chris Grant**

16/23

Council resolves:

- 1. That the report be received and noted.**
- 2. The following completed items be removed from the Action List:**

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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
23/08/2022	Ordinary Council	227/22	Acting and Substantive Chief Executive Officer Recruitment – Acting CEO Selection Panel - Confidential item	Nil
25/10/2022	Ordinary Council	276/22	Electricity Tender Post 2022	Nil
25/10/2022	Ordinary Council	278/22	Service Review Brief - Development Services	Nil
29/11/2022	Ordinary Council	294/22	MON Speed Limit on North-East Road Inglewood	Nil
29/11/2022	Ordinary Council	298/22	Annual Report Adoption	Nil
29/11/2022	Ordinary Council	316/22	12.12.1 Appointment of Council Member & Deputy Council Member to the Council Assessment Panel	Material - Cr Leith Mudge Material - Cr Nathan Daniell
20/12/2022	Ordinary Council	292/22	2022-23 Budget Review 1	Nil

Carried Unanimously

13. OFFICER REPORTS - INFORMATION ITEMS

Nil

14. QUESTIONS WITHOUT NOTICE

Moved Cr Malcom Herrmann
S/- Cr Leith Mudge

17/23

That the questions and answers are recorded in the Minutes.

Carried Unanimously

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1. What tangible progress has been made to securing the commencement of the Amy Gillett Bikeway?

Response from Mr Peter Bice, Director Infrastructure and Operations

High level meetings with the Council and State Government administration have progressed positively, and a number of strategies to secure additional funding to address the shortfall are being pursued.

2. Have council and DIT staff come to an agreement on the commencement of the Blackspot funded project designed to improve safety at the intersection of Warren, Martin Hill and Lucky Hit Roads, Forreston?

Response from Mr Peter Bice, Director Infrastructure and Operations

Council and DIT have not come to an agreement on the commencement of the subject blackspot project. Council has tendered the Martin Hill/ Warren/ Lucky Hit Roads project based on the design criteria set by DIT, which included the renewal of pavement on Warren Rd. Unfortunately, all tenders came in well above budget, with the closest acceptable tender being significantly above budget. We have asked the preferred tenderer to re-quote based on a reduced design criteria, one which does not renew the pavement on Warren Rd, but just focuses on the road safety aspects of the project. Although this yielded some savings, the quote is still considerably above available budget. Additionally, DIT have indicated reluctance to approve this revised design. This is creating further delays, as it is not possible to finalise the required land acquisition until the above matters are resolved.

Planned next steps are to approach Federal Blackspot and advise them of the tender result, and to seek additional funding.

15. MOTIONS WITHOUT NOTICE

Nil

16. REPORTS

16.1 Council Member Function or Activity on the Business of Council

Mayor Jan-Claire Wisdom

- 5 January, Funeral of Kristina Vonow, Lobethal
- 12 January, Community Meeting re Gumeracha Hospital Emergency/out of hours medical services, Gumeracha
- 16 January, Tour Down Under duties, Birdwood
- 16 January, Tour Down Under duties, Uraidla
- 19 January, CEO Selection Panel meeting, Stirling
- 19 January, Australia Day Awards ceremony, Government House, Adelaide
- 22 January, Tour Down Under duties, Mt Lofty

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Cr Melanie Selwood

- 22 January, Santos Tour Down Under Finish at Mt Lofty

Cr Pauline Gill

- 12 January, Gumeracha Soldiers Memorial Hospital, Community Forum, Emergency Dept proposal
- 12 January, Woodside Recreation Ground special meeting, presentation from Council on Community and Recreation Funding Framework

Cr Malcolm Herrmann

- 5 February, Funeral Late Kristina Vonow (wife of former councillor Lynton Vonow), Lobethal

16.2 Reports of Members as Council/Committee Representatives on External Organisations

Cr Malcolm Herrmann

- 20 January 2023, GRFMA Chairperson Review Panel, North Adelaide

16.3 CEO Report

David Waters, CEO, provided Council with a verbal Corporate Update, available via www.ahc.sa.gov.au, including:

- Council Members Information or Briefing Session – LTFP Workshop Saturday 8.45am at 63 Mt Barker Road Stirling.
- Gumeracha Hospital Emergency Department – Limited Hours Service
- Council Members Information or Briefing Session – Update on the Amy Gillett Bikeway, Monday 6 February 2023.

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17. REPORTS OF COMMITTEES

17.1 Council Assessment Panel – 14 December 2022

Moved Cr Leith Mudge
S/- Cr Nathan Daniell

18/23

That the minutes of the Council Assessment Panel meeting 14 December 2022 as distributed, be received and noted.

Carried Unanimously

17.2 Audit Committee

Nil

17.3 CEO Performance Review Panel

Nil

17.4 Boundary Change Committee

Nil

18. CONFIDENTIAL ITEMS

18.1 Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority – Exclusion of the Public

Moved Cr Kirrilee Boyd
S/- Cr Chris Grant

19/23

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

- Acting Chief Executive Officer, David Waters
- Acting Director Community Capacity, Rebecca Shepherd
- Director Corporate Services, Terry Crackett
- Director Development & Regulatory Services, Natalie Armstrong
- Director Infrastructure & Operations, Peter Bice
- Executive Manager Governance and Performance, Lachlan Miller
- Governance & Risk Coordinator, Steven Watson

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be excluded from attendance at the meeting for Agenda Item 18.1: Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority (AHRWMA) 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:

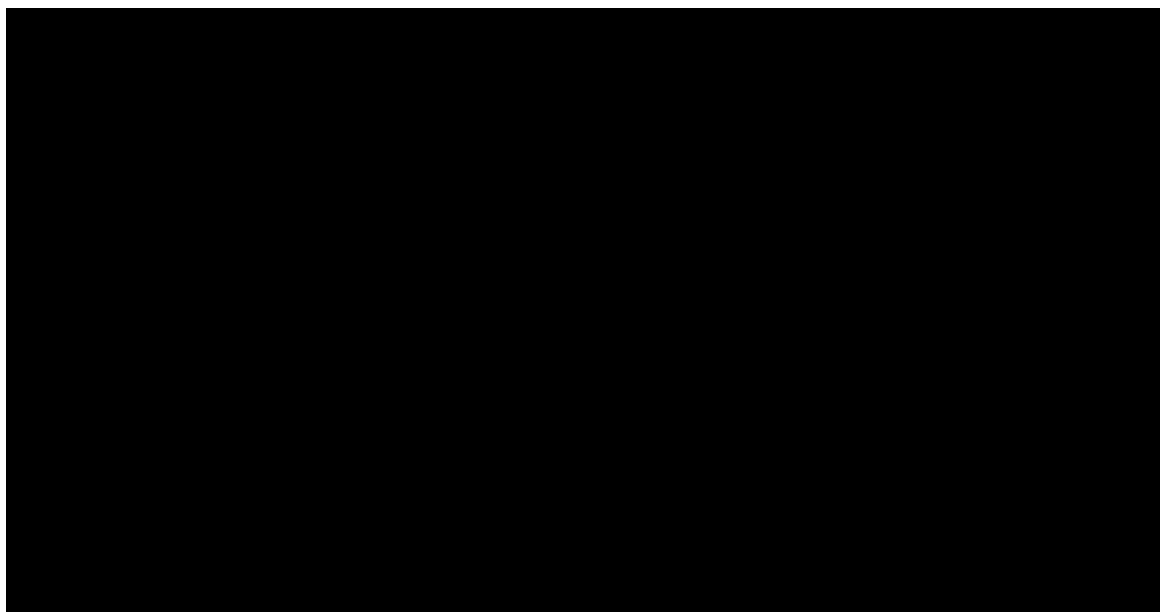
Section 90(3)(a) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of people who expressed interest in membership of the AHRWMA Audit and Risk Committee in that details included in their resumes be discussed.

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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**18.1.1 Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region
Waste Management Authority – Confidential Item**



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18.1.2 Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority – Duration of Confidentiality

Moved Cr Chris Grant
S/- Cr Kirsty Parkin

21/23

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 18.1 in confidence under sections 90(2) and 90(3)(a) 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* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	30 June 2023
Related Attachments	Nil
Minutes	30 June 2023
Other (presentation, documents, or similar)	Nil

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

Carried Unanimously

19. NEXT ORDINARY MEETING

The next ordinary meeting of the Adelaide Hills Council will be held on Tuesday 14 February 2023 from 6.30pm at 63 Mt Barker Road, Stirling.

20. CLOSE MEETING

The meeting closed at 6.44pm.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item: 11.1 Motion on Notice

Originating from: Cr Mark Osterstock

Subject: Glenside Road Crafers Land Division and Other Matters

1. MOTION

I move that:

- 1. the Administration prepares a report for Council's consideration, by 28 March 2023, detailing the requirements required to initiate a Code Amendment for the Adelaide Hills Subzone to strengthen planning policy in relation to the Desired Outcomes and Performance Outcomes for land division to better respond to the median allotment requirements, including, yet not limited to, the investigations already undertaken and the process to be followed for a Code Amendment. (This report will also outline a proposed community engagement plan / strategy).**
- 2. Council notes, and is supportive of, the decision made by the Adelaide Hills Council Assessment Manager to refuse to grant development approval, application (21018221) for land division of 1 into 2 allotments at Crafers which was lodged on 8 July 2021, and subsequently refused on 7 October 2021.**
- 3. Council notes that this application proposed to create two allotments of 4392m² and 1114m², and:**
 - a. that the larger allotment was a battle axe shape and contains a building used for accommodation associated with the existing dwelling on the land, and**
 - b. that the smaller allotment was closer to Glenside Road and contains the existing dwelling.**
- 4. Council notes, and is in full agreement with, the grounds for refusal, those grounds in summary being:**
 - a. that the land division was not sympathetic or consistent with the established allotment pattern and the character of development within the locality.**
 - b. that from a quantitative perspective the smaller proposed allotment failed to meet the median allotment size of 3,155m² within a radius of 200m (measured from the centre of the current allotment).**
 - c. that the smaller allotment was considered inconsistent with the density and dimensions expressed in the Zone.**

5. Council notes that under the former Development Plan, there was a detailed desired character statement, the minimum allotment was the greater of the median allotment size or 2000m² and that land division creating smaller allotments was non-complying development. Council reiterates its support [and expectancy] for this desired character statement to be honoured and maintained under the Planning and Design Code.
6. Council is extremely concerned that the weight of previous planning policy has been seriously weakened under the (new) Planning and Design Code.
7. Council, on behalf of the Adelaide Hills community which it is elected to represent, is opposed to the subject application, and in adopting this position, has clear and unequivocal support for the Council Administration to strongly pursue a Code Amendment to provide greater support for the policy position within the Adelaide Hills Subzone and the Rural Neighbourhood Zone, as detailed in the Planning and Design Code (formerly called the Country Living Zone in the Council Development Plan), that land divisions will not result in the creation of new allotments of a size that would be smaller than 2000m² or the size determined by the median allotment calculation (whichever is the greater).

2. BACKGROUND

Council has initiated a Supreme Court Appeal of a decision of the Environment Resource and Development (ERD) Court to grant Development Approval for a land division at Glenside Road, Crafers (2022 SA ERDC 12 dated 1 August 2022, Appendix A).

The following summary is provided in respect to the subject application for land division:

- The land involved is a residential allotment of 5,294.26m² with an existing house at 16 Glenside Road Crafers
- The appeal relates to development application (21018221) for land division of 1 into 2 allotments at Glenside Road Crafers lodged on 8 July 2021
- The land is located in the Adelaide Hills Subzone and the Rural Neighbourhood Zone as detailed in the Planning and Design Code (formerly called the Country Living Zone in the Council Development Plan)
- The land division proposed to create two allotments of 4392m² and 1114m². The larger allotment was a battle axe shape and contains a building used for accommodation associated with the existing dwelling on the land. The smaller allotment was closer to Glenside Road and contains the existing dwelling.
- Land division is performance assessed development in this Zone and does not require public notification (therefore Council staff and not the CAP were the decision authority)
- Council planning staff determined the proposal under delegation and refused the land division on 7 October 2021
- The grounds for refusal were that the land division was not sympathetic or consistent with the established allotment pattern and the character of development within the locality. From a quantitative perspective the smaller proposed allotment failed to meet the median allotment size of 3,155m² within a radius of 200m (measured from the centre of the current allotment). Additionally, the smaller allotment was considered inconsistent with the density and dimensions expressed in the Zone.

- The decision was appealed by the applicants to the ERD Court and the matter was heard by a single commissioner of the ERD Court. The ERD judgement was that the land division should be granted Development Approval.
- Staff and Council's lawyers believe that the judgement erred in a number of ways in the approach of the Commissioner to the assessment of the planning merits of the proposal. The Appeal was the first under the new *Planning, Development and Infrastructure Act* (PDI Act) and tested the policies contained in the Planning and Design Code.
- Staff and the former elected Council were concerned that the judgement sets a precedence for other land divisions in the zone, and it was agreed it was important to appeal the decision of the ERD Court.
- An appeal application by the Council was lodged with the Supreme Court on 19 August 2022.
- The Appeal is the first in the Supreme Court under the PDI Act and this is the first time the Council has initiated an appeal in the Supreme Court in 20 years or more.
- Under the former Development Plan, there was a detailed desired character statement, the minimum allotment was the greater of the median allotment size or 2000m² and land division creating smaller allotments was non-complying development. Council is concerned that the weight of previous planning policy has been weakened under the Planning and Design Code and awaits the determination of the Supreme Court to inform the need for further policy amendments in the Planning and Design Code.
- The matter is listed for a hearing before a full bench of the Supreme Court on 14 February 2023 and the appeal will debate points of law made by the ERD Court.
- Council will be represented by barrister Stuart Henry and assisted by planning lawyer, Peter Psaltis of Norman Waterhouse.

3. OFFICER'S RESPONSE – Natalie Armstrong, Director Development & Regulatory Services

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal A functional Built Environment

Objective B.2 Preserve and enhance the unique character of the Hills for current and future generations

Goal A valued Natural Environment

Objective N.1 Conserve and enhance the regional natural landscape character and amenity values of our region

➤ Legal Implications

The *Planning, Development & Infrastructure Act 2016* ("PDI Act") is the legislation governing development in South Australia, including land divisions.

As detailed in the background, the Council's Assessment Manager has refused an application for subdivision of one allotment into 2, which was successfully appealed by the Applicant to the ERD Court. The Council CEO and administration supported further appeal of this determination and the Council's Assessment Manager has appealed this decision of the ERD Court to the Supreme Court.

Any proposed Code Amendment is to be undertaken in accordance with section 73 of the PDI Act, the details of which will be provided in the required report to Council.

➤ **Risk Management Implications**

The proposed report to be presented to Council will assist in mitigating the risk of:

Ineffective strategies to enhance and conserve character areas and iconic sites leading to poor planning and development outcomes.

Inherent Risk	Residual Risk	Target Risk
Extreme (4B)	Low (2D)	Low

The proposed course of action detailed in the Motion on Notice is captured by an existing strategic risk and control measure.

➤ **Financial and Resource Implications**

The preparation of the required report will be managed within existing resource allocations. Financial and resource impacts of undertaking a Code Amendment will be detailed in the required report.

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

The Administration supports the view that an outcome that increases or encourages land division within the Adelaide Hills Subzone to less than the allotment size determined by the median allotment tool or 2000m² (whichever is the greater) derogates from the amenity of the area that the policy seeks to protect.

➤ **Sustainability Implications**

Detailed information in relation to the sustainability implications of the current situation will be provided in the proposed report.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

4. ANALYSIS

The proposed course of action, to bring a report to Council detailing the process required to initiate and undertake a Code Amendment to seek to address the issue, is supported by the Administration. Preliminary engagement has already been undertaken with Plan SA staff in relation to the issue and will be further expanded upon in the proposed report.

5. APPENDIX

(1) 2022 SA ERDC 12, 1 August 2022

Appendix 1

2022 SA ERDC 12, 1 August 2022

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT OF SOUTH AUSTRALIA

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment. The onus remains on any person using material in the judgment to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court in which it was generated.

PARKINS v ADELAIDE HILLS COUNCIL ASSESSMENT MANAGER

[2022] SAERDC 12

Judgment of Commissioner Dyer

1 August 2022

ENVIRONMENT AND PLANNING - ENVIRONMENTAL PLANNING - DEVELOPMENT CONTROL

Torrens Title Land division - one allotment into two - relevance of the existing circumstances on the land considered, in particular that there are two dwellings existing on the subject land - Code Assessed - Performance Assessed Development - under-sized allotment - battle-axe allotment - locality; role of Designated Performance Features - hierarchy of Code policy - role of experts - consistency with pattern of division, allotment shape and size - proposal has no direct or physical planning impacts, precedent

Held: No planning impacts, proposal sufficiently in accord with pattern of development, division in effect, in light of the circumstances at hand, lines on a map. Appeal upheld.

Planning Development and Infrastructure Act 2016; Planning Development and Infrastructure (General) Regulations 2017; Planning and Design Code v 2021.8; Environment, Resources and Development Court Act, 1993; Development Regulations 2008 (SA), referred to.

Barossa Region Residents v DC Angaston and Grosser 1996 [EDLR] 667; *Karidis Corporation v the Corporation of the City of Adelaide* [2014] SAERDC 2 [86]–[87]; *AG Building and Developments Pty Ltd v City of Holdfast Bay and Tanti* [2009] SASC 11 [79]; *Fiora v Development Assessment Commission* [2017] SASCF 52 [85]; *Murrie v City of Mitcham* [2011] SAERDC 26 [10]; *Battiste v City of West Torrens* [2005] SAERDC 84 [11]; *Dal Pra v City of Happy Valley* [1995] EDLR [107-112], considered.

First Appellant: PHILLIP JOSEPH PARKINS **Counsel:** MR J RODER - **Solicitor:** BOTTEN LEVINSON

Second Appellant: RENEE LORRAINE PARKINS **Counsel:** MR J RODER - **Solicitor:** BOTTEN LEVINSON

Respondent: ADELAIDE HILLS COUNCIL ASSESSMENT MANAGER **Counsel:** MR P PSALTIS - **Solicitor:** NORMAN WATERHOUSE

Hearing Date/s: 11/05/2022 to 12/05/2022

File No/s: ERD-21-155

B

**PARKINS v ADELAIDE HILLS COUNCIL ASSESSMENT MANAGER
[2022] SAERDC 12**

THE COURT DELIVERED THE FOLLOWING JUDGMENT:

1 Mr and Mrs Parkins (“the Appellants”) own two fully self-contained dwellings, associated outbuildings and gardens situated on land at 16 Glenside Road, Crafers. They applied to the Adelaide Hills Council to divide the subject land to create two allotments; each containing one of the existing dwellings.

2 The Council’s Assessment Manager (“the Respondent”), the relevant authority in this matter, refused the application.

3 The Appellants appeal against the decision of the Respondent pursuant to s 202(1)(b) of the *Planning, Development and Infrastructure Act 2016* (“the PDI Act”).

4 Mr J Roder, of counsel, appeared on behalf of both the appellants and called expert evidence from Mr K Body a town planner.

5 Mr P Psaltis, of counsel, appeared on behalf of the respondent. Expert evidence on the Assessment Manager’s behalf was provided by Mr D Samardzija.

6 A view of the subject land and locality in the presence of the parties was undertaken at the commencement of the hearing. The Court was invited to make its own observations of the land abutting the subject land to the west and attended immediately following the view.

The Subject Land

7 The subject land is located in a semi-rural residential area on the edge of Crafers township. It is irregular in shape comprising an area of approximately 5859m². It has a frontage of 37m and varying depth to 112m. In plan view, it reads as relatively rectangular in form fronting the street. It has a large irregular pentagonal shaped rear portion offset and pivoted through 90 degrees, extending north behind three allotments fronting Woodbury Road.

8 The subject land is developed with two lawful single storey dwellings positioned one behind the other along, but set back from, the southern boundary. This boundary forms the side boundary of the front dwelling (“dwelling 1”) and the rear boundary of the rear dwelling (“dwelling 2”). The expert witnesses date the dwellings to 1970 or just prior, and 1950 or just prior respectively.¹ The balance of the subject land incorporates established gardens, including substantial trees, and outbuildings.

¹ Exhibit R4 Expert Statement of Mr Samardzija at 5 [4.5]; T 15 lines 11-15.

9 Vegetation obscures views of the subject land from Glenside Road, from
where only one dwelling is apparent.

10 The Court was advised that each dwelling is serviced and occupied
independently.²

11 Each dwelling on the land is accessed from a driveway off Glenside Road;
one to the north and one to the south. The southern driveway provides exclusive
access to dwelling 1. The northern driveway provides access to dwelling 2 and a
shed/garage at the rear of dwelling 1. Each driveway is flanked by stone pillars
joined by a low stone wall extending across the Glenside Road boundary. A
retaining wall separates the sites of the two dwellings.

12 The subject land is subject to an easement for sewer.

13 The subject land is positioned toward the top of a ridge, such that the front
section is generally flat grading downwards to both the west and the north, with an
approximate 8% slope east to west across the rear portion.

The Locality

14 As is required, on almost every occasion, in assessing the suitability of any
proposed development, the planning authority must weigh up the merits of the
proposal against the terms of any applicable planning policy, and the context of
the features and circumstances of the subject land itself and also the locality in
which it sits. Determining an appropriate locality requires consideration of the
nature and scale of the proposal, and its potential for impact. For land divisions,
where settlement pattern is the most relevant consideration, as distinct from the
suitability of the allotment for its intended use, the locality should include an area
which has a physical or topographic relationship with the subject land. It should
encapsulate an area which suitably shows either the consistency or diversity of the
prevailing settlement pattern.

15 Factors to determine a locality will be case specific. As a matter of course
they will usually include land use, the prevailing pattern and/or character of
development³ and/or division (“pattern of division”),⁴ built form, amenity, access,
connectivity, topography and natural environment, and off site impacts likely
arising from the proposal.

16 After lengthy examination by both counsel, the experts agreed a locality
including all allotments wholly or partially within a measure 200m from the centre
of the front of the subject land, supplemented by numbers 14 and 16 Woodbury

² Exhibit A3 Expert Statement of Mr Body at 2 [4.3a].

³ Pattern of development is a 3D concept influenced by the pattern of division, access, built form and landscaping/vegetation etc.

⁴ Pattern of division is a 2D concept. The relevant code policy also uses the term allotment pattern. The terms were used in the case somewhat interchangeably.

Road; the latter added principally by Mr Body for reasons of commonality of access.

17 The 200m distance selected by the experts seemingly emanates from Adelaide Hills Subzone (“subzone”) Designated Performance Feature (DPF) 2.1. It is a distance, without explicit rationale, from the front of the subject land, used as the basis for calculating median allotment size for the purposes of the planning assessment.

18 Neither expert provided a compelling logic nor planning rationale for this locality. Both experts were seemingly influenced by, and placed undue weight on, what is one quite narrow aspect of the applicable planning policy.

19 Whilst the locality ultimately adopted by the experts is not unhelpful it has little planning justification. The locality should be determined based on the facts and circumstances and not skewed to apply one selected planning policy against which it needs to be assessed.

20 Mr Body also provided a second, broader locality. This extended to Piccadilly Road and Old Mount Barker Road, followed the western boundary of the allotments on the western side of The Crescent, extended south to the freeway and east to White Avenue, for approximately half of its length before not quite mirroring the Zone boundary connecting back to Old Mount Barker Road. This locality he said provided the “suburban context”.⁵

21 Mr Samardzija was of the view the broader locality was too extensive and distant⁶ but accepted it did not alter his opinion⁷.

22 I do not agree with Mr Body’s assessment that this broader locality is in anyway suburban, it is best described as semi-rural residential, it is quintessential Adelaide Hills.

23 Based on my own observations a broader locality than that agreed by the expert planners is more appropriate. A broader locality is more reflective of the character and pattern of division and provides a balanced context for assessing the matters at hand. Excluding the land zoned Suburban Neighbourhood and the land zoned Productive Rural Landscape,⁸ a discrete island like locality becomes apparent. It is bound to the south by the South Eastern Freeway, the east and north-east by Old Mount Barker Road and the north and west by Piccadilly Road. I prefer this locality for its planning logic and relevance to the proposed development.

24 This locality comprises a cohesive semi-rural residential character presenting as a leafy residential hills setting. It is typically undulating, with a coherent semi-

⁵ T 45 line 33.

⁶ T 96 lines 14-16.

⁷ T 84 line 17.

⁸ Selected not because of the zone, but because the zoning boundary coincides with a noticeable change in the characteristics of the area.

rural residential aesthetic displaying high amenity, reflecting an area of Crafers that is distinct from the township, more recent homogenous land developments to the north and east, and the surrounding productive rural land.

25 The underlying road pattern comprises a branch like network feeding into Piccadilly Road or Old Mount Barker Road, responsive to local topography, with many no through roads. It results in enclaves of residences. The roads are typically rural in nature with pavement, but without formal kerbs, gutters or footpaths. Verges vary in width. Overhead power lines generally traverse one side of the road.

26 Proximate to the subject land, Glenside Road is paved and line marked with one lane in each direction. Traversing south, the road reduces to a single lane before terminating.

27 The pattern of division within the locality is irregular, with pockets exhibiting both more and less regularity of allotment size and shape. Allotments are diverse in shape, configuration and size, although typically most are large (2000m² plus) for residential use, with an apparent correlation between size and shape of allotments, and their topography and vegetation. The pattern therefore, is not entirely random. When viewed from the street what is most apparent are driveways and vegetation/gardens with some, but not all, dwellings visible. It is not possible always to see where one property ends and another starts.

28 Dwellings, predominantly single storey, vary in age and style. Setbacks vary and views from the road are generally obscured by vegetation. Many allotments have entry gateways. Front fences, where they exist, are often stone, post and wire, or timber style, are generally low, open and/or obscured with vegetation. In many cases it appears as though vegetation alone delineates frontages adding to the semi-rural residential character.

29 Immediately south of the subject land is a listed local heritage place. Two further local heritage places are located at 4 and 7 Glenside Road.

30 From the above, I assess the locality to comprise leafy low density semi-rural residential development on generally larger allotments, accessed and situated with regard to the undulating underlying topography. Amenity is high due to the low density of development, extensive vegetation and rural form of the road network.

The Proposal

31 The proposal, seeks to divide the subject land into two allotments each accommodating one existing dwelling.

32 The smaller of the two allotments ("lot 22"), measures approximately 1114m² with frontage to Glenside Road of 31.3m and a depth of 34.6m. It includes dwelling 1, its gardens and outbuilding. Exclusive access is proposed via the existing southern driveway.

33 At 4745m² the larger of the two allotments (“lot 21”) contains dwelling 2 and the balance of the garden. It is a battle-axe style allotment. The existing northern driveway comprises the 6.1m wide access handle.

34 An area accommodating the turning circle of an emergency vehicle is depicted on the plan of division on lot 21. The common electrical source infrastructure, although not shown on the plan, would be located on lot 21.

35 The physical land use, arrangements and functionality of the site are unchanged by the proposed land division, with the exception that vehicular access is no longer available to the rear of dwelling 1.

Planning and Design Code Provisions

36 The land the subject of this appeal lies in the Rural Neighbourhood zone (“zone”) and within this the subzone. The relevant policy can be found in the Planning and Design Code v 2021.8 (“the Code”) which was current between 1 July 2021 and 14 July 2021.

37 Having regard to the applicable provisions contained in the Code, the following are identified relevant to this assessment.

Part 1 – Rules of Interpretation

Part 2 – Zones and Subzones

Adelaide Hills Subzone

Assessment Provisions

Desired Outcome (DO)

DO 1, DO2

Performance Outcomes (PO) and corresponding Designated Performance Features (DPF)

PO 2.1, 2.2

DPF 2.1

Rural Neighbourhood Zone

Assessment Provisions

Desired Outcome

DO 1

Performance Outcomes and corresponding Designated Performance Features

PO 1.1, 8.1

DPF 1.1, 8.1

Table 5 – Procedural Matters – Notification

Part 3 - Overlays

The following overlays and policies are applicable to the subject land.

Hazards (Bushfire - Medium Risk) Overlay

Assessment Provisions

Desired Outcome

DO 1 and DO 2

Performance Outcomes and corresponding Designated Performance Features

PO 4.1, 4.2, 4.3, 4.4, 5.1, 5.2 and 5.3

DPF 5.1 and 5.2

Procedural Matters - Referrals

Figures and Diagrams Fire Engine and Appliance Clearance

Heritage Adjacency Overlay

Assessment Provisions

Desired Outcome

DO 1

Performance Outcomes and corresponding Designated Performance Features

PO 2.1

Procedural Matters – Referrals

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Assessment Provisions

Desired Outcome

DO 1

Performance Outcomes and corresponding Designated Performance Features

PO 1.1, 2.1, 2.3, 2.4, 2.5, 3.1, 3.2, 3.3, 3.9, 4.1, 5.1 and 5.2

DPF 2.1, 2.3, 2.4, 2.5, 3.9, and 5.1

Procedural Matters

Native Vegetation Overlay

Assessment Provisions

Desired Outcome
DO 1

Performance Outcomes and corresponding Designated Performance Features
PO 2.1
DPF 2.1

Procedural Matters - Referrals

Regulated and Significant Tree Overlay
Assessment Provisions

Desired Outcome
DO 1

Performance Outcomes and corresponding Designated Performance Features
PO 3.1
DPF 3.1

Procedural Matters - Referrals

Traffic Generating Development Overlay
Assessment Provisions

Desired Outcome
DO 1 and 2

Performance Outcomes and corresponding Designated Performance Features
PO 1.1, 1.2, and 1.3.
DPF 1.1, 1.2, and 1.3.

Procedural Matters - Referrals

Part 4 - General Development Policies

Land Division
Assessment Provisions

Desired Outcome
DO 1

Performance Outcomes and corresponding Designated Performance Features
PO 1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.9,
3.10, 3.11, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5.1, 6.1, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 9.1, 9.2,
9.3, 10.1, 10.2, 10.3, and 11.1.
DPF 1.1, 4.2, 4.3, 8.1, 8.2, 8.3, and 8.4

Part 8 – Administrative Definitions

Annexed to this judgement are those provisions in full.

The Expert Evidence

Appellant

38 Having regard to the current dwellings on the land and access arrangements, Mr Body was of the view that the proposal sought to give separate legal tenure to each dwelling on the land, essentially making no change and having the effect of drawing lines on paper.⁹

39 From a planning merits perspective, he identified size and pattern of division as the key issues at hand. The locality he characterised as one of “*irregularly shaped allotments that vary considerably in site area and street frontage.*”¹⁰

40 Mr Body acknowledged proposed lot 22 did not meet the terms of the subzone DPF 2.1 being less than both the identified 2000m² and his calculated median of 3148m².

subzone DPF 2.1:

Development satisfies (a) or (b):

(a)

(b) *allotments/sites have an area the greater of the following (excluding the area within the access ‘handle’ if in the form of a battle-axe development):*

(i) 2000m²

(ii) *the median allotment size of all residential allotments in the Adelaide Hills Subzone either wholly or partly within a radius of 200 metres measured from the centre of the main allotment frontage.*

41 As part of his consideration of allotment size, he constructed a map illustrating allotments with site areas less than 2000m² within the locality.¹¹ He referenced the Code, Part 1 – Rules of Interpretation (“rules”), with respect to DPFs and observed that a DPF does not need to be met to satisfy the PO.¹² He concluded the allotments were appropriate for their intended residential purpose and conformed satisfactorily to the immediate context in terms of allotment size with specific reference to allotments on the corner of Woodbury and Glenside Roads.

42 Mr Body also prepared a plan identifying those allotments in the locality with narrow frontages and long driveways¹³ and was of the view battle-axe style allotments formed part of the pattern of division. He considered the proposal in the context of the subzone DO 2 and PO 2.1 along with General Development

⁹ T 71 lines 26-27.

¹⁰ Exhibit A3 at 6 [9.4].

¹¹ Exhibit A3 Appendix F.

¹² Exhibit A3 at 7 [9.10].

¹³ Exhibit A3 Appendix E.

Policies – Land Division (“general policies – land division”) battle-axe allotments,¹⁴ and opined that the creation of a battle-axe shape allotment was suitable in the locality.

43 He concluded, that overall, the proposal sufficiently accorded with the Code so as to warrant approval.

Respondent

44 Mr Samardzija agreed that size and allotment pattern were the two key issues in the matter before the Court. It was his view that “...*the established allotment patterns in the locality was one of a mixture of large regular and irregular shaped allotments in a spacious rural setting.*”¹⁵

45 He went to some length in his written statement¹⁶ to observe what he termed the “background to the establishment of the Subzone”. He explained¹⁷ “This zone is a carry on from the previous planning system and the Adelaide Hills Council Development Plan where it was known as a Country Living Zone and which also included four policy area (sic) within the zone. Procedurally under the Development Plan and (with the exception of two policy areas in which it didn’t apply), land divisions in the Country Living Zone were considered to be non-complying except where allotments being created are of an equal or greater size than the median allotment size in the locality or 2000m² whichever is the greater where the locality includes all allotments either wholly or partly within a radius of 200m measured from the centre of the primary allotment. The outcomes which were sought under the previous system were then transferred across to the Code and implemented within the Adelaide Hills Subzone and more specifically DPF 2.1 to cover certain areas within the Rural Neighbourhood Zone.”

46 Mr Samardzija opined the intent of the subzone¹⁸ is to preserve larger allotment sizes.¹⁹ He considered small allotments generally were an anomaly and noted that the “*reliance on a small number of allotments which are well below the median allotment size as well as below an absolute minimum allotment size to justify this proposal opens up the subzone to further division which would be contrary to the intent of creating the subzone.*”²⁰

47 He concluded lot 22 that by his calculation would be the fourth smallest allotment, at 45% below the nominated 2000m², and 65% below his calculated

¹⁴ Exhibit A3 at 5,6; [9.3]-[9.8].

¹⁵ Exhibit R4 at 10 [7.2]

¹⁶ Exhibit R4 at 10 [6.1].

¹⁷ Exhibit R4 at 10 [6.2].

¹⁸ T 107 lines 24-27.

¹⁹ He derived (Tp108 [1-5]) this intent from the quantifiable aspects of Adelaide Hills Subzone DPF 2.1 along with the established pattern of development. He conceded (Tp109 [5-12]) and T110 [1-12] under cross examination that another way to understand the intent of the Zone would be by reference to the DO.

²⁰ Exhibit R4 at 12 [7.8].

median of 3117.7m², was too far below what he saw was the ‘absolute’²¹ minimum allotment size established by subzone DPF 2.1. He further opined that the size did not reflect the spacious rural setting as was required by zone DO1 and PO 8.1 and had minimal regard to subzone DPF 2.1 requirements and guidelines as specified.

48 Notwithstanding the existing dwellings on the subject land, he found no basis in policy for dispensing with the minimum allotment size.²²

49 In terms of the pattern of division Mr Samardzija stated traditional battle-axe shaped allotments were not prevalent in the locality.²³ He found lot 21 was not sympathetic to, nor contributed to, the underlying pattern of division, concluding it was contrary to subzone DO2 and PO 2.1, and zone DO 1 and PO 8.1. He also found it was contrary to general policies – land division DPF 8.1 and PO 8.1.

50 In his oral evidence he expressed concern about future development. Whilst ultimately acknowledging that the division of itself would not impact the character or amenity of the area,²⁴ he said that land division creates an allotment “*and an allotment is essentially a stepping stone, a building block for future development*” and held concerns this division would enable future development that “*then has an impact on the locality.*”²⁵

51 He also said lot 22, sized below the nominated size in subzone DPF 2.1, would create a precedent for more division²⁶ leading to resultant pressure for further division of Lot 21.²⁷

Matters not in Dispute

The experts agree:

- The subject land is presently developed with two lawful dwellings;
- The existing land use is appropriate in the locality;
- the resulting allotments would be suitable for their intended purpose with each accommodating one existing lawful independent and fully serviced dwelling;

²¹ Mr Samardzija referred to absolute minimum on a number of occasions in both his written statement and oral testimony. Exhibit R4 at 12 [7.8] and at 13-14 [8.4] and T 116 lines 13-21.

²² Exhibit R4 at 13 [7.10], T 115 lines 32-38.

²³ Mr Body considered ‘traditional’ battle-axe allotments that he described as a long access handle opening into the balance site that was located behind another allotment, usually developed with a dwelling, with the rear dwelling not visible from the road. He did not have regard to the definition contained within the Code. See T 127 [12-25].

²⁴ T 112 line 21.

²⁵ T 111 lines 4-7.

²⁶ T 119 lines 13-20.

²⁷ Exhibit R4 at 12, [7.8].

- Access is appropriate for each proposed allotment including for emergency service vehicles;
- Vegetation will not be impacted by the division; and
- The streetscape will not be changed as a result of the division.

Assessment

Issue

52 The Court's decision in this matter falls to be determined as to the suitability of:
of:

- The proposed battle-axe allotment in the context of the existing and reasonably expected allotment pattern in this part of the zone/subzone; and
- The departure of the proposed allotment size from the provisions of subzone DPF 2.1 in the context of the established pattern of division and in particular having regard to the circumstances of the subject land.

53 Arising from this, the manner in which the Code is to be read in respect of the role of a DPF was also called into question.

54 In coming to a decision I have had regard to the expert evidence, the particular circumstances of the locality, submissions from both parties and all of the relevant provisions of the Code.

55 I deal with these matters in reverse order.

The Code

56 The PDI Act provides at s101 that development must be approved. Section 102 of the PDI Act provides that development is an approved development if, and only if, a relevant authority has assessed the development against, and granted a consent in respect of, each of the specified matters (insofar as they are relevant to the particular development). For the purposes of the matter at hand, these include at s102 (1)(a)(i) (the relevant provisions of the Planning Rules) and s102 (1)(a)(ii) Part 7 Division 2 (the impacts of the development) and s 102(1)(c)(i) in relation to land division (the requirements set out in the Planning and Design Code). In this respect there is some overlap between s102(1)(a)(i) and s102(1)(c)(i).

57 The Code, pursuant to s 65 of the PDI Act, is a statutory instrument fundamental to the effective and efficient operation of the statutory scheme for development assessment. The Code sets out a suite set of policies, rules and

classifications to be selected and applied in various parts of the State.²⁸ Duplication between instruments, layers of policy and rules is to be avoided, rules are to be based on clear performance outcomes, are to be proportionate and suited to relevant conditions, and aim to achieve consistency, allowing however, for local variation”.²⁹

58 Section 103 of the PDI Act establishes that a proposal is accepted development, code assessed development or impact assessed development.³⁰

59 Development will be code assessed if it is either classified as deemed to satisfy in the Code (s105(a) of the PDI Act) or it does not fall within the categories of accepted development or impact assessed development (PDI Act, s105(b)).

60 Both experts agree, and I concur, pursuant to s103(b) of the PDI Act this proposal falls within the category of code assessed. It is not deemed to satisfy PDI Act s103(a). It will be assessed on its merits against the Code (performance assessed development) s107(1).

s107—performance assessed development

(1) In a case where proposed development is to be assessed as code assessed development and the development cannot be assessed, or fully assessed, as deemed-to-satisfy development, the development will be assessed on its merits against the Planning and Design Code.

(2) In connection with subsection (1) —

(a) to the extent that 1 or more elements of the proposed development may be classified as deemed-to-satisfy under the Planning and Design Code (if any)—that part of the development will be taken to have been granted planning consent; and

(b) to the extent that paragraph (a) does not apply (including on the basis that that paragraph does not apply at all)—the development will be assessed on its merits against the Planning and Design Code; and

(c) to the extent that paragraph (b) applies—the development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code (disregarding minor variations).³¹

61 The Code is applied in the manner established in the rules.

62 The rules provide the following with respect to performance assessed development:

“Application of Policies to Performance Assessed Classes of Development

²⁸ PDI Act, 2016 s 66(1).

²⁹ PDI Act, 2016 s57(1).

³⁰ Impact assessed development is either listed in the Code as restricted development, classified by the Regulations as impact assessed or declared by the Minister as such.

³¹ PDI Act s 107.

The Code applies policies to performance assessed development through an Applicable Policies for Performance Assessed Development Table relative to each zone - Table 3.

In particular, for each zone, Table 3 specifies the policies and rules that apply to classes of development within the zone, including by the application of policies within subzones and overlays (applies only in the area affected by the subzone/overlay), together with the relevant general development policies. Table 3 also contains rules for application of the policies, including rules relating to the application of Desired Outcome policies and Designated Performance Features.

The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable.

Development that does not fall within one of the specified classes of development in Table 3 will be designated in the table as "All Other Code Assessed Development". To assess such development, all policies from the zone and subzone, and all policies in overlays that have application to the spatial location of the development, and all general development policies, apply for the purpose of assessment.

*For the purposes of section 102 of the Act, the relevant authority must assess the development against the applicable policies specified by Table 3 that are relevant to the particular development. For the avoidance of doubt, the relevant authority may determine that one or more of the listed policies are not relevant to a particular development."*³²

63 Table 3 is annexed to this Judgment.

64 Performance assessed development must be considered against all relevant provisions set out in Table 3 to the exclusion of all others. Table 3 lists no DPFs. I read the introductory statement to Table 3 "*Policies referred to are Performance Outcome Policies, and any associated Designated Performance Features*" to be inclusive. If I am wrong on this point, I have considered my position in respect of this matter which, as demonstrated by the following reasons, remains unchanged.

65 The policies are applied in the hierarchy and manner established as per the rules:

If there is an inconsistency between provisions in the relevant policies for a particular development, and for the purposes of section 66(3)(b) of the Act, the following rules will apply to the extent of any inconsistency between policies:

(a) The provision of an overlay will prevail over all other policies applying in the particular case; and

³² Planning Design Code Part 1 Rules of Interpretation.

(b) *A subzone policy will prevail over a zone policy or a general development policy; and*

(c) *A zone policy will prevail over a general development policy.*

This hierarchy is represented by the following diagram:



Underline is my emphasis.

66 The experts both appeared to approach the hierarchy with minimal specificity to the issue of inconsistency, appearing to take a more liberal approach resulting in greater weight being placed on subzone policy for example as compared to general development policies.

67 Based on the rules, the Appellant suggested that in accord with the policy hierarchy, the provisions of subzone DO 2 and PO 2.1 should prevail over zone provision PO 8.1. He submitted that inconsistency does not require conflict, merely a lack of uniformity.³⁴ The Respondent agreed that subzone DPF 2.1 would prevail, but submitted that in the case at hand, the remaining subzone and zone provisions were sufficiently harmonious such that both could apply.³⁵

68 The Macquarie Dictionary defines inconsistent as “*not staying the same throughout, not compatible or in keeping with.*”³⁶ In this case the subzone and zone provisions are slightly different. The zone speaks to a minimum site area of 2000m² and the subzone to the larger of 2000m² or the median of all of the allotments within a 200m radius. To the extent that there is some discord, I agree the subzone provisions should prevail.

69 To assist with the performance assessment process DPFs have been included in the Code.

70 The rules – “Policies – Desired Outcomes and Performance Outcomes, Designated Performance Features” provides the following:

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding

³³ Planning Design Code Part 1 Rules of Interpretation.

³⁴ T 13 lines 27-36.

³⁵ T 81 lines 11-32.

³⁶ Macquarie Dictionary, Macmillan Publishers Group Australia.

performance outcome (a Designated Performance Feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies. [My underlining]

71 The Appellant likened the role of a DPF to that of a complying standard under previous planning system³⁷, concluding it was either met or not. If not met, regardless of the quantum, the Appellant suggested one must look to see if the PO was met in some other way.

72 The Respondent argued that the role of a DTS was akin to a complying standard under the previous planning system, and a DPF was more akin to a Principle of Development Control in the Development Plan. As such, the quantum of departure was a material consideration.

73 A DPF is neither a complying standard nor a Principle of Development Control. It is its own assessment tool to be applied as per the rules.

74 The rules of the Code state that a DPF is a “...*standard outcome...*”, “...*a guide...*” it “...*does not necessarily need to be satisfied to meet the Performance Outcome...*” and “... *does not derogate from the discretion to determine that the outcome is met in another way...*” A DPF, therefore, is advisory, it is but one way the PO is satisfied. If a DPF was the only way a PO was to be satisfied, the PO has no work to do. [My underlining]

75 The question becomes what guidance does a DPF provide if not met? The rules are silent on the issue of quantum departure. However, they do provide that a DPF “...*does not derogate ... from the need to assess development on its merits against all relevant policies*”. [My underlining]

76 A DPF is a relevant policy and must therefore form part of the assessment. On my reading, whilst quantum departure from the terms of a DPF is not, of itself, grounds for refusal, I am not convinced that quantum departure can be completely ignored. It will, if nothing else, be a flag to the relevant authority to carefully ensure that, by way of alternative or the specific facts and circumstances of the matter, the performance outcome is met.

77 The significance of any departure will depend, as always, on the circumstances of the matter at hand. The preciseness of the correlation between a PO and its corresponding DPF will also have bearing.³⁸

³⁷ Development Act, 1993 (Repealed), Development Regulations, 2008 (Repealed) and Development Plans.

³⁸ I note generally across the Code there are instances where DPFs are more and less relevant to the actual achievement of the PO.

Planning merits

78 The Appellant drew the Court’s attention to *Fiora v Development Assessment Commission*³⁹ where Blue J in the minority, nonetheless described land division as involving:

... a purely abstract conceptual division or redivision of land into allotments capable of being the subject of legal dealings which exist only as legal concepts

79 In line with the description set out by Blue J,⁴⁰ the Appellant said, and the Respondent did not disagree, land division is lines on a map.⁴¹

80 In this case the proposed division would have the effect, only, of superimposing a new cadastre over the two lawfully existing dwellings. It has no external impacts. If this was the only basis for assessment the proposal is considered to be acceptable. However, s102(1) of the PDI Act requires development to be assessed against the Code.

Code Assessment

81 The parties agree that this matter largely turns on subzone DO 2, subzone PO 2.1, subzone DPF 2.1, zone DO 1, zone PO 8.1 and zone DPF 8.1. These are included in full below for ease of reference.

Adelaide Hills Subzone DO 2

“Land division is sympathetic to the allotment pattern and characteristics within the locality”.

Subzone PO 2.1

“Allotments/sites created for residential purposes are consistent with the established pattern of division surrounding the development site to maintain local character and amenity.”

Subzone DPF 2.1:

Development satisfies (a) or (b):

(a) it will not result in more than one dwelling on an existing allotment

(b) allotments/sites have an area the greater of the following (excluding the area within the access ‘handle’ if in the form of a battle-axe development):

(i) 2000m²

³⁹ [2017] SASCF 52 [85].

⁴⁰ [2017] SASCF 53 [85].

⁴¹ T 131 lines 30-34.

- (ii) *the median allotment size of all residential allotments in the Adelaide Hills Subzone either wholly or partly within a radius of 200 metres measured from the centre of the main allotment frontage.*

Rural Neighbourhood Zone DO 1

“Housing on large allotments in a spacious rural setting, often together with large outbuildings. Easy access and parking for cars. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment where necessary. Limited goods, services and facilities that enhance rather than compromise rural residential amenity.”

Zone PO 8.1

“Allotments/sites created for residential purposes are consistent with the density and dimensions expressed in any relevant Minimum Allotment Size Technical and Numerical Variation or are of a suitable size and dimension to contribute to a pattern of development consistent to the locality and suitable for their intended use”.

Zone DPF 8.1:

Development will not result in more than one dwelling on an existing allotment

or

allotments/sites for residential purposes accord with the following:

- (a) where allotments/sites are connected to mains sewer or a Community Wastewater Management System site areas (or allotments in the case of land division) are not less than 2000sqm*
- (b) where allotments/sites are not connected to mains sewer or an approved common wastewater disposal service site area are not less than the greater of:*
 - (i) 1200 m²*
 - (ii) the following.....2000m².*
- (c) Site frontages not less than 20m.⁴²*

Pattern of Division

82 Discerning the pattern of division is the critical starting point to enable determination of the proposal’s acceptability.

83 Mr Body said the established pattern of division was irregular. He opined allotments varied considerably in site area and street frontage.⁴³ He found the

⁴² Planning and Design Code Part 2.

⁴³ Exhibit A3 at 6 [9.4].

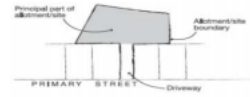
pattern included battle-axes. He said the character of the area with respect to the pattern of division was one of inconsistency.

84 Mr Samardzija found the pattern of division to be large allotments, comprising a mixture of regular and irregular shapes with some consistency. In his view the irregular shaped allotments were not “traditional” battle-axe allotments which he determined were contrary to the prevailing pattern of division.⁴⁴ He acknowledged a few allotments below 2000m² but was strongly of the view these were historical anomalies⁴⁵ that should not be repeated. Looking from a street view, Mr Samardzija said the pattern of division was predominantly allotments with wide frontages to the street.

85 By my assessment, the established pattern of division is one of generally larger sized allotments (mostly above 2000m²) in irregular configurations (including battle-axe) largely dictated by topography. Viewed from the street the underlying pattern of division is difficult to discern, reading essentially as driveway crossovers separated by vegetation. Boundary definition is not always clear.

Allotment design and layout

86 Despite neither expert referencing the definition, battle-axe is a defined term in the Code, Part 8 - Administrative Terms and Definition provides:

Term	Definition	Illustrations
Battle-axe allotment	<p><i>Means an allotment or site that comprises:</i></p> <p><i>(a) a driveway or ‘handle’ (and any regulation open space) that leads back from a road to the balance of the allotment or site; and</i></p> <p><i>(b) a balance of the allotment or site that is the principal part of the allotment or site and that does not have a boundary with a road</i></p>	 <p>The diagram shows a 'PRIMARY STREET' at the bottom. A 'Driveway' leads from the street to a shaded area representing the 'Principal part of allotment/site'. A dashed line indicates the 'Allotment/site boundary'.</p> <p>Note: Battle-axe allotments are often referred to as ‘hammerhead’ or ‘flagpole’ allotments.</p>

87 A number of allotments included on Mr Body’s plan⁴⁶ would not meet the definition of battle-axe allotments as per the Code, nonetheless, battle-axe allotments (and battle axe style allotments) are, in my assessment evident within the locality and contribute to the underlying pattern of division.

⁴⁴ Exhibit R4 at 16 [10.5].

⁴⁵ The Respondent tendered Certificates of title showing the most recent of these allotments date from 1974, with others being created in 1961, 1953, 1935 and 1909.

⁴⁶ Exhibit A3 Appendix E.

88 Mr Samardzija opined that battle-axe development is not an envisaged
allotment style evincing general policies – land division PO 8.1 and DPF 8.1⁴⁷
supported by general policies – land division PO 2.3.⁴⁸

89 I disagree.

90 General policies – land division PO8.1 provides: “*Battle-axe development
appropriately responds to the existing neighbourhood context*”. This is a positive
contemplation of battle-axe allotments where contextually appropriate.

91 Corresponding DPF 8.1 reads “*Allotments are not in the form of a battle-axe
arrangement*”.⁴⁹ If this were to be interpreted, as Mr Samardzija suggests, to
preclude battle-axe allotments, it would be in conflict with PO8.1. This cannot
have been intended. Sensibly considered as a guide, this is simply one, rather
blunt, way of satisfying PO 8.1. In the alternative DPF 8.1 is a nonsense.⁵⁰

92 Furthermore, general policies - land division POs 8.2 – 8.4 inclusive and
DPFs 8.2 – 8.4, all of with which Mr Samardzija concedes the proposal complies,
expressly contemplate battle-axe allotments, variously addressing access,
manoeuvring and stormwater management.

93 The proposal also complies with general policies - land division PO1.1 that
reinforces DO 1 (a), seeking allotments sized and shaped appropriate to their
intended use. Both experts agreed, and I concur, that the resulting allotments will
be, and indeed are, suitable for their intended residential land use.

94 Mr Samardzija maintained the Code does not provide dispensation for a
property that already has multiple dwellings.⁵¹

95 General policies - land division PO 1.2 provides for, amongst other matters,
the consideration of physical characteristics of the land. Specifically, this
provision states “*Land Division considers the physical characteristics of the land,
preservation of environmental and cultural features of value and the prevailing
context of the locality.*” Mr Samardzija opined this was not a reference to
dwellings; only to natural features.⁵² On plain reading, I consider it points, amongst
other matters, to physical characteristics which must include built form as being
relevant to an assessment.

96 If I am wrong on that point, it is a fundamental tenant of planning assessment
that policy is applied having regard the specific circumstances of each case. In this

⁴⁷ Exhibit R4 at 16 [10.6].

⁴⁸ Exhibit R4 at 16 [10.7].

⁴⁹ I note in passing the strange correlation between General Policy – Land Division PO 8.1 and DPF 8.1, likely a result of the coincidence of the DPF with the Deemed to Satisfy provision, and its duality of purpose, a point raised but not argued by the Appellant.

⁵⁰ This is not intended as a reflection on general policies-land division DTS 8.1.

⁵¹ Exhibit R4 at 13 [7.10].

⁵² T126 [33].

instance, there are two dwellings on one allotment, there are two driveways, independent services and discrete private open space. This cannot be ignored.

97 Mr Samardzija referenced the Hazards (Bushfire – Medium Risk) Overlay PO 4.2 “... *a continuous street pattern to facilitate safe movement and evacuation...*” and general policies - land division PO 2.3 “*maximises the number of allotments that face public open space and public streets*” as further discouraging battle-axe configured allotments. Mr Body was of the view that these were more targeted to the creation of new land divisions rather than a division to regularise existing lawful dwellings.⁵³

98 I find these provisions are relevant in consideration of this proposal. In this matter, one of the two existing dwellings is accessed via a long driveway. This is unchanged by this application. On this basis, although not a continuous street pattern⁵⁴ as sought by Overlay PO 4.2, the independent driveway nonetheless facilitates a legible entry for emergency services.

99 The intent of general policies - land division PO 2.3, is design and layout based. This proposal continues to present as one wide allotment with a dwelling facing the street; it does not diminish the streetscape view or appeal. On this basis, the degree of variation against this provision is acceptable.

Allotment size

100 Zone DO 1 speaks to housing on large allotments in a spacious rural setting and PO 1.1 references “...*a spacious and peaceful lifestyle...*”. Mr Samardzija opined the existing allotment contributes to the spacious rural setting. He was of the view that whilst 1114m² might be considered spacious, in the context of a locality with a median allotment size of 3117.7m², it is not.⁵⁵

101 In my view the current setting is and the future setting will continue to be spacious semi-rural residential. An allotment of 1114m² is a large allotment for a residence.

102 Subzone PO 2.1 and zone PO 8.1 have corresponding DPFs; DPF 2.1 and 8.1 respectively.

103 The first part of each of DPF, in almost identical terms, provides for no more than one dwelling on an existing allotment. Neither expert had particular regard to this provision. Mr Samardzija observed the provision had no work to do, suggesting it merely prevented a future scenario of two dwellings on one allotment.⁵⁶ Mr Body did not specifically apply the provision.

⁵³ Exhibit A3 at 9 [9.16].

⁵⁴ A continuous street pattern in planning is usually taken to mean a suburban like pattern where there are visible driveways and dwellings.

⁵⁵ Exhibit R4 at 13 [8.2].

⁵⁶ Exhibit R4 at [7.10].

104 I agree, although the intent is met, this provision has no work to do in this instance.

105 Each DPF provides for a minimum site area of 2000m², with subzone DPF 2.1 further increasing this minimum, to the median site area of all allotments within 200m of the site in the event the latter is larger than 2000m². In this case the median is larger; I accept the median is the applicable policy test. DPF 8.1(c) further adds a minimum frontage width of 20m.

106 Mr Samardzija calculated the median allotment size to be 3117.7m². Mr Body calculated the median as 3148m². The parties agreed, at 30m², the discrepancy between the two is immaterial.

107 Mr Samardzija calculated the shortfall in the area of lot 22 to be 65% less than the median, a departure he said was significant. He counted six allotments between 700m² and 1619m² in proximity of the subject land and noted at 1114m² this would be the fourth smallest allotment. He concluded the proposal did not meet subzone DPF 2.1(b) or zone DPF 8.1(b). He acknowledged that lot 21 well exceeded the minimum allotment site area sought by subzone DPF 2.1(b), and lot 22 with a frontage width of 22m exceeded the minimum frontage sought by DPF 8.1(c), but found the frontage of lot 21, being a battle-axe, did not meet the minimum frontage width.

108 Whilst acknowledging that lot 22 fell short numerically when assessed against subzone DPF 2.1(b) and zone DPF 8.1(b), Mr Body pointed to the fact that a DPF was a guide and as such the proposal need not comply with the DPF in order to merit approval which despite the shortfall was suitable given the “*immediate suburban context*”, and “*trend for smaller allotments in the broader locality*”.⁵⁷

109 Turning to the frontage width of lot 21, the zone and subzone policy are silent on battle-axe allotments. General policies - land division PO 8.2 specifically states “*Battle-axe development designed to allow safe and convenient movement,*” and DPF 8.2 provides the access to battle-axe development should be 4m wide or greater. With an access handle width of just over 6.0m and provision for vehicle turning on-site, the proposal meets both the DPF and the PO.

110 Subzone PO 2.2 has no corresponding DPF. It speaks to an allotment size sufficient to maximise the retention of mature vegetation. Designed to reflect the on ground development, the proposal does not result in the loss of any mature vegetation.

111 The question remains, can lot 22, whilst materially less than the median, nevertheless meet the terms of subzone PO 2.1 and zone PO 8.1. Subzone PO 2.1 seeks consistency with the established pattern of division surrounding the development site to maintain local character and amenity. Zone PO 8.1 seeks, in

⁵⁷ Exhibit A3 at 7 [9.10].

the alternative to compliance with a Technical and Numeric Variation (TNV), suitability in size and dimension to contribute to the pattern of development consistent to the locality and suitable for the intended use.

112 General policies - land division PO 1.1 also reinforces the need for allotments to be suitable for their intended use. There was no dispute, these provisions are met.

113 The established pattern of division includes allotments below 2000m². Although not prevalent in number, three directly abut this site and a further two are located diagonally to the north. The immediate proximity of this cluster of smaller lots to the subject land gives weight to a smaller lot in this particular location.⁵⁸ Notwithstanding its smaller size, lot 22 nonetheless exhibits the wide allotment frontage sought by zone DPF 8.1(c). In addition lot 22 is proposed, not in isolation, but in conjunction with the larger lot 21 such that together they contribute appropriately to the established pattern of division. The division will not alter the density of development. The character and amenity will not change in this instance. I find subzone PO 2.1 and zone PO 8.1 are met despite the quantum departure of lot 22 from the provisions of subzone DPF 2.1(b). Had all of these conditions not been so, the outcome may be different.

Other Matters

Future Development and precedent

114 In support of its position that this matter was about “*preserving the integrity of allotment size as an important instrument of development control*”⁵⁹, the Respondent’s case suggested a high level of concern regarding the impacts of this proposal, not of itself, but as to future proposals. Mr Samardzija expressed specific concern that approval of an allotment below 2000m² could form a precedent for smaller allotments⁶⁰ contributing to the erosion of the pattern of division slowly over time. He also opined that allotments comprise building blocks and whilst the division was simply lines on a map, the resulting allotments could accommodate future development that, in turn, could impact the locality.⁶¹

115 The Respondent also suggested the intent of the proposal was simply to create a second allotment for a new dwelling⁶² and asked the Court to turn its mind to the prospect of dwelling 2 being replaced.

⁵⁸ I note these are historic, and largely pre-date the planning policy, nonetheless, they are in sufficient number, concentration and proximity to the subject land such that they cannot be ignored in this assessment.

⁵⁹ T 76 lines 32-37.

⁶⁰ T 118 lines 11-18.

⁶¹ T 111 lines 4-7.

⁶² T131 lines 11-24.

116 In respect of the question of future development opportunities, the Respondents submitted *Murrie v City of Mitcham*⁶³ and *Battiste v City of West Torrens*,⁶⁴ are instructive.

117 Specifically the Respondent put that, in both *Murrie*⁶⁵ and *Battiste*,⁶⁶ consideration was in each case, given to the likely continued existence of the dwellings.

118 Notwithstanding the Appellant's expert in response to a question saying "*it would couple quite nicely with the next application I would imagine*"⁶⁷, counsel submitted that there was no evidence before the Court to suggest that the existing buildings might not remain on the site.⁶⁸

119 Whilst there is no evidence before the Court that either or both dwellings will not continue to exist, I accept, a future application to replace dwelling 2 is a possibility, even, as counsel for the Respondent suggested, a likelihood, however, this is hypothetical at this juncture.

120 Even if the Respondent's worst fears are realised and applications are received for a new built form on each allotment, it will be the responsibility of a future relevant authority to assess such a proposal and determine its merit against the Code at that time.

121 Future development of this nature is not a reason to refuse this application. This current proposal is simply to create one allotment for each lawful dwelling.

122 Turning to the question of precedent and the likely consequences of granting planning consent to this land division for the future administration of the Code policy, I note the Court's observations in *Dal Pra v City of Happy Valley*⁶⁹ where Commissioner Hodgson explained the Court's approach to succession of planning decisions as follows:⁷⁰

It has regularly been held by this Court, and its predecessor, the Planning Appeal Tribunal, that the existence of undesirable precedents cannot be called in support of new proposals; each application falls to be determined on its merits and in the context of the planning policies applicable at the time that application is made. If the character of a particular locality has been so altered by a succession of planning decisions as to bring into question the relevance of existing policies regarding, for example, setbacks, that may well prove to be a material consideration in the assessment of the application.

⁶³ [2011] SAERDC 26.

⁶⁴ [2005] SAERDC 84.

⁶⁵ [2011] SAERDC 26 [10].

⁶⁶ [2005] SAERDC 84 [9].

⁶⁷ T 75 lines 26-27.

⁶⁸ T 169 lines 34-36.

⁶⁹ [1995] EDLR [107-112].

⁷⁰ [1995] EDLR [111].

123 In this instance the Court was advised by the Appellant,⁷¹ with the Respondent accepting the mathematics on face value, that approval of this land division would decrease the median allotment size by some 30m², this it contended was negligible.

124 Whilst of itself this is negligible, I acknowledge it will contribute to the reduction in the overall median, which if recurring, will over time erode this measure. Repeated occurrences will have the effect of changing the pattern of division. Any departure therefore needs to be approached with caution. In this instance the immediate proximity of the subject land to an existing cluster of small lots, means they cannot be ignored. By virtue of that same proximity and the other specific circumstances of this case, as set out above, the departure is considered acceptable and unlikely to materially alter conditions in respect of future applications.

125 In addition in respect to the prevalence of like pre-conditions that might give rise to repeated circumstances of division, Mr Samardzija, conceded that whilst he was aware of other allotments with two cross-overs he was unaware of any sites displaying the characteristics of this case, notably containing more than one lawful dwelling.⁷² I assess that in the absence of comparable pre-conditions it should prove difficult for any future application to replicate this land division proposal.

Current occupancy arrangements

126 The Respondent suggested to the Court that the dwellings were in some way linked to a familial connection between the occupiers.

127 The dwellings are lawful independent dwellings and I am not persuaded that the characteristics of the occupants are relevant to this matter.

Independence of Appellant's expert

128 During the course of the hearing, the Respondent raised questions regarding the independence of the Appellant's expert, submitting that Mr Body had been too closely involved, as the planning advisor overseeing the preparation of planning reports, with both this and a prior proposal over the subject land. Other activities, including the engagement and briefing of Botten Levinson, and attendance with the lawyers and the land owner (his client and appellant in this matter) and staff of the Adelaide Hills Council in respect of both proposals, were cited. Whilst counsel did not doubt Mr Body's sincerity, he suggested the different approach taken in the expert statement via the inclusion of an additional more extensive locality than that included as part of the planning application⁷³ was designed to capture additional battle-axe allotments and allotments with a site area less than the median

⁷¹ T 168 lines 5-10.

⁷² T 118 lines 28-33.

⁷³ T 44 lines 29-38.

site area for the purposes of the assessment. He also noted reference to “we”,⁷⁴ as distinct from “I” in Mr Body’s oral evidence.

129 Mr Body’s prior involvement appears to have been extensive and I too noted on a number of occasions his use of the inclusive plural (we) as distinct from the singular (I), which I took as inferring collaboration.

130 This Court has expressed on a number of occasions the importance of distinguishing the role of an advocate, from that of an independent expert witness, with Trenordan, J and Commissioners Hodgson and Currie in *Barossa Region Residents v DC Angaston and Grosser*⁷⁵ saying:

....it seems to us that the credibility of the evidence of a professional expert in this Court might be affected by evidence that tends to show that the same professional expert, by his action prior to the matter coming to this Court, clearly acted as an advocate for his or her client’s proposed development and not as an independent professional expert.

131 As in Costello, J and Commissioners Hamnett and Koukourou in *Karidis Corporation v the Corporation of the City of Adelaide*⁷⁶ whilst “*prior involvement in a development proposal will not always prevent an expert from providing evidence that can assist the Court*” the perception of bias arises.

132 Considering the evidence, including Mr Body’s evidence, I accept his opinions were expressed in earnest. He had appraised himself of Court Practice Direction 6 – Guidelines for Expert Witnesses. However, I have concluded that his opinion may have been unintentionally influenced by his extensive prior involvement. I have therefore taken this into account when considering the weight given to the evidence of Mr Body.

Approach of Respondent’s expert

133 The Appellant submitted that Mr Samardzija’s long standing familiarity with historic policy directed against allotments less than 2000m² in area in the former Country Living Zone, evidenced by his reference to the Adelaide Hills Council Development Plan in his written and oral evidence, had impacted his assessment and caused him to place undue weight on the quantitative elements of the assessment and insufficient focus on qualitative elements.

134 Both his written and oral evidence indicated a predilection with the quantitative provisions relating to allotment size and frontage widths; indicated by the use of the term “*absolute minimum*” in relation to subzone DPF 2.1 and zone DPF 8.1.⁷⁷ He seemingly relied heavily on the provisions of Subzone DPF 2.1 to interpret the intent of the subzone in preference to the DO⁷⁸ and as I have said

⁷⁴ T 45 lines 1-6.

⁷⁵ 1996 [EDLR] 667.

⁷⁶ [2014] SAERDC 2 [86] – [87].

⁷⁷ Exhibit R4, at 11 [7.4], at 13-14 [8.4] and T116 lines 13-21.

⁷⁸ T 108 lines 1-5, Exhibit R4 at 12 [7.6] - [7.8].

earlier, relied too heavily on the 200m referenced in subzone DPF 2.1 in formulating the locality.

135 Such an approach was addressed in *AG Building and Developments Pty Ltd v City of Holdfast Bay and Tanti*⁷⁹ where Bleby, J said:

...approach seems to have been entirely quantitative: if the proposal did not comply with a particular guideline or suggested design technique, it did not comply.....There was little qualitative assessment of the supposed shortcomings against the more general requirements of the relevant Objectives and Principles of the Development Plan.

136 In this case, whilst Mr Samardzija conceded the proposal met the Code in the majority of respects, he relied too heavily on the departure from the DPF as evidence of the proposal's shortcoming.

137 I agree that Mr Samardzija's evidence, although delivered with sincerity, is nonetheless unintentionally influenced by his understanding that the code has incorporated historical policy without material change, accordingly I have therefore taken this in to account when considering the weight given to the evidence of Mr Samardzija.

Conclusion

138 The matter before the Court involves the division of one allotment developed with two lawful dwellings, to provide two allotments each containing one lawful dwelling. Having regard to the relevant Code provisions and the specific circumstances of the subject land, the division of the land as proposed is not considered to be inconsistent with and indeed contributes to, the established pattern of division and development within the locality. It does not increase residential density. Each allotment is demonstrably suitable for its intended purpose. Servicing is achieved, and access points, landscaping and the streetscape remain unchanged. The proposed division is not evident from the street and overall, the character and amenity of the locality is retained.

139 For the purposes of s102(1)(a)(i) and s102(1)(c)(i) of the PDI Act the proposal is assessed to be satisfactory.

140 The application lodged with the Council sought both planning and land division consent. The appeal before the Court relates to the decision of the Council to refuse to grant planning consent, and therefore, land division consent was also refused.

141 I issued a memorandum to the parties on 11 July 2022, intimating that I am inclined to grant consent for the reasons set out above, and inviting them to provide the Court with revised plans showing any required easements and a set of conditions to be incorporated into the decision of the Court.

⁷⁹ [2009] SASC 11 [79].

142 The Court received from the Appellant a revised plan and set of conditions
agreed by the Respondent.

143 The matter was concluded administratively.

Order

144 There will be an order in the following terms:

- A. The appeal is allowed and the refusal granted by the Respondent is quashed.
- B. Planning Consent, Land Division Consent and Development Approval is hereby granted to Development Application No. 21018221 for “Land Division – 1 into 2 allotments” (“the Development”) at 16 Glenside Road, Crafers, SA, 5152 (“the land”) subject to the following conditions:

Planning Consent Conditions:

1. The Development shall be undertaken on the Land in accordance with the plan of division prepared by Fyfe Pty Ltd being the Plan of Proposed Division dated 29 July 2022 which forms Court-stamped Exhibit A to this order.
2. Prior to a land division certificate being issued by the State Planning Commission pursuant to section 138 of the *Planning, Development and Infrastructure Act 2016*, a stormwater management plan shall be provided showing stormwater discharge points from each of the existing dwellings and associated domestic structures. All stormwater from proposed allotment 22 shall either be managed on site or be directed to the street water table and all of the stormwater from the proposed allotment 21 shall be managed on site. Any works required to alter the existing stormwater infrastructure shall be done to the satisfaction of Council prior to a land division certificate being issued by the State Planning Commission pursuant to section 138 of the *Planning, Development and Infrastructure Act 2016*.

Land Division Consent Conditions:

3. The requirements of the South Australian Water Corporation in relation to the provision of water supply and sewerage services pursuant to Regulation 79 of the *Planning, Development and Infrastructure (General) Regulations 2017*, and any requirements in relation to the vesting of easements, shall be met.
4. Payment of \$7908.00 into the Planning and Development Fund (1 allotment/s @ \$7908.00 /allotment). Payment may be made via credit card (Visa or MasterCard) online at plan.sa.gov.au, over the phone on 7109 7018, or cheques may be made payable to the State Planning Commission, marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001.

5. A final plan complying with the requirements for plans set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General is to be lodged with the State Planning Commission for Land Division Certificate purposes.

Annexure

Part 1 - Rules of Interpretation

This Part sets out how the Planning and Design Code (the Code) implements the requirements of section 66 of the Planning, Development and Infrastructure Act 2016 (the Act), instructs the user on how the Code is to be read and applied to development assessed under the Act, and provides for other matters relevant to the interpretation and operation of the Code.

Introduction

Section 65 of the Act provides that there must be a Planning and Design Code and that the State Planning Commission (the Commission) is responsible for preparing and maintaining the Code as a statutory instrument under the Act. The Code, and any amendments to the Code, as published on the SA planning portal, have been adopted by the Minister.¹

As provided by section 66 of the Act, the primary purpose of the Code is to set out a comprehensive set of policies, rules and classifications which may be selected and applied in the various parts of the State, through the operation of the Code and the SA planning database, for the purposes of development assessment and related matters within the State.²

The Code also provides for other matters envisaged by the Act, and regulations made under the Act.

Commencement and amendments

The commencement date for the Code was 1 July 2019.

The initial version of the Code applied to those parts of the State outside council areas under transitional arrangements put in place to provide for the staged commencement of development assessment under the new Act in place of the Development Act 1993.³

The second version of the Code extends to regional areas of the State under the transitional arrangements.

The processes associated with initiating and making amendments to the Code are mainly set out in section 73 of the Act. One important feature is consultation under the Community Engagement Charter, and other consultation that may be required by the Commission, in connection with a particular amendment proposal.

An amendment to the Code does not have effect unless and until it is approved by the Minister. The approval process includes a report to the Minister about the processes undertaken in connection with developing the proposed amendment and certification as to the accuracy of information presented or provided to the Minister for the purposes of gaining approval.

Any amendments, once approved, are published on the SA planning portal. Electronic publication of an up-to-date version of the Code is a key feature of the scheme under the Act, and is supported by a number of related features and processes that facilitate the operation and application of the Code for the purposes of development assessment.⁴

Information about amendments to the Code is set out in Part 13 - Table of Amendments.

Major features of the Code

The Code Library

The Code incorporates a scheme that collates and organises its policies and rules for development classification and assessment into zones, subzones, overlays and general development policies. Together, these components of the Code form a library of policies (the "Code Library"). The policies that make up the library have no application in their own right, but apply depending on the class of development and spatial location under the scheme that is outlined in this Part.

Classification of development

The Code divides development into 3 categories of development depending on whether it is classified under the Code as:

- (a) accepted development (see section 104(1) of the Act); and
- (b) deemed-to-satisfy development (see section 105(a) of the Act); and
- (c) restricted development (see section 108(1)(a) of the Act).⁵

All development is classified firstly by reference to its location and the zone, subzone and overlays that are applicable to the location. Classification tables applicable to each zone identify development as accepted development, deemed-to-satisfy development or restricted development.⁶

Accepted development

Each zone contains a table - Table 1 - which specifies classes of development which will be classified as 'accepted development' under section 104 of the Act in that zone if all of the corresponding criteria in the table are satisfied.

Accepted development does not require planning consent.

Deemed-to-satisfy development

Each zone contains a table - Table 2 - which specifies classes of development which will be classified as "deemed-to-satisfy development" under section 106 of the Act in that zone if all of the corresponding criteria in the table are satisfied, insofar as they are relevant to the nature of the particular development.

Section 106(2) of the Act specifies that if a relevant authority is satisfied that development is deemed-to-satisfy development except for 1 or more minor variations, the relevant authority must assess it as deemed-to-satisfy development.

Deemed-to-satisfy development must be granted planning consent subject to the requirements of section 106 of the Act and therefore does not require assessment against the policies and rules applicable to performance assessed development.

Restricted development

Each zone contains a table - Table 4 - which specifies classes of development which will be categorised as "impact assessed development" and classified as "restricted development" under section 108 of the Act, subject to any exclusions specified in the table.

The Commission is the relevant authority for restricted development.

All policies and rules relative to the spatial location of proposed restricted development, together with all general development policies, are applicable and may be determined by the Commission to be relevant for the purposes of a restricted development under section 110(10) of the Act (but the Commission is not bound by those provisions).

Performance assessed development

All development not classified as accepted, deemed-to-satisfy, restricted or impact assessed development will be categorised as code assessed development and classified as "performance assessed development" under sections 105(b) and 107 of the Act, and will be assessed on its merits against the Code as contemplated by section 107 of the Act.

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Application of Policies to Performance Assessed Classes of Development

The Code applies policies to performance assessed development through an Applicable Policies for Performance Assessed Development Table relative to each zone - Table 3.

In particular, for each zone, Table 3 specifies the policies and rules that apply to classes of development within the zone, including by the application of policies within subzones and overlays (applies only in the area affected by the subzone/overlay), together with the relevant general development policies. Table 3 also contains rules for application of the policies, including rules relating to the application of Desired Outcome policies and Designated Performance Features.

The policies specified in Table 3 constitute the policies applicable to the particular class of development within the zone to the exclusion of all other policies within the Code, and no other policies are applicable.

Development that does not fall within one of the specified classes of development in Table 3 will be designated in the table as "All Other Code Assessed Development". To assess such development, all policies from the zone and subzone, and all policies in overlays that have application to the spatial location of the development, and all general development policies, apply for the purpose of assessment.

For the purposes of section 102 of the Act, the relevant authority must assess the development against the applicable policies specified by Table 3 that are relevant to the particular development. For the avoidance of doubt, the relevant authority may determine that one or more of the listed policies are not relevant to a particular development.

Determination of Classes of Development

The Classification and Procedural Matters tables in the Code list classes of development (in the left-hand column). Unless otherwise specified in another class of development in that table, the reference to a class of development includes a reference to a change in the use of the relevant land or building work (including construction of a new building, or alteration/addition of an existing building).

If a proposed development comprises more than one element or more than one class (or form) of development, each of the applicable listed classes of development is relevant. This means that:

- (a) for the purposes of assessment - all applicable policies and criteria must be considered by the relevant authority for the purposes of section 102 of the Act; and
- (b) for the purposes of procedural matters - any development that comprises more than one of the listed classes of development may trigger more than one relevant procedure.⁷

Subject to the preceding paragraph, if there are two or more classes of development listed in a particular table that relate to a proposed development, the class of development that most closely corresponds to the nature of the development (after considering the substance of the development) applies. This is subject to the need to make a practical and realistic assessment of proposed development, and to consider the proper construction of the relevant parts of the Code, in the event of any inconsistency between two classifications as they apply to proposed development.

Policies - Desired Outcomes and Performance Outcomes

Zone, subzone, overlay and general development policies are comprised of desired outcomes (DOs) and performance outcomes (POs). These are applicable to performance assessed development and to restricted development.

Desired outcomes

Desired outcome are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

Technical and Numeric Variations

The Code has facilities that set or determine various technical and/or numeric requirements in relation to specified classes of development.⁸

Section 66(4) of the Act provides that the Code may include provisions that provide for the adaptation of the rules that apply in relation to a specified zone or subzone or as an overlay to provide for necessary and appropriate local variations in specified circumstances. The requirements specified or reflected in technical or numeric variations form part of the planning rules to apply to the assessment of development, as relevant, through the classification tables and other provisions that make reference to these matters in specified circumstances. In varying a particular policy, these specific provisions or policies may be spatially applied without the need for the Code to apply the specific policy through a separate zone, subzone or overlay.

One type of adaption of the rules is a variation of a technical or numeric requirement that would otherwise apply under a zone, subzone or overlay that applies to a particular location.⁹ A technical or numeric variation of a technical or numeric requirement operates within parameters specified in the Code and is spatially applied through the operation of the Code and its interaction with the SA planning database.

Hierarchy of Policies/Modification of Provisions

If there is an inconsistency between provisions in the relevant policies for a particular development, and for the purpose of section 66(3)(b) of the Act, the following rules will apply to the extent of any inconsistency between policies:

- (a) the provisions of an overlay will prevail over all other policies applying in the particular case; and
- (b) a subzone policy will prevail over a zone policy or a general development policy; and
- (c) a zone policy will prevail over a general development policy

This hierarchy is represented by the following diagram.



Procedural Matters

The zones, subzones, overlays and general development policies may contain sections headed "Procedural matters". Material in these sections provide for various procedural and related matters under the Act and regulations,¹⁰ such as some exclusions from the requirement to notify certain applications for planning consent, and referrals to prescribed bodies.

Notification of applications for planning consent

A table headed "Notification" in the section of a policy relating to procedural matters specifies classes of development to be assessed under section 107 of the Act which are excluded from the requirement to give notice of an application for planning consent under section 107(3) and (4).¹¹ The table may also specify cases where notice need not be given to members of the public by a notice placed on the relevant land under regulation 47(6)(a) of the Planning, Development and Infrastructure (General) Regulations 2017.

Referrals

The Code also interacts with regulation 41 and Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017 for the purposes of section 122 of the Act. Schedule 9 prescribes classes of development that must be referred to a body prescribed in Schedule 9.

"Referral" tables in various parts of the Code specify classes of development to which an item in the table in clause 3 of Schedule 9 applies, identified by reference to the prescribed referral body.¹²

A "Referrals" table also identifies the purpose of a particular referral (that being a matter that is considered by the Commission under section 66(2)(e)(ii) of the Act as being appropriate to include in the Code).

In relation to development that is to be assessed under section 107 of the Act, if policies from a particular overlay are not listed within the 'Applicable Policies' in Table 3 for that class of development, any referral within that overlay will not apply to that class of development.

Other matters specified by the Code

Specified matters and areas identified under the Act and Regulations

Part 5 sets out areas and matters that are specified or identified for various matters under the Act or associated regulations.

Definitions of land use and land use classes

Part 7 sets out definitions of land use for the purposes of section 66(2)(c) of the Act.

Local heritage places

Part 11 designates places as places of local heritage value for the purposes of section 67 of the Act.

Regulated and significant trees

Part 10 makes declarations for the purposes of the definition of regulated tree(s) and the definition of significant tree(s) under the Act.

Spatial Information and Electronic Databases and Files

The spatial boundaries of zones, subzones and overlays, as they apply in relation to the various parts of the State, are determined through the operation of the Code and may accessed through the SA planning database.

In particular, the Code spatially applies the zones, subzones and overlays to the various parts of the State. This application results in spatial layers that show the location of the zones, subzones and overlays and, accordingly, applies the policies, rules and other information that are relevant to any specific place within the State. This feature of the Code operates through data that is housed in multiple databases and electronic files. These databases and files interact to produce data that accurately shows the spatial application of the policies, rules and other relevant information within the Code, combining textual information with spatial information.

This electronic feature of the Code works in conjunction with the SA planning database under section 49 of the Act, so that the spatial boundaries of any zone, subzone or overlay, and accordingly relevant textual information, may be accessed and applied through the SA planning database.¹³

The Code and the SA planning database in turn operate in conjunction with the South Australian Property and Planning Atlas (SAPPA) and other related databases and systems and services. The data in SAPPA defines the spatial extent and boundaries of the zones, subzones and overlays established by the Code. This spatial data is developed, maintained, securely stored and delivered through information systems established and maintained by the Department. This functionality allows spatial data and textual data to be brought together in the SA planning database, and in the Code as published on the SA planning portal.

The status of the SA planning database is further supported by any standards established by the Commission under section 51 of the Act and, importantly, section 52 of the Act supports the electronic publication of statutory instruments, including the Code. A version of the Code, published on that part of the SA planning portal that states that instruments published on that part are certified by the Chief Executive of the Department under section 52(1) of the Act, is able to be presumed (in the absence of proof to the contrary) to be a complete and accurate record of the statutory instrument (as amended from time to time and as in force at a specified day).¹⁴ In addition, any information produced on the SA planning database as to the application of planning policies, rules and information to a specified place within the State (as envisaged by section 49(1) of the Act) will be presumed, in the absence of proof to the contrary, to be accurate and correct (and may be relied on for the purposes of the Act).¹⁵

Furthermore, as part of the SA planning portal and in connection with the SA planning database, the online atlas under section 50 of the Act provides a search facility to search across the database that is relevant to the spatial application of the Code. The online atlas enables the viewing and searching of the spatial mapping feature of the Code, and enables viewing of the location of zones, subzones and overlays by reference to council areas. This feature may be viewed as replacing an aspect of the scheme under the *Development Act 1993*.

The official sources for planning spatial data under the Development Act 1993 are the various hard copy maps of a Development Plan for a council area. With the implementation of the SAPPA and Planning and Design Code - 1 July - Version 2021.8

Online Planning and Design Code Enquiry (OPD) application, pre-defined and printed maps are no longer relevant or required. Rather, the scheme under the Act provides for the electronic publication of the Code, facilities to identify the policies, rules and information that apply to any place in the State, and the authorisation and verification of an electronic version of the Code as in force at any particular time.

Interpretation

Definitions and other rules of interpretation

A term used in the Code may have a meaning specifically assigned to that term by one of the following:

- (a) the Planning, Development and Infrastructure Act 2016 (the Act);
- (b) the Acts Interpretation Act 1915;
- (c) the definitions in Parts 7 and 8 of the Code.

In the event a term has been assigned a meaning in more than one of the Code's parts (i.e., a zone, subzone, overlay, or general development policy), the meaning contained in the part that sits highest in the hierarchy of policies described above will prevail.

A reference in the Code to an Act includes a reference to any regulations or instrument made under that Act, and where an Act, regulation or instrument has been amended or replaced, if the context permits, includes a reference to the amended or replaced Act, regulations or instrument.

A reference in the Code to a specific resource document or standard, means the latest version of the resource document or standard.

Unless otherwise indicated, a reference in the Code to a Part, section or table is a reference to a Part, section or table of the Code.

Footnotes

1

See especially Part 5 Division 2 Subdivision 5 of the Act in relation to the processes for the adoption and amendment of the Code.

2

The Chief Executive of the Department of Planning, Transport and Infrastructure is responsible for establishing and maintaining an electronic database (the SA planning database) that produces, by gaining access to-

(a) the state planning policies; and
 (b) the Planning Rules; and
 (c) any relevant land management agreements; and
 (d) other instruments and documents as the Chief Executive thinks fit, textual and spatial information that identifies the planning policies, rules and information that apply to specific places within the State under the Act. The SA planning database must be accessible on the SA planning portal.

3

See especially the Planning, Development and Infrastructure (Transitional Provisions) Regulations 2017 Part 4.

4

A further explanation of aspects of these features is described in a later section of this Part.

5

Section 103(c) of the Act refers to a category of development called impact assessed development. Under section 108(1)(a) of the Act, the Code classifies various forms of impact assessed development as "restricted development" for the purposes of assessment under Part 7 Division 2 Subdivision 4 of the Act.

6

Any development that does not fall into a category established under this part of the scheme (and that is not otherwise to be assessed as "impact assessed development" under the Act), is development that is to be assessed on its merits under the Act and the Code.

7

This applies subject to provisions of the Act such as section 107(2)(a).

8

Part 6 of the Code sets out technical and/or numeric requirements and any relevant variations

9

See section 66(4)(a) of the Act.

10

The Planning, Development and Infrastructure (General) Regulations 2017.

11

Section 107(6) of the Act provides that the Code may exclude classes of development from the requirement to give notice of an application for planning consent to owners or occupiers of adjacent land, and to members of the public by notice placed on the relevant land.

12

Development that is within a class specified in a "Referrals" table must be referred to the prescribed referral body pursuant to section 122 of the Act.

13

The zones, subzones and overlays may be viewed as part of the SA planning portal at: <https://sappa.plan.sa.gov.au/> The SA planning database is not the Code itself, but is rather a database which gains access to the Code and identifies the planning policies, rules and information that apply to specific places within the State.

14

See also regulation 7 of the Planning, Development and Infrastructure (General) Regulations 2017. 15 See section 52(2) of the Act. Part 2 - Zones and Sub Zones

15

See section 52(2) of the Act.

Part 2 - Zones and Sub Zones

Rural Neighbourhood Zone

Assessment Provisions (AP)

Desired Outcome	
DO 1	Housing on large allotments in a spacious rural setting, often together with large outbuildings. Easy access and parking for cars. Considerable space for trees and other vegetation around buildings, as well as on-site wastewater treatment where necessary. Limited goods, services and facilities that enhance rather than compromise rural residential amenity.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature				
Land Use and Intensity					
<p>PO 1.1</p> <p>Predominantly residential development with complementary ancillary non-residential uses compatible with a spacious and peaceful lifestyle for individual households.</p>	<p>DTS/DPF 1.1</p> <p>Development comprises one or more of the following:</p> <ul style="list-style-type: none">(a) Ancillary accommodation(b) Consulting room(c) Detached dwelling(d) Office(e) Outbuilding(f) Pre-school(g) Recreation area(h) Shop				
Site Dimensions and Land Division					
<p>PO 8.1</p> <p>Allotments/sites created for residential purposes are consistent with the density and dimensions expressed in any relevant <i>Minimum Allotment Size Technical and Numeric Variation</i> or are of suitable size and dimension to contribute to a pattern of development consistent to the locality and suitable for their intended use.</p>	<p>DTS/DPF 8.1</p> <p>Development will not result in more than 1 dwelling on an existing allotment</p> <p>or</p> <p>Allotments/sites for residential purposes accord with the following:</p> <ul style="list-style-type: none">(a) where allotments/sites are connected to mains sewer or a Community Wastewater Management System site areas (or allotment areas in the case of land division) are not less than: <table><tr><td>Minimum Site Area</td></tr><tr><td>Minimum site area is 2,000 sqm</td></tr></table> <ul style="list-style-type: none">(b) where allotments/sites are not connected to mains sewer or an approved common waste water disposal service site areas are not less than the greater of:<ul style="list-style-type: none">(i) 1200m²(ii) the following: <table><tr><td>Minimum Site Area</td></tr><tr><td></td></tr></table>	Minimum Site Area	Minimum site area is 2,000 sqm	Minimum Site Area	
Minimum Site Area					
Minimum site area is 2,000 sqm					
Minimum Site Area					

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	<p>Minimum site area is 2,000 sqm</p> <p>(c) site frontages are not less than 20m.</p> <p>In relation to DTS/DPF 8.1, in instances where:</p> <p>(d) more than one value is returned in the same field, refer to the <i>Minimum Site Area Technical and Numeric Variation layer</i> in the SA planning database to determine the applicable value relevant to the site of the proposed development</p> <p>(e) no value is returned for DTS/DPF 8.1(a) (i.e. there is a blank field), then none are applicable and the relevant development cannot be classified as deemed-to-satisfy</p> <p>(f) no value is returned for DTS/DPF 8.1(b)(ii) then the value for DTS/DPF 8.1(b)(ii) is zero.</p>
Concept Plans	
<p>PO 9.1</p> <p>Development is compatible with the outcomes sought by any relevant Concept Plan contained within Part 12 - Concept Plans of the Planning and Design Code to support the orderly development of land through staging of development and provision of infrastructure.</p>	<p>DTS/DPF 9.1</p> <p>The site of the development is wholly located outside any relevant Concept Plan boundary. The following Concept Plans are relevant:</p> <p>In relation to DTS/DPF 9.1, in instances where:</p> <p>(a) one or more Concept Plan is returned, refer to Part 12 - Concept Plans in the Planning and Design Code to determine if a Concept Plan is relevant to the site of the proposed development. Note: multiple concept plans may be relevant.</p> <p>(b) in instances where 'no value' is returned, there is no relevant concept plan and DTS/DPF 9.1 is met.</p>

Table 5 - Procedural Matters (PM) - Notification

The following table identifies, pursuant to section 107(6) of the *Planning, Development and Infrastructure Act 2016*, classes of performance assessed development that are excluded from notification. The table also identifies any exemptions to the placement of notices when notification is required.

Interpretation

A class of development listed in Column A is excluded from notification provided that it does not fall within a corresponding exclusion prescribed in Column B. In instances where development falls within multiple classes within Column A, each clause is to be read independently such that if a development is excluded from notification by any clause, it is, for the purposes of notification excluded irrespective of any other clause.

Class of Development (Column A)	Exceptions (Column B)
1. A kind of development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.	None specified.
2. All development undertaken by: (a) the South Australian Housing Trust either individually or jointly with other persons or bodies or	<p>Except development involving any of the following:</p> <ol style="list-style-type: none"> 1. residential flat building(s) of 3 storeys or greater 2. the demolition of a State or Local Heritage Place

<p>(b) a provider registered under the Community Housing National Law participating in a program relating to the renewal of housing endorsed by the South Australian Housing Trust.</p>	<p>3. the demolition of a building (except an ancillary building) in a Historic Area Overlay.</p>
<p>3. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) air handling unit, air conditioning system or exhaust fan (b) ancillary accommodation (c) building work on railway land (d) carport (e) deck (f) detached dwelling (g) dwelling addition (h) fence (i) outbuilding (j) pergola (k) private bushfire shelter (l) retaining wall (m) shade sail (n) solar photovoltaic panels (roof mounted) (o) swimming pool or spa pool (p) verandah (q) water tank. 	<p>Except development that does not satisfy Rural Neighbourhood Zone DTS/DPF 2.1.</p>
<p>4. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) consulting room (b) office (c) shop. 	<p>Except development that does not satisfy any of the following:</p> <ul style="list-style-type: none"> 1. Rural Neighbourhood Zone DTS/DPF 1.2 2. Rural Neighbourhood Zone DTS/DPF 2.1.
<p>5. Any development involving any of the following (or of any combination of any of the following):</p> <ul style="list-style-type: none"> (a) internal building works (b) land division (c) recreation area (d) replacement building (e) temporary accommodation in an area affected by bushfire (f) tree damaging activity. 	<p>None specified.</p>

6. Demolition.	<p>Except any of the following:</p> <ol style="list-style-type: none"> 1. the demolition of a State or Local Heritage Place 2. the demolition of a building (except an ancillary building) in a Historic Area Overlay.
Placement of Notices - Exemptions for Performance Assessed Development	

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None specified.
Placement of Notices - Exemptions for Restricted Development
None specified.

Adelaide Hills Subzone

Assessment Provisions (AP)

Desired Outcome	
DO 1	Additional residential and tourist accommodation that retains and embraces the values of the established mature vegetation as a defining characteristic of the area.
DO 2	Land division is sympathetic to the allotment pattern and characteristics within the locality.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Site Dimensions and Land Division	
<p>PO 2.1</p> <p>Allotments/sites created for residential purposes are consistent with the established pattern of division surrounding the development site to maintain local character and amenity.</p>	<p>DTS/DPF 2.1</p> <p>Development satisfies (a) or (b):</p> <ol style="list-style-type: none"> it will not result in more than 1 dwelling on an existing allotment allotments/sites have an area the greater of the following (excluding the area within the access 'handle' if in the form of a battle-axe development): <ol style="list-style-type: none"> 2000m² the median allotment size of all residential allotments in the Adelaide Hills Subzone either wholly or partly within a radius of 200m measured from the centre of the main allotment frontage.
<p>PO 2.2</p> <p>Allotments/sites are sized and configured maximise the retention of mature vegetation to maintain landscape amenity.</p>	<p>DTS/DPF 2.2</p> <p>None are applicable.</p>

Part 3 - Overlays

Hazards (Bushfire - Medium Risk) Overlay

Assessment Provisions (AP)

Desired Outcome	
DO 1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and

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	radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO 2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
PO 4.1 Land division is designed and incorporates measures to minimise the danger of fire hazard to residents and occupants of buildings, and to protect buildings and property from physical damage in the event of a bushfire.	DTS/DPF 4.1 None are applicable.
PO 4.2 Land division is designed to provide a continuous street pattern to facilitate the safe movement and evacuation of emergency vehicles, residents, occupants and visitors.	DTS/DPF 4.2 None are applicable.
PO 4.3 Where 10 or more new allotments are proposed, land division includes at least two separate and safe exit points to enable multiple avenues of evacuation in the event of a bushfire.	DTS/DPF 4.3 None are applicable.
PO 4.4 Land division incorporates perimeter roads of adequate design in conjunction with bushfire buffer zones to achieve adequate separation between residential allotments and areas of unacceptable bushfire risk and to support safe access for the purposes of fire-fighting.	DTS/DPF 4.4 None are applicable.
Vehicle Access - Roads, Driveways and Fire Tracks	

<p>PO 5.1</p> <p>Roads are designed and constructed to facilitate the safe and effective:</p> <ul style="list-style-type: none"> (a) access, operation and evacuation of fire-fighting vehicles and emergency personnel (b) evacuation of residents, occupants and visitors. 	<p>DTS/DPF 5.1</p> <p>Roads:</p> <ul style="list-style-type: none"> (a) are constructed with a formed, all-weather surface (b) have a gradient of not more than 16 degrees (1-in-3.5) at any point along the road (c) have a cross fall of not more than 6 degrees (1-in-9.5) at any point along the road (d) have a minimum formed road width of 6m (e) provide overhead clearance of not less than 4.0m between the road surface and overhanging branches or other obstructions including buildings and/or structures (Figure 1) (f) allow fire-fighting services (personnel and vehicles) to travel in a continuous forward movement around road curves by constructing the curves with a minimum external radius of 12.5m (Figure 2) (g) incorporating cul-de-sac endings or dead end roads do not exceed 200m in length and the end of the road has
	<p>either:</p> <ul style="list-style-type: none"> (i) a turning area with a minimum formed surface radius of 12.5m (Figure 3) or (ii) a 'T' or 'Y' shaped turning area with a minimum formed surface length of 11m and minimum internal radii of 9.5m (Figure 4) <p>(h) incorporate solid, all-weather crossings over any watercourse that support fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes.</p>
<p>PO 5.2</p> <p>Access to habitable buildings is designed and constructed to facilitate the safe and effective:</p> <ul style="list-style-type: none"> (a) access, operation and evacuation of fire-fighting vehicles and emergency personnel (b) evacuation of residents, occupants and visitors. 	<p>DTS/DPF 5.2</p> <p>Access is in accordance with (a) or (b):</p> <ul style="list-style-type: none"> (a) a clear and unobstructed vehicle or pedestrian pathway of not greater than 60 metres in length is available between the most distant part of the habitable building and the nearest part of a formed public access road (b) driveways: <ul style="list-style-type: none"> (i) do not exceed 600m in length (ii) are constructed with a formed, all-weather surface (iii) are connected to a formed, all-weather public road with the transition area between the road and driveway having a gradient of not more than 7 degrees (1-in-8) (iv) have a gradient of not more than 16 degrees (1-in-3.5) at any point along the driveway (v) have a crossfall of not more than 6 degrees (1-in-9.5) at any point along the driveway (vi) have a minimum formed width of 3m (4m where the gradient of the driveway is steeper than 12 degrees (1-in-4.5)) plus 0.5 metres clearance either side of the driveway from overhanging branches or other obstructions, including buildings and/or structures (Figure 1) (vii) incorporate passing bays with a minimum width of 6m and length of 17m every 200m (Figure 5) (viii) provide overhead clearance of not less than 4.0m between the driveway surface and overhanging branches or other obstructions, including buildings and/or structures (Figure 1)

	<ul style="list-style-type: none"> (ix) allow fire-fighting services (personnel and vehicles) to travel in a continuous forward movement around driveway curves by constructing the curves with a minimum external radius of 12.5m (Figure 2) (x) allow fire-fighting vehicles to safely enter and exit an allotment in a forward direction by using a 'U' shaped drive through design or by incorporating at the end of the driveway either: <ul style="list-style-type: none"> A. a loop road around the building or B. a turning area with a minimum radius of 12.5m (Figure 3) or C. a 'T' or 'Y' shaped turning area with a minimum formed length of 11m and minimum internal radii of 9.5m (Figure 4) (xi) incorporate solid, all-weather crossings over any
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	watercourse that support fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes.
PO 5.3 Development does not rely on fire tracks as means of evacuation or access for fire-fighting purposes unless there are no safe alternatives available.	DTS/DPF 5.3 None are applicable.

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
None	None	None	None

Figures and Diagrams

Fire Engine and Appliance Clearances

Figure 1 - Overhead and Side Clearances

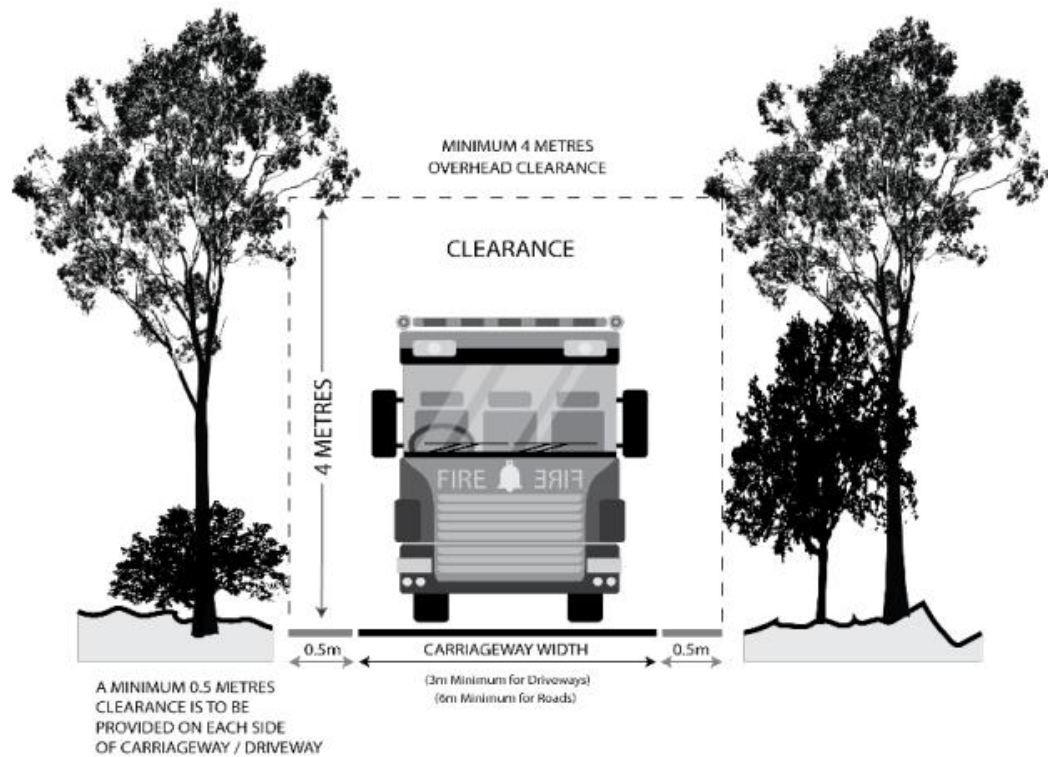
**Roads and Driveway Design**

Figure 2 - Road and Driveway Curves

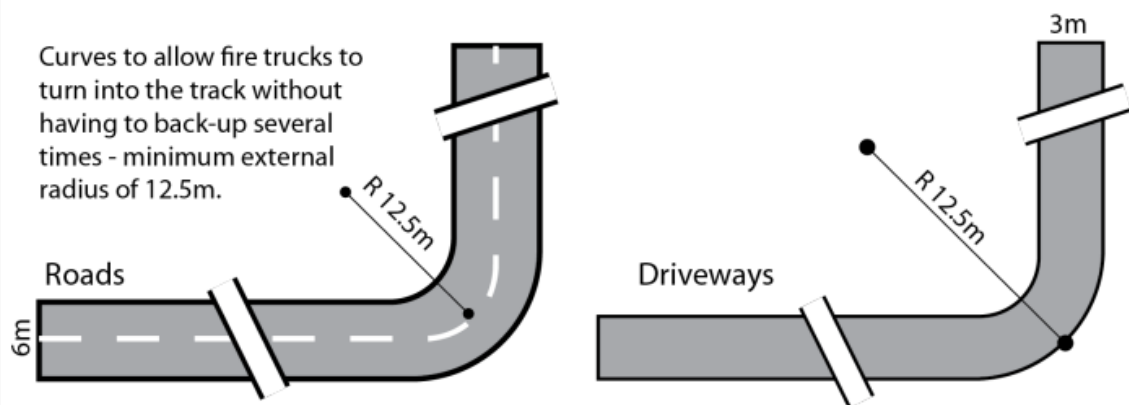


Figure 3 - Full Circle Turning Area

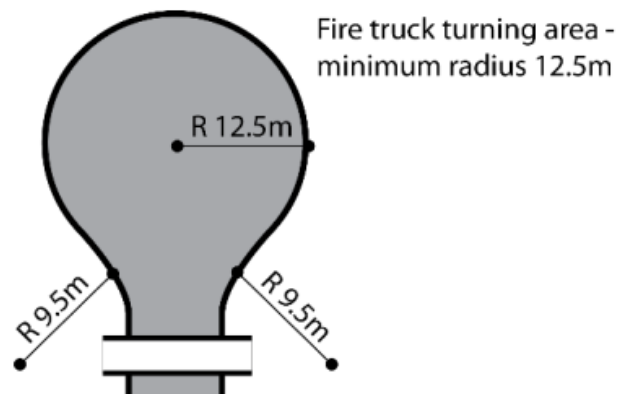
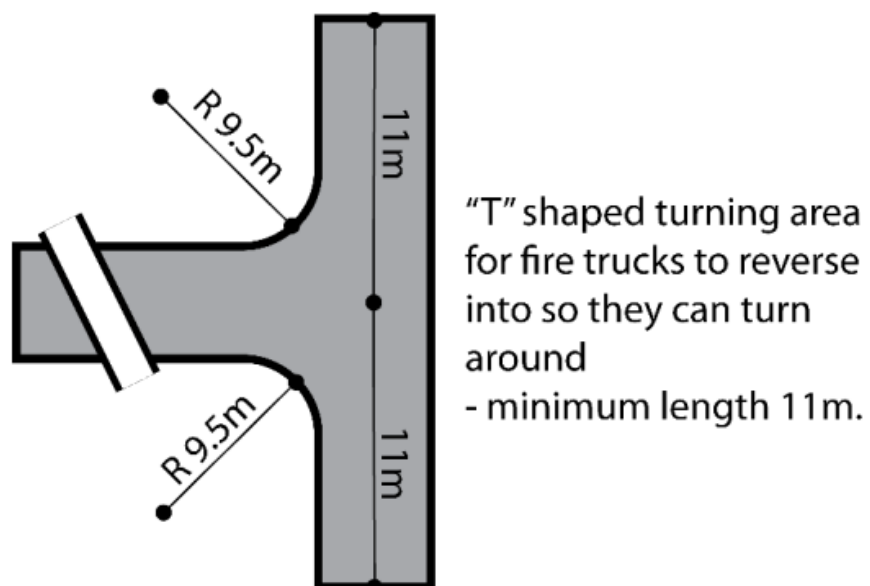


Figure 4 - 'T' or 'Y' Shaped Turning Head



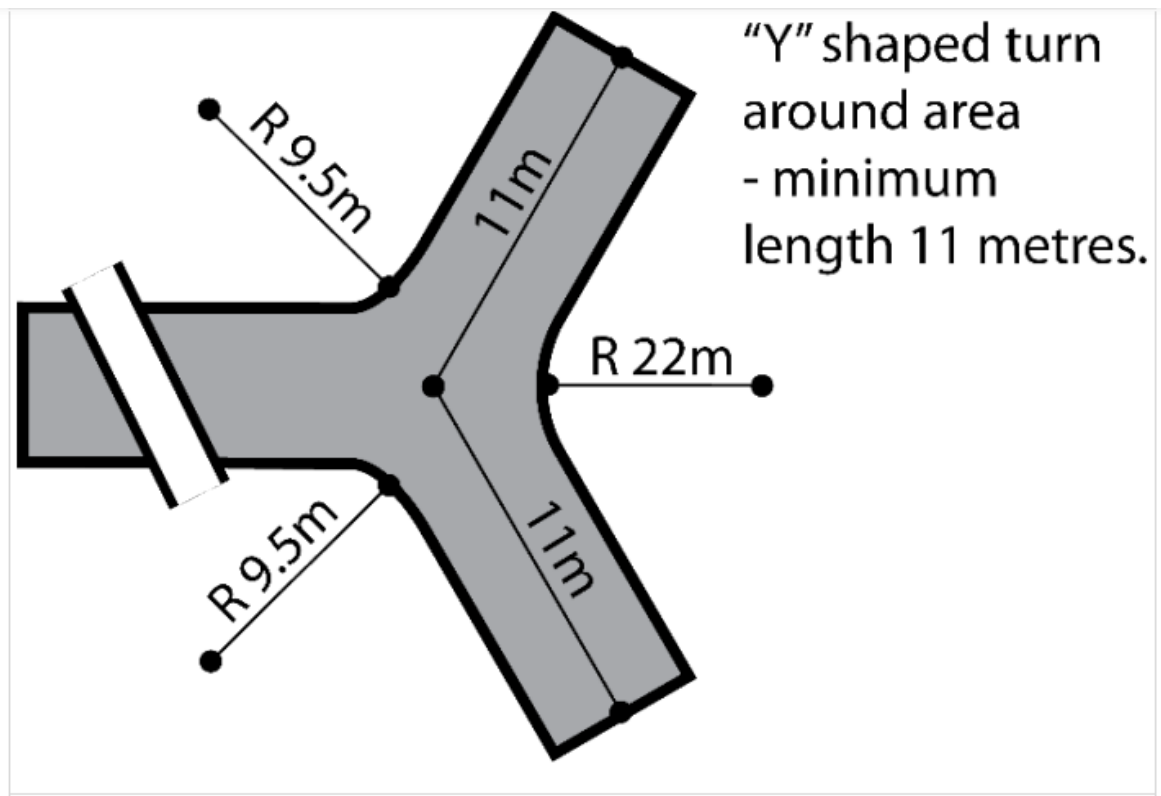
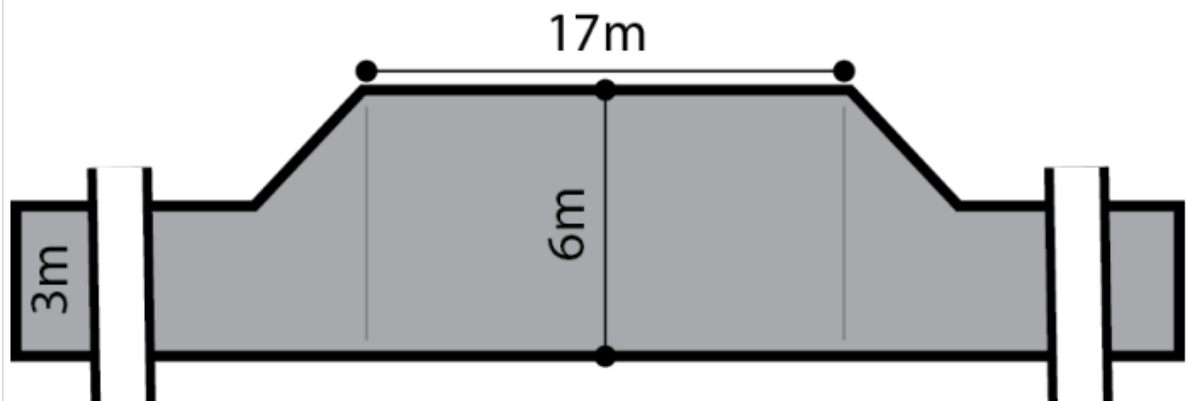


Figure 5 - Driveway Passing Bays

Passing bay for fire trucks - minimum width 6 metres, minimum length 17 metres.



Heritage Adjacency Overlay

Assessment Provisions (AP)

Desired Outcome

DO 1	Development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places.
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Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
<p>PO 2.1</p> <p>Land division adjacent to a State or Local Heritage Place creates allotments that are of a size and dimension that enables the siting and setbacks of new buildings from allotment boundaries so that they do not dominate, encroach or unduly impact on the setting of the Place.</p>	<p>DTS/DPF 2.1</p> <p>None are applicable.</p>

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
Development that may materially affect the context of a State Heritage Place.	Minister responsible for the administration of the <i>Heritage Places Act 1993</i> .	To provide expert assessment and direction to the relevant authority on the potential impacts of development adjacent State Heritage Places.	Development of a class to which Schedule 9 clause 3 item 17 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.

Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay

Assessment Provisions (AP)

Desired Outcome	
DO 1	Safeguard Greater Adelaide's public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Performance Outcome	Deemed-to-Satisfy Criteria /
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	Designated Performance Feature
Water Quality	
PO 1.1 Development results in a neutral or beneficial effect on the quality of water draining from the site to maintain and enhance the role of the catchment as a water supply.	DTS/DPF 1.1 None are applicable.
Wastewater	
PO 2.1 Development that generates human wastewater, including alterations and additions, are established at an intensity and in a manner to minimise potential adverse impact on water quality within secondary reservoir and weir catchment areas.	DTS/DPF 2.1 Development including alterations and additions, in combination with existing built form and activities within an allotment: <ul style="list-style-type: none"> (a) do not generate a combined total of more than 1500 litres of wastewater per day and (b) will be connected to the same on-site wastewater system that is compliant with relevant South Australian standards or is otherwise connected to a sewer or community wastewater management system.

<p>PO 2.3</p> <p>Development that generates trade or industrial wastewater is of a scale and design to ensure wastewater is managed to avoid adverse water quality impacts is of a scale and design that will avoid adverse water quality impacts.</p>	<p>DTS/DPF 2.3</p> <p>Development that generates trade or industrial wastewater with a peak biological oxygen demand (BOD) of greater than 100 milligrams per litre satisfies the following:</p> <ul style="list-style-type: none"> (a) disposes of all wastewater to a sewerage or community wastewater management system, or (b) operates at a scale that generates less than 5 million litres of wastewater per year, and <ul style="list-style-type: none"> (i) is located greater than 300 metres from a watercourse, dam, bore or well, except where a spill retention basin is constructed, in which case, the minimum setback to a watercourse, dam, bore or well is 50 metres, and (ii) a development that incorporates a spill retention basin(s) for the purpose of reducing the setback to a watercourse, dam, bore or well, has basins designed and located: <ul style="list-style-type: none"> A. to minimise the risk of spills entering a downgradient watercourse, dam, bore or well B. in close proximity to wine making, wine storage and wastewater treatment facilities C. to capture 120% of the maximum aggregate volume of liquid raw materials, product and untreated wastewater which can be contained or produced at any one time during the peak of operation D. to be impervious; and E. to minimise the interception of any natural or artificial stormwater flow.
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<p>PO 2.4</p> <p>Wastewater management systems result in a neutral or beneficial effect on the quality of water draining from the site.</p>	<p>DTS/DPF 2.4</p> <p>Development results in:</p> <ul style="list-style-type: none"> (a) a building or land use that is currently connected to an existing on-site wastewater system that is non-compliant with relevant South Australian standards being connected to a new or upgraded system that complies with such standards or (b) an existing on-site wastewater system being decommissioned and wastewater being disposed of to a sewer or community wastewater management system that complies with relevant South Australian standards.
<p>PO 2.5</p> <p>Surface and groundwater protected from wastewater discharge pollution.</p>	<p>DTS/DPF 2.5</p> <p>All components of an effluent disposal area are:</p> <ul style="list-style-type: none"> (a) setback 50 metres or more from a watercourse (b) setback 100 metres or more from a public water supply reservoir (c) located on land with a slope no greater than 1-in-5 (20%) (d) located on land with 1.2m or more depth to bedrock or a seasonal or permanent water table (e) above the 10% AEP flood level.
Stormwater	
<p>PO 3.1</p> <p>Post-development peak stormwater discharge quantities and rates do not exceed pre-development quantities and rates to maintain water quality leaving the site.</p>	<p>DTS/DPF 3.1</p> <p>None are applicable.</p>
<p>PO 3.2</p> <p>Stormwater run-off from areas not likely to be subject to pollution diverted away from areas that could cause pollution.</p>	<p>DTS/DPF 3.2</p> <p>None are applicable.</p>
<p>PO 3.3</p> <p>Polluted stormwater is treated prior to discharge from the site.</p>	<p>DTS/DPF 3.3</p> <p>None are applicable.</p>

PO 3.9 Stormwater from excavated and filled areas is managed to protect water quality.	DTS/DPF 3.9 Excavation and/or filling satisfy all the following: (a) is located 50m or more from watercourses (b) is located 100m or more from public water supply reservoirs and diversion weirs (c) does not involve excavation exceeding a vertical height of 0.75m (d) does not involve filling exceeding a vertical height of 0.75m (e) does not involve a total combined excavation and filling vertical height of 1.5m.
Landscapes and Natural Features	
PO 4.1 Development minimises the need to modify landscapes and natural features.	DTS/DPF 4.1 None are applicable.

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Land Division	
PO 5.1 Land division does not result in an increased risk of pollution to surface or underground water.	DTS/DPF 5.1 Land division does not create additional allotments and satisfies (a) and/or (b): (a) is for realignment of allotment boundaries to correct an anomaly in the placement of those boundaries with respect to the location of existing buildings or structures or (b) is for realignment of allotment boundaries in order to improve management of the land for primary production and/or conservation of natural features.
PO 5.2 Realignment of allotment boundaries does not create development potential for a dwelling and associated onsite wastewater management system where no such potential currently exists.	DTS/DPF 5.2 None are applicable.

Procedural Matters (PM)

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
<p>Any of the following classes of development that are not connected (or not proposed to be connected) to a community wastewater management system or sewerage infrastructure:</p> <ul style="list-style-type: none"> (a) land division creating one or more additional allotments, either partly or wholly within the area of the overlay (b) function centre with more than 75 seats for customer dining purposes (c) restaurant with more than 40 seats for customer dining purposes (d) restaurant with more than 30 seats for customer dining purposes in association with a cellar door (e) dwelling where a habitable dwelling or tourist accommodation already exists on the same allotment (including where a valid planning authorisation exists to erect a dwelling or tourist accommodation on the same allotment) (f) tourist accommodation where a habitable dwelling or tourist accommodation already exists on the same allotment (including where a valid planning authorisation exists to erect a habitable dwelling or tourist accommodation on the same allotment) (g) workers' accommodation where a habitable dwelling or tourist accommodation already exists on the same allotment (including 	Environment Protection Authority.	To provide expert technical assessment and direction to the relevant authority on whether a proposed development will have a neutral or beneficial impact on water quality.	Development of a class to which Schedule 9 clause 3 item 9 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.

<p>where a valid planning authorisation exists to erect a habitable dwelling or tourist accommodation on the same allotment)</p> <p>(h) any other development that generates human wastewater from a peak loading capacity of more than 40 persons (or more than 6,000 litres/day)</p>	
Composting works (excluding a prescribed approved activity) - being a depot, facility or works with the capacity to treat, during a 12 month period more than 200 tonnes of organic waste or matter (EPA Licence)	
Wastewater treatment works - being sewage treatment works, a community wastewater management system, winery wastewater treatment works or any other wastewater treatment works with the capacity to treat, during a 12 month period more than 2.5 ML of wastewater (EPA Licence required at more than 5ML)	
Feedlots - being carrying on an operation for holding in confined yard or area and feeding principally by mechanical means or by hand not less than an average of 200 cattle (EPA Licence) or 1,600 sheep or goats per day over any period of 12 months, but excluding any such operation carried on at an abattoir, slaughterhouse or saleyard or for the purpose only of drought or other emergency feeding	
Piggeries - being the conduct of a piggery (being premises having confined or roofed structures for keeping pigs) with a capacity of 130 or more standard pig units (EPA Licence required at 650 or more standard pig units)	
Dairies - carrying on of a dairy with a total processing capacity exceeding 100 milking animals at any one time.	

Native Vegetation Overlay

Assessment Provisions (AP)

Desired Outcome

DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
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Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land division	
<p>PO 2.1</p> <p>Land division does not result in the fragmentation of land containing native vegetation, or necessitate the clearance of native vegetation, unless such clearance is considered minor, taking into account the location of allotment boundaries, access ways, fire breaks, boundary fencing and potential building siting or the like.</p>	<p>DTS/DPF 2.1</p> <p>Land division where:</p> <ul style="list-style-type: none"> (a) an application is accompanied by one of the following: <ul style="list-style-type: none"> (i) a declaration stating that none of the allotments in the proposed plan of division contain native vegetation under the <i>Native Vegetation Act 1991</i> (ii) a declaration stating that no native vegetation clearance under the <i>Native Vegetation Act 1991</i> will be required as a result of the division of land (iii) a report prepared in accordance with Regulation 18(2)(a) of the Native Vegetation Regulations 2017 that establishes that the vegetation to be cleared is categorised as 'Level 1 clearance' or (b) an application for land division which is being considered concurrently with a proposal to develop each allotment which will satisfy, or would satisfy, the requirements of DTS/DPF 1.1, including any clearance that may occur or (c) the division is to support a Heritage Agreement under the Native Vegetation Act 1991 or the <i>Heritage Places Act 1993</i>.

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
Development that is the subject of a report prepared in accordance with Regulation 18(2)(a) of the <i>Native Vegetation Regulations 2017</i> that categorises the clearance, or potential clearance, as 'Level 3 clearance' or 'Level 4 clearance'.	Native Vegetation Council	To provide expert assessment and direction to the relevant authority on the potential impacts of development on native vegetation.	Development of a class to which Schedule 9 clause 3 item 11 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.

Regulated and Significant Tree Overlay

Assessment Provisions (AP)

Desired Outcome	
DO 1	Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Division	
PO 3.1 Land division results in an allotment configuration that enables its subsequent development and the retention of regulated and significant trees as far as is reasonably practicable.	DTS/DPF 3.1 Land division where: (a) there are no regulated or significant trees located within or adjacent to the plan of division or (b) the application demonstrates that an area exists to accommodate subsequent development of proposed allotments after an allowance has been made for a tree protection zone around any regulated tree within and adjacent to the plan of division.

Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
None	None	None	None

Traffic Generating Development Overlay**Assessment Provisions (AP)**

Desired Outcome	
DO 1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO 2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.

Performance Outcomes (PO) and Deemed to Satisfy (DTS) / Designated Performance Feature (DPF) Criteria

Performance Outcome

Deemed-to-Satisfy Criteria /
Designated Performance

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	Feature
Traffic Generating Development	
<p>PO 1.1</p> <p>Development designed to minimise its potential impact on the safety, efficiency and functional performance of the State Maintained Road network.</p>	<p>DTS/DPF 1.1</p> <p>Access is obtained directly from a State Maintained Road where it involves any of the following types of development:</p> <ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more.
<p>PO 1.2</p> <p>Access points sited and designed to accommodate the type and volume of traffic likely to be generated by development.</p>	<p>DTS/DPF 1.2</p> <p>Access is obtained directly from a State Maintained Road where it involves any of the following types of development:</p> <ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more.

PO 1.3 Sufficient accessible on-site queuing provided to meet the needs of the development so that queues do not impact on the State Maintained Road network.	DTS/DPF 1.3 Access is obtained directly from a State Maintained Road where it involves any of the following types of development: (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m ² or more (c) retail development with a gross floor area of 2,000m ² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m ² or more (e) industry with a gross floor area of 20,000m ² or more (f) educational facilities with a capacity of 250 students or more.
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Procedural Matters (PM) - Referrals

The following table identifies classes of development / activities that require referral in this Overlay and the applicable referral body. It sets out the purpose of the referral as well as the relevant statutory reference from Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017.

Class of Development / Activity	Referral Body	Purpose of Referral	Statutory Reference
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<p>Except where all of the relevant deemed-to-satisfy criteria are met, any of the following classes of development that are proposed within 250m of a State Maintained Road:</p> <ul style="list-style-type: none"> (a) land division creating 50 or more additional allotments (b) commercial development with a gross floor area of 10,000m² or more (c) retail development with a gross floor area of 2,000m² or more (d) a warehouse or transport depot with a gross leasable floor area of 8,000m² or more (e) industry with a gross floor area of 20,000m² or more (f) educational facilities with a capacity of 250 students or more. 	Commissioner of Highways.	To provide expert technical assessment and direction to the Relevant Authority on the safe and efficient operation and management of all roads relevant to the Commissioner of Highways as described in the Planning and Design Code.	Development of a class to which Schedule 9 clause 3 item 7 of the Planning, Development and Infrastructure (General) Regulations 2017 applies.
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Part 4 - General Development Policies

Land Division

Assessment Provisions (AP)

Desired Outcome	
DO 1	<p>Land division:</p> <ul style="list-style-type: none"> (a) creates allotments with the appropriate dimensions and shape for their intended use (b) allows efficient provision of new infrastructure and the optimum use of underutilised infrastructure (c) integrates and allocates adequate and suitable land for the preservation of site features of value, including significant vegetation, watercourses, water bodies and other environmental features (d) facilitates solar access through allotment orientation (e) creates a compact urban form that supports active travel, walkability and the use of public transport (f) avoids areas of high natural hazard risk.

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
All land division	
Allotment configuration	
PO 1.1 Land division creates allotments suitable for their intended use.	DTS/DPF 1.1 Division of land satisfies (a) or (b): (a) reflects the site boundaries illustrated and approved in an operative or existing development authorisation for residential development under the <i>Development Act 1993</i> or <i>Planning, Development and Infrastructure Act 2016</i> where the allotments are used or are proposed to be used solely for residential purposes

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	(b) is proposed as part of a combined land division application with deemed-to-satisfy dwellings on the proposed allotments.
PO 1.2 Land division considers the physical characteristics of the land, preservation of environmental and cultural features of value and the prevailing context of the locality.	DTS/DPF 1.2 None are applicable.
Design and Layout	
PO 2.1 Land division results in a pattern of development that minimises the likelihood of future earthworks and retaining walls.	DTS/DPF 2.1 None are applicable.
PO 2.2 Land division enables the appropriate management of interface impacts between potentially conflicting land uses and/or zones.	DTS/DPF 2.2 None are applicable.

PO 2.3 Land division maximises the number of allotments that face public open space and public streets.	DTS/DPF 2.3 None are applicable.
PO 2.4 Land division is integrated with site features, adjacent land uses, the existing transport network and available infrastructure.	DTS/DPF 2.4 None are applicable.
PO 2.5 Development and infrastructure is provided and staged in a manner that supports an orderly and economic provision of land, infrastructure and services.	DTS/DPF 2.5 None are applicable.
PO 2.6 Land division results in watercourses being retained within open space and development taking place on land not subject to flooding.	DTS/DPF 2.6 None are applicable.
PO 2.7 Land division results in legible street patterns connected to the surrounding street network.	DTS/DPF 2.7 None are applicable.
Roads and Access	
PO 3.1 Land division provides allotments with access to an all-weather public road.	DTS/DPF 3.1 None are applicable.
PO 3.2 Street patterns and intersections are designed to enable the safe and efficient movement of pedestrian, cycle and vehicular traffic.	DTS/DPF 3.2 None are applicable.
PO 3.3 Land division does not impede access to publicly owned open space and/or recreation facilities.	DTS/DPF 3.3 None are applicable.

PO 3.4 Road reserves provide for safe and convenient movement and parking of projected volumes of vehicles and allow for the efficient movement of service and emergency vehicles.	DTS/DPF 3.4 None are applicable.
PO 3.5 Road reserves are designed to accommodate pedestrian and cycling infrastructure, street tree planting, landscaping and street furniture.	DTS/DPF 3.5 None are applicable.
PO 3.6 Road reserves accommodate stormwater drainage and public utilities.	DTS/DPF 3.6 None are applicable.
PO 3.7 Road reserves provide unobstructed vehicular access and egress to and from individual allotments and sites.	DTS/DPF 3.7 None are applicable.
PO 3.9 Roads, open space and thoroughfares provide safe and convenient linkages to the surrounding open space and transport network.	DTS/DPF 3.9 None are applicable.
PO 3.10 Public streets are designed to enable tree planting to provide shade and enhance the amenity of streetscapes.	DTS/DPF 3.10 None are applicable.
PO 3.11 Local streets are designed to create low-speed environments that are safe for cyclists and pedestrians.	DTS/DPF 3.11 None are applicable.
Infrastructure	
PO 4.1 Land division incorporates public utility services within road reserves or dedicated easements.	DTS/DPF 4.1 None are applicable.
PO 4.2 Waste water, sewage and other effluent is capable of being disposed of from each allotment without risk to public health or the environment.	DTS/DPF 4.2 Each allotment can be connected to: (a) a waste water treatment plant that has the hydraulic volume and pollutant load treatment and disposal capacity for the maximum predicted wastewater volume generated by subsequent development of the proposed allotment or (b) a form of on-site waste water treatment and disposal that meets relevant public health and environmental standards.
PO 4.3 Septic tank effluent drainage fields and other waste water disposal areas are maintained to ensure the effective operation of waste systems and minimise risks to human health and the environment.	DTS/DPF 4.3 Development is not built on, or encroaches within, an area that is or will be, required for a sewerage system or waste control system.
PO 4.4	DTS/DPF 4.4

Constructed wetland systems, including associated detention and retention basins, are sited and designed to ensure public health and safety is protected, including by minimising potential public health risks arising from the breeding of mosquitoes.	None are applicable.
PO 4.5 Constructed wetland systems, including associated detention and retention basins, are sited and designed to allow sediments to settle prior to discharge into watercourses or the marine environment.	DTS/DPF 4.5 None are applicable.
PO 4.6 Constructed wetland systems, including associated detention and retention basins, are sited and designed to function as a landscape feature.	DTS/DPF 4.6 None are applicable.
Minor Land Division (Under 20 Allotments)	
Open Space	
PO 5.1 Land division proposing an additional allotment under 1 hectare provides or supports the provision of open space.	DTS/DPF 5.1 None are applicable.
Solar Orientation	
PO 6.1 Land division for residential purposes facilitates solar access through allotment orientation.	DTS/DPF 6.1 None are applicable.
Water Sensitive Design	
PO 7.1 Land division creating a new road or common driveway includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.	DTS/DPF 7.1 None are applicable.
PO 7.2 Land division designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 7.2 None are applicable.

Battle-Axe Development	
PO 8.1 Battle-axe development appropriately responds to the existing neighbourhood context.	DTS/DPF 8.1 Allotments are not in the form of a battle-axe arrangement.
PO 8.2 Battle-axe development designed to allow safe and convenient movement.	DTS/DPF 8.2 The handle of a battle-axe development: <ul style="list-style-type: none"> (a) has a minimum width of 4m or (b) where more than 3 allotments are proposed, a minimum width of 5.5m.

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PO 8.3 Battle-axe allotments and/or common land are of a suitable size and dimension to allow passenger vehicles to enter and exit and manoeuvre within the site in a safe and convenient manner.	DTS/DPF 8.3 Battle-axe development allows a B85 passenger vehicle to enter and exit parking spaces in no more than a three-point turn manoeuvre.
PO 8.4 Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.	DTS/DPF 8.4 Battle-axe or common driveways satisfy (a) and (b): <ul style="list-style-type: none"> (a) are constructed of a minimum of 50% permeable or porous material (b) where the driveway is located directly adjacent the side or rear boundary of the site, soft landscaping with a minimum dimension of 1m is provided between the driveway and site boundary (excluding along the perimeter of a passing point).
Major Land Division (20+ Allotments)	
Open Space	
PO 9.1 Land division allocates or retains evenly distributed, high quality areas of open space to improve residential amenity and provide urban heat amelioration.	DTS/DPF 9.1 None are applicable.

PO 9.2 Land allocated for open space is suitable for its intended active and passive recreational use considering gradient and potential for inundation.	DTS/DPF 9.2 None are applicable.
PO 9.3 Land allocated for active recreation has dimensions capable of accommodating a range of active recreational activities.	DTS/DPF 9.3 None are applicable.
Water Sensitive Design	
PO 10.1 Land division creating 20 or more residential allotments includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 10.1 None are applicable.
PO 10.2 Land division creating 20 or more non-residential allotments includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.	DTS/DPF 10.2 None are applicable.
PO 10.3 Land division creating 20 or more allotments includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.	DTS/DPF 10.3 None are applicable.
Solar Orientation	
PO 11.1 Land division creating 20 or more allotments for residential purposes facilitates solar access through allotment orientation and allotment dimensions.	DTS/DPF 11.1 None are applicable.

Part 8 - Administrative Terms and Definitions

The following table lists terms which may be used to assist with the interpretation of policy used in the Planning and Design Code.

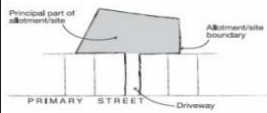
Meaning of Terms

A term listed in Column A has the meaning set out beside that term in Column B. Column C contains, where applicable, illustrations to assist with the interpretation of the meaning provided in Column B.

No Definition

A term not defined in the following table will have its ordinary meaning unless the term is defined in the *Planning, Development and Infrastructure Act 2016* or its Regulations (or any relevant practice direction or practice guideline issued by the State Planning Commission) in which case that meaning will apply.

Administrative Terms and Definitions Table

Term (Column A)	Definition (Column B)	Illustrations (Column C)
Battle-axe allotment	Means an allotment or site that comprises: <ul style="list-style-type: none"> (a) a driveway or 'handle' (and any related open space) that leads back from a road to the balance of the allotment or site; and (b) a balance of the allotment or site that is the principal part of the allotment or site and that does not have a boundary with a road. 	 <p>Note: Battle-axe allotments are often referred to as 'hammerhead' or 'flagpole' allotments.</p>

Extract of Table 3

Table 3 - Applicable Policies for Performance Assessed Development

The following table identifies the policies that are applicable to the assessment of the identified Class of Development. Policies referred to are Performance Outcome policies, and any associated Designated Performance Features. Relevant Desired Outcomes are not listed, but automatically apply in relation to a Performance Assessed Development. Where a development comprises more than one Class of Development the relevant policies will be taken to be the sum of the applicable policies for each Class of Development.

Class of Development	Applicable Policies			
	Zone	General Development Policies	Subzone (applies only in the area affected by the Subzone)	Overlay (applies only in the area affected by the Overlay)
Land division	Land Use and Intensity PO 1.1 Site Dimensions and Land Division PO 8.1	Land Division [All land division [Allotment configuration]] PO 1.1, PO 1.2 Land Division [All land division [Design	Bookmark Creek Subzone [Land Use and Intensity] PO 1.1 Adelaide Hills Subzone [Site	Affordable Housing Overlay [Land Division] PO 1.1, PO 1.2, PO 1.3 Affordable Housing Overlay 2566

	Concept Plans PO 9.1	and Layout]] PO 2.1, PO 2.2, PO 2.3, PO 2.4, PO 2.5, PO 2.6, PO 2.7 Land Division [All land division [Roads and Access]] PO 3.1, PO 3.2, PO 3.3, PO 3.4, PO 3.5, PO 3.6, PO 3.7, PO 3.9, PO 3.10, PO 3.11 Land Division [All land division [Infrastructure]] PO 4.1, PO 4.2, PO 4.3, PO 4.4, PO 4.5, PO 4.6 Land Division [Minor Land Division (Under 20 Allotments) [Open Space]] PO 5.1 Land Division [Minor Land Division (Under 20 Allotments) [Solar Orientation]] PO 6.1 Land Division [Minor Land Division (Under 20 Allotments) [Water Sensitive Design]] PO 7.1, PO 7.2 Land Division [Minor Land Division (Under 20 Allotments) [Battle-Axe Development]] PO 8.1, PO 8.2, PO 8.3, PO 8.4	Dimensions and Land Division] PO 2.1, PO 2.2	[Affordable Housing Incentives] PO 3.1 Aircraft Noise Exposure Overlay [Land Division] PO 3.1 Character Area Overlay [All Development] PO 1.1 Character Area Overlay [Land Division] PO 5.1 Character Area Overlay [Context and Streetscape Amenities] PO 6.1, PO 6.2 Character Preservation District Overlay [Land Use and Intensity] PO 1.1 Character Preservation District Overlay [Earthworks] PO 4.1 Coastal Areas Overlay [Land Division] PO 1.1, PO 1.2, PO 1.3 Coastal Areas Overlay [Hazard Risk Minimisation] PO 2.3
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		Land Division [Major Land Division (20+ Allotments) (Open Space)] PO 9.1, PO 9.2, PO 9.3		Coastal Areas Overlay [Coast Protection Works] PO 3.1, PO 3.2
		Land Division [Major Land Division (20+ Allotments) (Water Sensitive Design)] PO 10.1, PO 10.2, PO 10.3		Coastal Areas Overlay [Environment Protection] PO 4.2, PO 4.3, PO 4.5, PO 4.6, PO 4.7
		Land Division [Major Land Division (20+ Allotments) (Solar Orientation)] PO 11.1		Coastal Areas Overlay [Access] PO 5.1, PO 5.2, PO 5.3, PO 5.4
				Coastal Flooding Overlay PO 1.1
				Dwelling Excision Overlay [Land Division] PO 1.1
				Environment and Food Production Areas Overlay PO 1.1
				Future Local Road Widening Overlay [Future Road Widening] PO 1.1
				Future Road Widening Overlay [Future Road Widening] PO 1.1
				Gas and Liquid Petroleum Pipelines Overlay [Land Use and Intensity] PO 1.1
				Gas and Liquid Petroleum Pipelines (Facilities) Overlay [Safety] PO 1.1
				Hazards (Bushfire - General Risk) Overlay [Land Division] PO 4.1, PO 4.2, PO 4.3, PO 4.4
				Hazards (Bushfire - General Risk) Overlay [Vehicle Access – Roads, Driveways and Fire Tracks] PO 5.1, PO 5.2, PO 5.3
				Hazards (Bushfire - High Risk) Overlay [Land Use] PO 1.1, PO 1.2
				Hazards (Bushfire - High Risk) Overlay [Land Division] PO 5.1, PO 5.2, PO 5.3, PO 5.4, PO 5.5
				Hazards (Bushfire - High Risk) Overlay [Vehicle Access – Roads, Driveways and Fire Tracks] PO 5.1, PO 5.2, PO 5.3, PO 5.4, PO 5.5

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				PO 6.1, PO 6.2, PO 6.3
				Hazards (Bushfire - Medium Risk) Overlay [Land Division] PO 4.1, PO 4.2, PO 4.3, PO 4.4
				Hazards (Bushfire - Medium Risk) Overlay [Vehicle Access - Roads, Driveways and Fire Tracks] PO 5.1, PO 5.2, PO 5.3
				Hazards (Bushfire - Outback) Overlay [Vehicle Access - Roads and Driveways] PO 2.1, PO 2.2
				Hazards (Bushfire - Regional) Overlay [Land Division] PO 4.1, PO 4.2, PO 4.3
				Hazards (Bushfire - Regional) Overlay [Vehicle Access - Roads and Driveways] PO 5.1, PO 5.2, PO 5.3
				Hazards (Bushfire - Urban Interface) Overlay [Land Division] PO 1.1, PO 1.2, PO 1.3, PO 1.4, PO 1.5, PO 1.6

				Hazards (Bushfire - Urban Interface) Overlay [Vehicle Access - Roads, Driveways and Fire Tracks] PO 2.1 Hazards (Flooding) Overlay [Land Division] PO 1.1 Hazards (Flooding) Overlay [Site Earthworks] PO 5.1, PO 5.2 Hazards (Flooding) Overlay [Access] PO 6.1, PO 6.2 Heritage Adjacency Overlay [Land Division] PO 2.1 Historic Area Overlay [All Development] PO 1.1 Historic Area Overlay [Land Division] PO 5.1 Historic Area Overlay [Ruins] PO 8.1 Key Outback and Rural Routes Overlay [Access - Safe Entry and Exit (Traffic Flow)] PO 1.1 Key Outback and Rural Routes Overlay [Access - On-Site Queuing] PO 2.1 Key Outback and Rural Routes Overlay [Access - Existing Access Points] PO 3.1 Key Outback and Rural Routes Overlay [Access - Location (Spacing)] PO 4.1 Key Outback and Rural Routes Overlay [Access - Location (Sight Lines)] PO 5.1 Key Outback and Rural Routes Overlay [Access - Mud and Debris] PO 6.1 Key Outback and Rural Routes Overlay [Access - Stormwater] PO 7.1 Key Outback and Rural Routes Overlay [Public Road Junctions] PO 8.1
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				Key Railway Crossings Overlay [Access, Design and Function] PO 1.1 Limited Land Division Overlay [General] PO 1.1, PO 1.2 Local Heritage Place Overlay [Land Division] PO 4.1 Major Urban Transport Routes Overlay [Access - Safe Entry and Exit (Traffic Flow)] PO 1.1 Major Urban Transport Routes Overlay [Access - On-Site Queuing] PO 2.1 Major Urban Transport Routes Overlay [Access - Location (Spacing) - Existing Access Points] PO 3.1 Major Urban Transport Routes Overlay [Access - Location (Spacing) - New Access Points] PO 4.1
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				Major Urban Transport Routes Overlay [Access - Location (Sight Lines)] PO 5.1
				Major Urban Transport Routes Overlay [Access - Mud and Debris] PO 6.1
				Major Urban Transport Routes Overlay [Access - Stormwater] PO 7.1
				Major Urban Transport Routes Overlay [Building on Road Reserve] PO 8.1
				Major Urban Transport Routes Overlay [Public Road Junctions] PO 9.1
				Marine Parks (Managed Use) Overlay [Land Use] PO 1.1
				Marine Parks (Restricted Use) Overlay [Land Use] PO 1.1
				Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay [Water Quality] PO 1.1
				Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay [Wastewater] PO 2.1, PO 2.2, PO 2.3, PO 2.4
				Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay [Stormwater] PO 3.1, PO 3.3, PO 3.9
				Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay [Landscapes and Natural Features] PO 4.1
				Mount Lofty Ranges Water Supply Catchment (Area 1) Overlay [Land Division] PO 5.1, PO 5.2
				Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay [Water Quality] PO 1.1
				Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay [Wastewater] PO 2.1, PO 2.3, PO 2.4, PO 2.5

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				Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay [Stormwater] PO 3.1, PO 3.2, PO 3.3, PO 3.9
				Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay [Landscapes and Natural Features] PO 4.1
				Mount Lofty Ranges Water Supply Catchment (Area 2) Overlay [Land Division] PO 5.1, PO 5.2
				Native Vegetation Overlay [Land division] PO 2.1
				Non-Stop Corridors Overlay [Non-Stop Corridor Overlay] PO 1.1
				Ramsar Wetlands Overlay [Land Division] PO 2.1

				Non-Stop Corridors Overlay [Non-Stop Corridor Overlay] PO 1.1 Ramsar Wetlands Overlay [Land Division] PO 2.1 Regulated and Significant Tree Overlay [Land Division] PO 3.1 Resource Extraction Protection Area Overlay [Protection of Strategic Resources] PO 1.1 River Murray Flood Plain Protection Area Overlay [I and Division] PO 3.1, PO 3.2 River Murray Flood Plain Protection Area Overlay [Access] PO 7.1, PO 7.2, PO 7.3 River Murray Tributaries Protection Area Overlay [Land Division] PO 2.1, PO 2.2 Significant Interface Management Overlay [Land Use and Intensity] PO 1.1 State Heritage Area Overlay [Land Division] PO 4.1 State Heritage Place Overlay [Land Division] PO 4.1 State Significant Native Vegetation Areas Overlay [Land division] PO 2.1 Traffic Generating Development Overlay [Traffic Generating Development] PO 1.1, PO 1.2, PO 1.3
				Urban Transport Routes Overlay [Access - Safe Entry and Exit (Traffic Flow)] PO 1.1 Urban Transport Routes Overlay [Access - On-Site Queuing] PO 2.1 Urban Transport Routes Overlay [Access - (Location Spacing) - Existing Access Point] PO 3.1 Urban Transport Routes Overlay [Access - Location (Spacing) - New Access Points] PO 4.1 Urban Transport Routes Overlay [Access - Location (Sight Lines)] PO 5.1 Urban Transport Routes Overlay

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				[Access - Mud and Debris] PO 6.1 Urban Transport Routes Overlay [Access - Stormwater] PO 7.1 Urban Transport Routes Overlay [Building on Road Reserve] PO 8.1 Urban Transport Routes Overlay [Public Road Junctions] PO 9.1
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**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item:	12.1
Responsible Officer:	Karen Cummings Manager Property Services Corporate Services
Subject:	Preserving Randell's Workmen's Cottages – 1 Beavis Court, Gumeracha
For:	Decision

SUMMARY

At its meeting on 26 April 2022 (Item 12.7) Council considered a report on options for the future of the Randell's Workmen's Cottages (the "Cottages") at 1 Beavis Court Gumeracha (see site Plan in **Appendix 1**), including consideration of separating the buildings from Council's reserve and Council's investment in the preservation of the buildings and their possible use into the future. As an outcome from that meeting, Council resolved to undertake further scoping and costing to complete minor works on the Cottages to prevent further deterioration, and that these costs be considered as part of the 2023/24 budget preparation process.

This report details the required works to maintain the Cottages in their current condition into the future to prevent any further deterioration of the building. Preventative measures could be put in place until Council determines the long term future of the site. The integrity of the Cottages is impacted by a large tree that has grown over the roof and is applying pressure to the structure. This tree is also dropping a considerable amount of leaf litter onto and around the building (see **Appendix 2**).

It is recommended that any existing loose roof sheets be further screwed down and the existing roof sprayed with rust convertor and galvanised paint. Over the years, dirt, leaf litter, and other materials have built up against the exterior walls of the building and allowed the ingress of surface water to compromise the wall strength (see images 2,3,7 and 8 in **Appendix 2**). The other area of concern is the access into the building by community members. The doors and windows of the Cottages have been blocked/enclosed to prevent access, but this should be reinforced and recovered with a material such as galvanised mini orb to make it more appealing from the street.

It is considered that by undertaking these works in conjunction with six monthly inspections by Council staff, the building will be prevented from further deterioration.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
2. That the amount of \$20,000 be considered as part of the 2023/24 budget preparation process to prevent further deterioration of Randell's Cottages at 1 Beavis Court, Gumeracha.

1. BACKGROUND

At its meeting on 26 April 2022 (Item 12.7) Council resolved as follows:

12.7. Options for Randell's Workmen's Cottages, Gumeracha

1. *That the report be received and noted.*
2. *To rescind parts 3 to 6 of resolution numbered 77/19 of 26 March 2019 thereby removing the requirement to pursue a land division application and Expression of Interest process for the reuse of the Randell's Workmen's Cottages for tourist accommodation or some other use.*
3. *That the Administration undertakes further scoping and costing for option 4, as outlined in this report, for undertaking minor works on the cottages to prevent further deterioration.*
4. *That the results of the scoping and costing exercise be considered as part of the 2023/24 budget preparation process.*

12.7 Options for Randell's Workmen's Cottages, Gumeracha

Moved Cr Malcolm Herrmann
S/- Cr Pauline Gill

93/22

Council resolves:

1. That the report be received and noted.
2. To rescind parts 3 to 6 of resolution numbered 77/19 of 26 March 2019 thereby removing the requirement to pursue a land division application and Expression of Interest process for the reuse of the Randell's Workmen's Cottages for tourist accommodation or some other use.
3. That the Chief Executive Officer undertakes further scoping and costing for option 4, as outlined in the 26 April 2022 report, for undertaking minor works on the cottages to prevent further deterioration.
4. That the results of the scoping and costing exercise be considered as part of the 2023/24 budget preparation process.

Carried Unanimously

"Option 4" as referred to in the 26 April 2022 report involved leaving the Cottages as they are, but undertaking some minor works to prevent their further deterioration. The option included consideration of re-roofing the Cottages and undertaking street, drainage and structural works to prevent further degradation of the structures over time. It was also recommended as part of this option to instal interpretative signage to tell the story of the cottages and their original owner, Mr William Randell.

Following the April 2022 Council report and resolution, Council staff have inspected the site and discussed options with builders and engineers as to the most cost effective method of maintaining the building with minimal or no deterioration into the future until a final decision is made as to the long term future of the Cottages.

The Cottages were the original workmen's cottages owned by Mr William Richard Randell. They served as accommodation for employees of Mr Randell's farming operations in the area in the early 1900s. The exact date of construction is unknown. Mr Randell, also known as "Captain Randell" (2 May 1824 – 4 March 1911), was an Australian politician and pioneer who immigrated to South Australia in 1837. He was a pioneer of the riverboat industry on the River Murray and represented the Electoral district of Gumeracha in the South Australian House of Assembly from 1893 to 1899. He is also responsible for laying out the town of Gumeracha in 1857 and is therefore a figure of importance to the Gumeracha community.

The Cottages are Local Heritage listed which covers the "stone dressings, stone chimneys, timber-framed openings and remains of a timber shingle roof." As the Cottages are local heritage listed any major repairs/upgrades will therefore be costly and require specialist trades and will need to be undertaken so as to not diminish the historical aspects of the buildings. Expert Local Heritage advice will be required if any works are proposed to the Cottages apart from minor maintenance.

The Cottages were vested in Council as part of a Reserve in 1993 when the initial stage of the Beavis Court residential development was undertaken.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal	A functional Built environment
Objective B2	Preserve and enhance the unique character of the Hills for current and future generations
Priority B2.3	Proactively work with developers to ensure that built form complements or enhances existing local character and amenity of our towns, historic buildings and scenic environment

➤ Legal Implications

Not applicable

➤ **Risk Management Implications**

The undertaking of the works recommended in this report will assist in mitigating the risk of:

Failure to maintain Randell's cottages and preserve the heritage value of the building leading to a lack of confidence in Council's commitment to the preservation of local heritage places.

Inherent Risk	Residual Risk	Target Risk
Low (2D)	Low (1E)	Low (1E)

The work detailed in the report will address the above risk and allow Council time to determine the best long term solution for the Cottage.

➤ **Financial and Resource Implications**

The work recommended to maintain the building in its current state is as follows:

- Cut back and trim tree that is on the roof of the building - \$3,750
- Remove soil and leaf matter that has built up against the walls of the building - \$5,800
- Lay and compact crushed rock around the building to enable surface water to drain away from the building - \$2,900
- Repair framing to doors and windows where needed to allow mini orb to be securely fixed - \$1,800
- Paint existing roof with rust convertor and galvanised paint - \$3,500, and
- Signage – approximately \$250.

Cost to complete the work: \$20,000 (including \$2000 contingency).

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

Given the history of the site, any work to prevent the deterioration of the Cottages and thus preserving the heritage value of the building into the future is considered to be a positive community outcome for the township of Gumeracha.

➤ **Sustainability Implications**

Not applicable

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable
Council Workshops: Not Applicable
Advisory Groups: Not Applicable
External Agencies: Not Applicable
Community: Not Applicable

➤ **Additional Analysis**

The option investigated has considered an entire roof replacement for the structure. Given the heritage nature and age of the building, replacing its roof would require extensive structural/engineering assessment which would be costly (in the order of more than \$55,000) with minimal additional benefit to the existing roof. At the present time, the existing roof is only protecting the dirt floor beneath (see images 9 and 10 in **Appendix 2**). At present, with the existing roof there is very little water dripping through the iron onto the ground, and even with the minor roof leaks it is only leaking onto a dirt floor.

Accordingly, rather than replacing the whole roof structure, it is recommended that minor works be undertaken to seal the existing roof including screwing down any existing loose sheets, and painting the existing roof with a rust convertor and a galvanised paint product. This would cost in the order of \$3,500.

In summary, it is noted that the main actions recommended to prevent further deterioration of the structure are on the outside of the building, particularly in terms of impacts from adjacent trees and soil/leaf matter that has built up around the outside of the building. It is suggested that minor works to the roof as outlined would provide just as much protection to the structure than replacing the entirety of the roof. It is recommended that the works be undertaken as soon as possible in the next financial year (2023/2024) to prevent any further impacts particularly from the trees and adjacent soil/leaf matter against the building.

3. OPTIONS

Council has the following options:

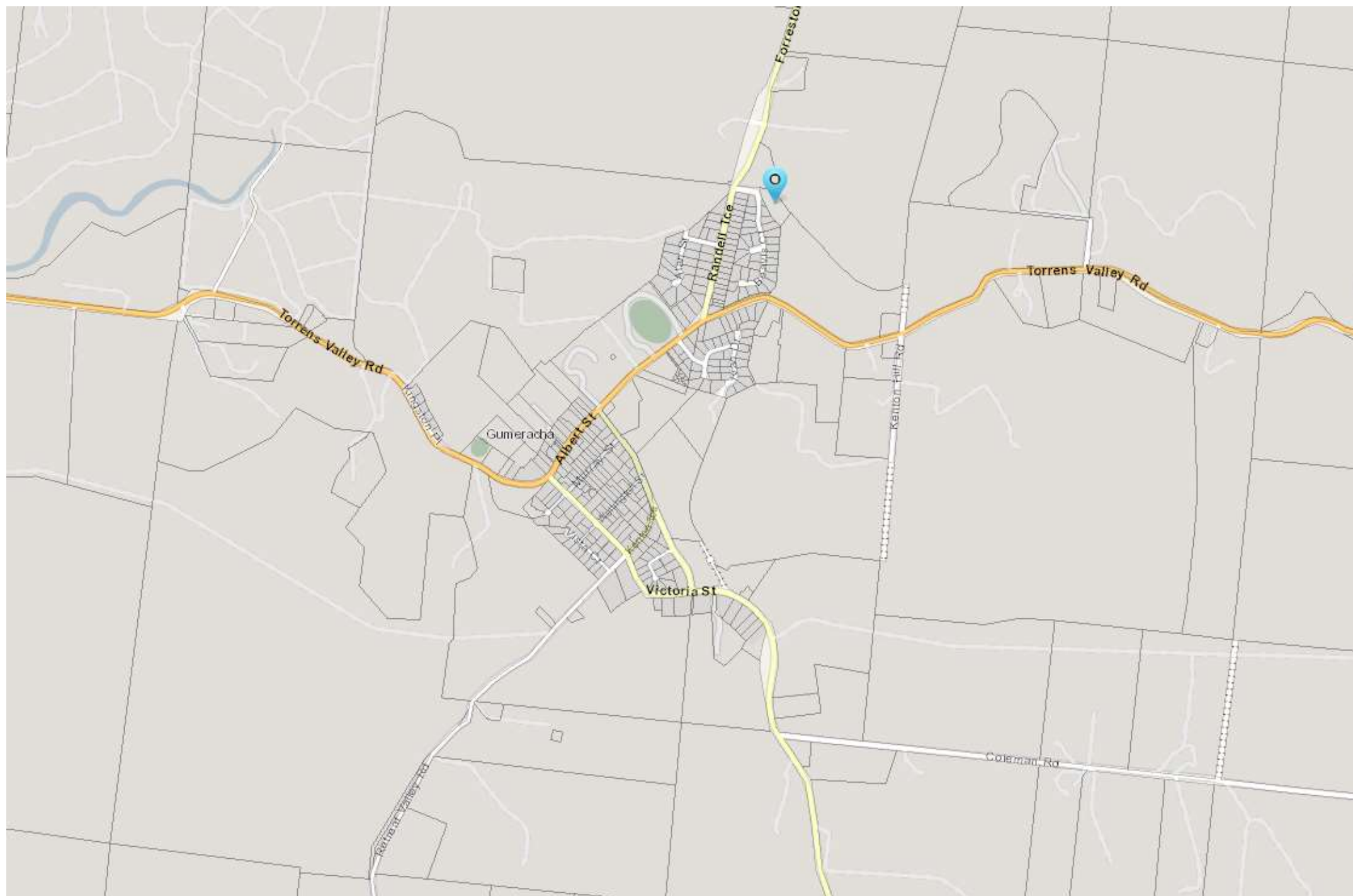
- I. That the amount of \$20,000 be considered as part of the 2023-24 budget preparation process to prevent further deterioration of Randell's Cottages at 1 Beavis Court, Gumeracha. (Recommended)
- II. That the amount of \$20,000 **not** be considered as part of the 2023-24 budget preparation process to prevent further deterioration of Randell's Cottages at 1 Beavis Court, Gumeracha. (Not Recommended)

4. APPENDICES

- (1) Site Location
- (2) Images of Cottage

Appendix 1

Site Plans – 1 Beavis Court, Gumeracha







Appendix 2

Images - Randell's Workers Cottages

Appendix 2 – Images of the Cottage

Image 1



Image 2



Image 3



Image 4



Image 5



Image 6



Image 7



Image 8



Image 9



Image 10



**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item: 12.2

Responsible Officer: Karen Cummings
Manager Property
Corporate Services

Subject: Uniting Church Request to Transfer Ownership of Woodside & Inverbrackie Cemeteries

For: Decision

SUMMARY

The Uniting Church Synod in South Australia has approached Council regarding taking on the management of the Woodside Church Cemetery and the Inverbrackie Cemetery. In 2022 Council adopted a policy position for assessment of such requests. The request is presented to Council with regard to the policy position.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
 - 2. That the CEO write to Uniting Church Synod in South Australia advising that the Adelaide Hills Council respectfully declines their proposed offer to transfer ownership of the Woodside and Inverbrackie Uniting Church Cemeteries to Council.**
-

1. BACKGROUND

The Adelaide Hills Council is responsible for the care, control and management of sixteen (16) cemeteries throughout the district. These cemeteries form part of an integral component of the operation of the funeral industry within the area.

Within the Council area some churches have private cemeteries attached to their sites. Although the exact number is unknown, anecdotally, it would be considerable. Some are still active and some are long closed to new burials. Council has been contacted by representatives from a number of these churches in the past to discuss the possibility of Council managing and maintaining their cemeteries into the future.

For many years these private facilities rely heavily on maintenance of these sites being undertaken by church volunteers and over time due to the reduction and ability of volunteers, it is evident that there are growing challenges in ensuring appropriate maintenance for these sites continues into the future. It is therefore reasonable to expect that these types of requests to Council to manage the sites permanently will increase into the future.

To enable Council to make informed decisions that would not financially disadvantage the wider community, and in response to a Motion on Notice at the Council meeting of 27 January 2021, a policy position was adopted by Council to manage such requests.

11. MOTIONS ON NOTICE

11.1 Cemeteries

**Moved Cr Malcolm Herrmann
S/- Cr Ian Bailey**

3/21

That the CEO prepares a report accompanied by a draft policy on the Council's role in regard to assuming control of church (i.e. private) cemeteries, such report and draft policy to be discussed at a workshop in April 2021 prior to consideration by Council prior to 30 June 2021.

Carried unanimously

With an effective date of 6 July 2021, the *Cemetery Operating Policy* (the “Policy”) was amended to include the following section regarding Private Cemeteries:

8. PRIVATE CEMETERIES

- 9.1 There a number of Private Cemeteries in the Adelaide Hills Council district. At times, the Authority receives requests to assume ownership or administration of a Private Cemetery. These requests need to be assessed to fully understand the community and financial impacts of the proposal.
- 9.2 Each proposal will be assessed on its own merits and that assessment needs to consider the risks and impacts both at the time the proposal is received as well as into the future. At a minimum, the following information needs to be provided as part of the assessment process:
- The reason and purpose of the request
 - Ownership details
 - Details of what interment and burial records are available
 - Is land ownership proposed
 - Full details of any trusts that exist over the cemetery
 - The remaining capacity of the cemetery
 - The current and future maintenance requirements for the cemetery
 - What, if any, financial contribution is proposed to be made to the Authority
 - Is there a State or Federal authority that should provide assistance to the Private Cemetery authority in the first instance
- 9.3 When assessing any proposal, consideration should be given to any Authority owned or administered cemeteries in the area that provide a service to that section of the community.
- 9.4 All formal requests are to be presented to Council for consideration and a decision.

The term *Authority* is used in the Policy to describe the Council in its role as a cemetery authority as provided for in the legislation.

2. ANALYSIS

➤ **Strategic Management Plan/Functional Strategy/Council Policy Alignment**

Strategic Plan 2020-24 – A brighter future

Goal	A Functional Built Environment
Objective B4	Sustainable management of our built assets ensures a safe, functional and well serviced community
Priority B4.1	Ensure the long term management of the built form and public spaces occurs in consideration of the relevant financial, social and environmental management matters
Goal	Community Wellbeing
Objective C1	A community for everyone – that is inclusive, welcoming and accessible
Priority C1.1	Provide welcoming spaces and places for the community through our libraries, community centres, and Council and community facilities
Goal	A Progressive Organisation
Objective O3	Our organisation is financially sustainable for both current and future generations
Priority O3.4	Assess the range and level of services undertaken to ensure they fulfil Council's legislative and strategic intent

➤ **Legal Implications**

Cemeteries in South Australia are managed under the *Burial and Cremation Act 2013* which allows councils to assume ownership or administration of a private cemetery with the consent of the relevant authority or if the relevant authority is unknown. There is no legal obligation of Council to assume ownership or administration of a cemetery.

➤ **Risk Management Implications**

The risks of assuming ownership or administration of a private cemetery are varied and include:

- Limited availability of records of interment rights, their commencement dates and the interment right holder
- Limited availability of burial records
- Maintenance and responsibility for headstones of expired interment rights
- Maintenance and upgrade costs
- Limited or no future capacity
- Trust limitations

The policy position assists in mitigating the risk of:

Lack of financial sustainability in the management of Council's cemetery operations leading to Council incurring unsustainable resource commitment and high risk.

Inherent Risk	Residual Risk	Target Risk
Medium (1B)	Low (1C)	Low

➤

➤ **Financial and Resource Implications**

Assuming responsibility for the ownership or management of a private cemetery can have significant financial implications. These implications need to be assessed for each and every approach made to Council in respect of a private cemetery. Some of the financial implications include the ongoing maintenance of the cemetery grounds, roadways, car parks and pathways, at risk headstones and the administrative management.

When the Council issues interment rights in its own cemeteries, it charges a fee which provides, to some extent, a source of finance for ongoing cemetery maintenance (noting interment right holders are themselves responsible for the graves, headstones and memorials). It is not clear if the church in this instance charged a fee for interment rights, however, it is presumed that the church is not holding a fund for the ongoing maintenance of these sites and the church is not proposing to transfer any funds to the Council to assist with ongoing management of the sites.

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

Cemeteries play an important role in the community as a place of remembrance and history, not just for the families of those interred there but also for the broader community in terms of the history of the townships and district.

In general, most townships or group of townships have a cemetery that services their community, whether that be a general public cemetery or a church affiliated cemetery. It is fair to assume these cemeteries are valued by the local community.

➤ **Sustainability Implications**

Given the role that cemeteries play in the local community, there is some community expectation that Council will provide these services across the Council district. The Council currently has 16 cemeteries spread across the district which, combined with a number of private cemeteries, deliver these services.

Cemeteries have limited capacity unless grave re-use is undertaken and whilst a cemetery may not be able to facilitate new burial locations, the obligation on the Council to maintain the cemetery continues without further revenue from the issue of interment rights.

Assuming ownership or administration of a private cemetery requires a financial commitment by Council for the ongoing maintenance and administration of the cemetery. This financial obligation needs to be fully understood during the decision making process.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: The Cemetery Advisory Group discussed the request at its meeting on 11 October 2022.

External Agencies: Not Applicable

Community: Not Applicable

➤ **Additional Analysis**

In August 2021, the Manager of Property and Projects for the Uniting Church Synod in South Australia wrote to Council regarding the potential for transfer of ownership of two Uniting Church Cemeteries (one in Woodside, one at Inverbrackie) to the Council.

Council subsequently met with the Church representatives to discuss and provided a copy of Council's updated Cemetery Operating Policy adopted in July 2021.

Council's *Cemetery Operating Policy* sets out conditions under which Council may consider the transfer of private cemeteries to Council. Issues that are considered in requests for transfer of private cemeteries include (but are not limited to) records held by the private entity, the remaining capacity of the cemetery, current and future maintenance requirements and any financial contribution to Council proposed as part of any transfer amongst other matters.

In July 2022 the Manager of Property and Projects for the Uniting Church Synod in South Australia provided Council staff with a response to the requirements, as set out in the policy. The responses received from the Uniting Church in relation to the two sites was as follows:

- The reason and purpose of the request
The Congregation of the Woodside Uniting Church is aging and has neither the physical nor financial ability to continue to manage and maintain the Cemeteries at Woodside and Inverbrackie
- Ownership details
The Cemeteries are owned by The Uniting Church in Australia Property Trust (S.A.)
- Details of what interment and burial records are available
Interment and burial records dating back to the beginning of the Cemeteries in the 19th century is available.
- Is land ownership proposed
Yes
- Full details of any trusts that exist over the cemetery
None that the Congregation is aware of.
- The remaining capacity of the cemetery
Woodside: Estimate 400 plots in the cemetery of which an estimated 60 unused burial plots are available and an estimated 100 are at or nearing 100 year lease expiry. There are 208 niches in the Columbarium of which about 100 are currently in 50 year lease with a small proportion of those nearing lease expiry.
Inverbrackie: There are currently 340 plots shown on the plan, with space for an estimated 150 additional plots. Of the 340 current plots, about 85 are may be out of lease or very close to it.
- The current and future maintenance requirements for the cemetery
The curator spends an average of 2 to 3 hours curator work per week.
Woodside Cemetery is mowed once a month and herbicide is applied every second month to areas that cannot be mowed.
Inverbrackie Cemetery has two blanket sprays per year and occasional spot sprays.
- What, if any, financial contribution is proposed to be made to the Authority
None apart from the property value.
- Is there a State or Federal authority that should provide assistance to the Private Cemetery authority in the first instance
Not that the Congregation is aware of.

On 29 August 2022 Council staff attended a site visit of both cemeteries with Woodside Church representative Mr Kim Baddams and Cemetery Curator, Mr Neville Wuttke. Following the onsite meeting a formal response was sent to the Church advising of the process for consideration of the request for transfer of the Cemeteries to Council, noting that the request would be tabled at Council's Advisory Group on Tuesday 11 October 2022 with formal consideration to be made by Council at an upcoming Council meeting, likely to be in February 2023.

Council staff have assessed the proposal against the Uniting Church responses to the requirements, as set out in the policy, and insight gained from the site visit and make the following observations:

Woodside Cemetery

- Woodside Cemetery is neat and tidy.
- There is a heritage listed building on the Woodside site which would require repair works to be undertaken. It is uncertain if this building could be used for any activities in the future.
- The income that might be generated from the sale of unused spaces at Woodside Cemetery (60 plots and 108 niche positions), across a 50 year period is approximately \$3,700 for the plots and \$3,700 for the niche wall, per annum.

Inverbrackie Cemetery

- Based on the current cemetery plan at Inverbrackie there are no unused spaces.
- The estimated new 150 plots at the Inverbrackie site have significant landscaping issues such as tree roots from existing pine tree stumps and uneven ground.
- Significant amounts of money would need to be spent at this Cemetery in the following areas:
 - The entrance is currently a track which is currently only safely accessible by 4 wheel drive vehicles. Accordingly, the entrance would need upgrade.
 - There is a delapidated building on the site which would be a significant risk to visitors. This building would need to be made safe/inaccessible to visitors or may require removal.
 - There are multiple pine tree stumps that would require removal.
 - The cemetery is in a significant state of disrepair.

There is no financial contribution proposed by the Uniting Church to offset any of the above costs or any ongoing administrative and maintenance costs.

The Cemetery Advisory Group discussed the proposal at its meeting on Tuesday 11 October 2022 and feedback from the Group was that upon application of Council's policy position and based on the responses to the requirements of the policy provided by the Church, the request was not seen to be a viable proposal for Council.

Council's Administration are of the same view as the Cemetery Advisory Group, noting that with no financial contribution proposed to be provided as part of any transfer of the assets to Council, and noting that there are adequate existing Council run Cemetery facilities in reasonable proximity to the Woodside area, that taking on two (2) additional cemeteries as proposed would not provide adequate financial return or service to the Adelaide Hills Council community.

Should the Council decline the proposal to accept the transfer of ownership and responsibility for the cemeteries (as recommended) then the Uniting Church would continue to be responsible both sites, both as a cemetery Authority and for the ongoing management and maintenance of the sites. The Uniting Church would either need to continue to use volunteers for some tasks (as it currently the case) or recruit new volunteers or alternatively pay for the ongoing management and maintenance of both cemeteries. There is a risk that the cemeteries will continue to fall into a state of disrepair should the Uniting Church not have the resources (human or financial) to continue to manage the site.

Should the Council resolve as per the recommendation, i.e. to decline the request, Council staff will provide assistance within the Council's capacity, to support the local church congregation to pursue other avenues of potential support such as grants from the History Trust of SA.

3. OPTIONS

Council has the following options:

- I. Adopt the recommendation as stated. (Recommended)
- II. Not adopt the recommendation as stated and further investigate the proposal. (Not Recommended)

4. APPENDICES

Nil

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item: 12.3

Responsible Officer: Peter Bice
Director Infrastructure & Operations
Infrastructure & Operations

Subject: Business Case GRFMA Contribution

For: Decision

SUMMARY

The Gawler River Floodplain Management Authority (GRFMA) has written seeking an allocation of additional funds in the 2023-24 financial year to complete works commenced by the Department for Environment and Water (DEW) on a Business Case associated with floodplain management downstream of the Bruce Eastick Dam.

The requested additional funds amount to \$100,000, which is considered disproportionately high given Council's interest in the floodplain.

Alternate funding, that better reflects Council's contribution to the floodplain, is proposed.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
 2. To decline the request to provide funding of \$100,000 to the Gawler River Floodplain Management Authority in support of a Business Case.
 3. To offer a contribution of \$10,380 to the Gawler River Floodplain Management Authority in support of a Business Case, in line with Adelaide Hills Council's percentage share of capital works costs as per the adopted GRFMA charter.
-

1. BACKGROUND

Gawler River Floodplain Management Authority (GRFMA) is a Regional Subsidiary, with Adelaide Hills Council being one of its Constituent Councils. See Legal Implications for further information.

Following a GRFMA Board Meeting on 8 December 2022 at which the GRFMA Board considered the matter, the GRFMA Executive Officer wrote to the CEOs of Constituent Councils seeking Constituent Council support for a collective funding contribution of \$600,000, in total, to assist in completion of a Business Case in the financial year 2023-24.

A copy of this letter is provided in **Appendix 1**, and an accompanying background document regarding the Business Case proposal is provided in **Appendix 2**.

The GRFMA Board has proposed Constituent Council contributions toward the total of \$600,000 would be calculated based on 16.66% each, as provided in the GRFMA charter for percentage share of operational costs. This equates to a contribution of \$100,000 from each of the Constituent Councils.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 1	A functional built environment
Objective B2	Preserve and enhance the unique character of the Hills for current and future generations.
Priority B2.2	Incorporate Water Sensitive Urban Design principles within Council developments and projects and advocate for other developments within the region to do the same.

The South Para River and catchment sits within the Adelaide Hills Council and is a major tributary to the Gawler River and associated floodplain, however the Business Case does not propose to consider projects within the Adelaide Hills Council, so the benefits to our community and links to the Council's strategic plan are somewhat tenuous.

➤ Legal Implications

The Gawler River Floodplain Management Authority is established by the Constituent Councils as a regional subsidiary pursuant to Section 43 and Schedule 2 of the Local Government Act 1999. The Authority is established by the Adelaide Hills Council, Adelaide Plains Council, The Barossa Council, Town of Gawler, the Light Regional Council, and the City of Playford.

The Authority has been established for the purpose of coordinating the planning, construction, operation and maintenance of flood mitigation infrastructure for the Gawler River.

The Authority is subject to the joint direction of the Constituent Councils.

➤ **Risk Management Implications**

The proposal to offer a lesser financial contribution than what was requested will assist in mitigating the risk of:

Over-investment in the GRFMA leading to improper use of ratepayer funds.

Inherent Risk	Residual Risk	Target Risk
Medium (2C)	Low (1E)	Low (1E)

➤ **Financial and Resource Implications**

The request is unbudgeted and as it seeks funding in 2023-24 and if Council approve the funding it will be factored into the 2023-24 draft budget and assessed as to its financial impact through the budgeting processes.

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

Not Applicable.

➤ **Sustainability Implications**

Not Applicable.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: GRFMA

Community: Not Applicable

➤ **Additional Analysis**

Adelaide Hills Council is currently a member of the GRFMA, and the merits or otherwise of its continued membership is not the subject of this report.

The current GRFMA charter states that the financial contributions of the Constituent Councils shall be based on the percentage shares for capital works, maintenance of assets of the Authority and operational costs of the Authority in accordance with the below Schedule 1:

SCHEDULE 1 – FINANCIAL CONTRIBUTIONS

Constituent Council	Capital Works Percentage Share %	Maintenance of Assets Percentage Share %	Operational Costs Percentage Share %
Adelaide Hills Council	1.73	1.73	16.66
Adelaide Plains Council	28.91	28.91	16.66
The Barossa Council	8.67	8.67	16.66
Town of Gawler	17.34	17.34	16.66
Light Regional Council	8.67	8.67	16.66
City of Playford	34.68	34.68	16.66
Total	100%	100%	100%

Capital Works are defined as building and engineering works that create an asset and the renewal of existing assets that has reached the end of its useful life.

Maintenance is defined as recurrent expenditure to ensure that existing assets function as designed and are kept in good condition.

Operational Costs are defined as recurrent expenditure incurred to ensure that the Authority can conduct day to day functions. Depreciation falls within the scope of the Authority's operational costs.

The proposed business case appears to be a worthwhile and valuable project, that will ensure future investment in the floodplain is best targeted. However, the GRFMA Board has treated the costs associated with preparing the business case as an operational expense and has therefore asked Adelaide Hills Council to contribute 16.6% of the cost. This appears disproportionate, given that any projects that arise from the business case are likely to be infrastructure assets, i.e. capital costs, and in any case they are unlikely to provide any direct benefit to the Adelaide Hills Council community. It also does not align with the spirit of the intent of the equal share of operational costs, which is intended to cover the essential operating costs of the Authority such as Executive Officer payments, Board costs, etc.

The Administration's view is that a more appropriate contribution is the percentage share for capital works. Although the business case does not create an asset in and of itself, its purpose is to facilitate the creation of assets, such as dam extensions or new levy banks. If this approach was adopted, Adelaide Hills Council's contribution to the business case preparation would be 1.73%, which equates to \$10,380. This is more proportional to Adelaide Hills Council's limited interest in the floodplain; although the Adelaide Hills Council area does contribute flows to the Gawler River and associated floodplain, by way of the South Para

River, the upstream catchment is largely undeveloped, and flows are controlled and governed by SA Water via the South Para reservoir and dam.

The Acting Chief Executive Officer and other key staff met with the Chair and the Executive Officer of GRFMA on 16 January 2023 to gain a better understanding of the Authority's request. It was noted in that meeting that there is likely to be varied attitudes toward the funding request among the Constituent Councils.

The implications of the Council, and indeed any other Constituent Council, declining the request for funding is not clear, but suffice to say the Business Case development could be jeopardised if any funding shortfall is not made up by larger contributions by other Constituent Councils. It is understood that the GRFMA Board will consider its options once responses from all Constituent Councils are received.

3. OPTIONS

Council has the following options:

- I. Decline the require to provide funding of \$100,000 to the Gawler River Floodplain Management Authority in support of a Business Case, but instead offer a contribution of \$10,380 in line with the Council's percentage share of capital works costs as per the adopted GRFMA charter (Recommended)
- II. Decline the request to provide funding of \$100,000 to the Gawler River Floodplain Management Authority in support of a Business Case, with no alternate funding offered (Not Recommended)
- III. Accept the request to provide funding of \$100,000 to the Gawler River Floodplain Management Authority in support of a Business Case (Not Recommended).

4. APPENDICES

- (1) Letter to CEOs Business Case funding request Adelaide Hills
- (2) Business Case to improve flood management in the Gawler River region

Appendix 1

Letter to CEOs Business Case funding request Adelaide Hills

Gawler River Floodplain Management Authority
266 Seacombe Road, Seacliff Park, SA 5049
Telephone: 0407717368 Email: davidehitchcock@bigpond.com
Website: www.gawler.sa.gov.au/grfma

David Waters
Acting Chief Executive Officer
Adelaide Hills Council
28 Onkaparinga Valley Road
Woodside SA 5244
By email mail@ahc.sa.gov.au

15/12/2022

Dear David

I am writing at the direction of the GRFMA Board seeking council support for financial contribution toward completion of the Business Case to identify a shared vision and objectives to improve flood management in the Gawler River region.

As you may be aware the Department for Environment and Water (DEW), in partnership with the GRFMA, is currently facilitating development of the Business Case and separately the 4 four “no regrets” flood management projects in the Gawler River region.

The GRFMA is also separately facilitating delivery of a Stormwater Management Plan for the Gawler River, due for completion December 2022.

The current inter-governmental project governance arrangements for Gawler River are in place until 30 June 2023.

DEW will continue to provide leadership to progress the 4 specific projects as well as the Business Case as far as possible within this timeframe.

However further work and additional resources will be required to complete the Business Case in the financial year 2023/2024.

The Gawler River Flood Management initiative was included in Infrastructure SA’s (ISA) Capital Intentions Statement in 2021 as a priority for business case development. Further work was undertaken in conjunction with ISA, project partners and stakeholders throughout 2021 and 2022 to provide additional information and details regarding the initiative.

The work culminated in DEW completing the ISA Assurance Framework (ISAAF) Gate 1 review in May 2022.

Flooding of the Gawler River has happened on average once every ten years, and the costs of this have been significant. The Gate 1 review found that a number and range of potential future management options have been identified and considered, and that those shortlisted appear to be credible, proportionate and supported.

Reducing the flood risk in the Gawler River region is however complex, and no one option alone may be sufficient.

The Business Case is fundamental to reducing Gawler River flood risk for the longer-term.

Significant effort is required to take the options from conceptual ideas to sufficient detail to form a robust case for investment.

The project is currently being progressed toward the ISAAF Gate 2 (a full business case). This includes further investigating:

- Further infrastructure design details
- Full economic analysis including an assessment of the cost-benefit ratio
- Land access arrangements.

DEW is currently facilitating a body of work, at forecast cost \$1.267 Million, to progress the Business Case by 30 June 2023.

A further body of work, with forecast costs of \$600,000 is required to complete the Business Case within the financial year 2023/2024.

DEW have been quite clear on expectation that local government should facilitate funding of the further body of work in 2023/2024 as its contribution to the partnership.

Failure to resource the body of work will ultimately result in demise of the Business Case and with it any immediate opportunity to establish a qualitative approach to flood mitigation infrastructure identification, evaluation, and implementation in the Gawler River region.

Failure to act now will consign this opportunity to a lost opportunity.

The GRFMA is now seeking constituent council support for a collective funding contribution of up to \$600,000, in total, to assist in completion of the Business Case in the financial year 2023/2024.

An investment of \$600,000 will provide return of a completed Business Case at cost of \$1.867 Million. It is proposed constituent council contributions toward the total of \$600,000 would be calculated based on 16.66% each, as provided in the GRFMA charter.

The GRFMA Board would appreciate a formal response from Council, on the funding contribution proposal, by 31 January 2023 to enable consideration in the 2023/2024 draft budget deliberations at the 16/2/2023 GRFMA meeting.

GRFMA Chairperson, Mr. Ian Baldwin, and I, as GRFMA Executive Officer, are available to meet with you to further discuss this proposal. We would also be available to attend Council to speak to the proposal if considered appropriate.

Please find attached the document *Business Case to improve flood management in the Gawler River region* which provides further detail and information.

Yours sincerely



David E Hitchcock - Executive Officer

Appendix 2

*Business Case to improve flood management in the
Gawler River region*

Business Case to improve flood management in the Gawler River region.

Background

The Department for Environment and Water, in partnership with the GRFMA, is currently facilitating development of a Business Case to identify a shared vision and objectives to improve flood management in the Gawler River region.

Separately, works are also being undertaken by DEW, GRFMA and constituent councils on four “no regrets” flood management projects in the Gawler River region.

- Project 1 Hillier fire rehabilitation works
- Project 2: Carmelo and Park Roads drain
- Project 3: Improving flood forecasting and warning
- Project 4: River survey, levee repair and vegetation management

The GRFMA, with funding assistance from the Stormwater Management Authority, is also facilitating a Gawler River Stormwater Management Plan (SMP) which will provide an assessment of the catchment and floodplain, flood risk reduction and flood mitigation options.

A draft SMP is expected in December 2022, and this will be an integral input to the Business Case.

Gawler River Flood Management Business Case development

The Gawler River Flood Management initiative was included in Infrastructure SA's (ISA) Capital Intentions Statement in 2021 as a priority for business case development. Further work was undertaken in conjunction with ISA, project partners and stakeholders throughout 2021 and 2022 to provide additional information and details regarding the initiative. The work culminated in DEW completing the ISA Assurance Framework (ISAAF) Gate 1 review in May 2022.

Flooding of the Gawler River has happened on average once every ten years, and the costs of this has been significant. The Gate 1 review found that a number and range of potential future management options have been identified and considered, and that those shortlisted appear to be credible, proportionate and supported. Reducing the flood risk in the Gawler River region is however complex, and no one option alone may be sufficient. The Business Case is fundamental to reducing Gawler River flood risk for the longer-term. Input from local government, including the Gawler River Floodplain Management Authority (GRFMA) and constituent councils, is expected.

Significant effort is required to take the options from conceptual ideas to sufficient detail to form a robust case for investment. The project is currently being progressed toward the ISAAF Gate 2 (a full business case). This includes further investigating:

- Infrastructure design details to confirm technical feasibility and improve confidence in cost estimates
- Planning processes and approvals
- Costs and benefits of options particularly regarding the social and environmental impacts
- Stakeholder perspectives
- Potential to combine management options.

Resolving future funding models remains a high-risk factor for the business case, and this will require addressing while developing the business case.

Business Case to improve flood management in the Gawler River region.

It is anticipated that a draft business case will be prepared by mid-2023, coordinated by the DEW Project Manager, Gawler River Flood Management, and the Business Case Technical Lead (Dryside Engineering).

Work will be required in FY2023/2024 to complete a full business case.

This will include:

- Further infrastructure design details
- Full economic analysis including an assessment of the cost-benefit ratio
- Land access arrangements.

Completion of the Business Case will provide councils with a good basis to seek funding contributions from the state and Commonwealth governments for project delivery.

Business Case – work packages being initiated now

A budget of \$1,267,000 (by DEW) is available in FY2022/2023 and will result in:

- Cost and benefit assessment (related to options analysis)
- Modelling flood control dam inundation
- Modelling flow velocity downstream of an expanded flood control dam
- Cultural and environmental investigation of an increased dam inundation area
- Geomorphology investigation downstream of an expanded flood control dam
- Functional design and costing for an expanded flood control dam
- Water supply options from a flood control dam to the Barossa
- Concept design for a floodway levee bank
- Land access arrangements information and regulatory process for levee banks
- Modelling flood risk reduction
- Levee failure risk assessment
- Dam consequence assessment
- Community survey

Business Case - what else goes into the business case - commencement post June 2023

- Functional design for floodway levee banks
- Assessment of planning controls
- Further assessment of township levees
- Damages costs assessment
- Benefits assessment
- Full economic assessment
- Community feedback
- Further development of community preparedness option
- Land access arrangements

A local government partner contribution of \$600,000 in FY2023/2024 is now sought to complete the full Business Case post June 2023.

At the conclusion, the Government of South Australia, GRFMA and its constituent councils will be partner-owners of a full business case and all the information behind it.

This will be an important foundation to access funding programmes and partnerships with state and Commonwealth governments and development investors.

Benefits of the Business Case as promoted by Infrastructure SA:

Business Case to improve flood management in the Gawler River region.

A formally recognised document that provides

- Rigour and consistency around infrastructure identification, evaluation, and implementation
- An assurance process that comprises a series of point-in-time 'gateway' checks designed to give the South Australian Government early and continuous oversight of risk management and performance, and to provide agencies with support through expert reviewer recommendations when projects experience downside pressures.
- Monitoring delivery performance and measure of actual, final benefits against those assumed when the investment decision was made.

This provides a range of advantages as shown below.

Informed decision making	Greater analytic support for the Government as an investor , before and after an investment decision has been made.
Visibility	Provide transparency over time, cost, quality and scope performance – as well as emerging risks and benefits achieved.
Continuous improvement	Monitoring and reporting allows a lessons learned approach, allowing SA's capital planning and procurement models to be adjusted over time.
Stakeholder confidence	Improve public confidence in government project planning, cost estimates – and in achieving overall value for money.
Effective use of resources	Use a risk based approach orienting higher levels of assurance and resources towards high risk and high priority projects .
Collaboration and co-operation	Sharing of skills, resources, experience and lessons learned within and across the government sector and various portfolios – including where risks are realised.

Business Case budget forecast

Description	2022/23	2023/24	Total
Work packages	1,267,000		1,267,000
GRFMA Contribution	42,000		42,000
Additional work		600,000	600,000
GRFMA/Council contribution		600,000	600,000
Total cost	1,267,000 42,000	600,000 600,000	1,867,000 642,000

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item:	12.4
Responsible Officer:	Lachlan Miller Executive Manager Governance & Performance Office of the Chief Executive
Subject:	<i>Policy Reviews – Code of Practice for Council Meeting Procedures and Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents</i>
For:	Decision

SUMMARY

The procedures that apply to council, council committee and information or briefing session meetings and related documents (i.e. agendas, reports, minutes) are set out in the legislation. This legislation requires two (2) key documents to be produced by councils:

- ***Code of Practice for Council Meeting Procedures (COPMP)*** – this document, created under Regulation 6 of the *Local Government (Procedures at Meetings) Regulations 2013*, summarises the legal provisions relating to meetings (and how they are applied at AHC) and, where permitted, sets out the discretionary procedures that the council has determined will apply to its council meetings.
- ***Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents (COPA)*** – this document, created under s92 of the *Local Government Act 1999*, contains the principles, policies, procedures and practices that the council will apply in relation to the holding of meetings open to the public except in special circumstances and minutes of meetings and the release of documents.

Adelaide Hills Council has had successive COPMP and COPA for many years.

The Local Government Reform Program has resulted in a number of legislative changes and as meeting practice has evolved over time and with a newly-elected council, it is appropriate for a full review of the both codes. Further the legislation mandates review periods.

The purpose of this report is for Council to consider changes to the current codes based on a review of the operation of the Code over the last 12 months and the new legislative provisions.

RECOMMENDATION

Council resolves:

1. That the report be received and noted.
2. That in relation to the *Code of Practice for Council Meeting Procedures*:
 - a. With an effective date of 28 February 2023, to revoke the 22 March 2022 (effective v2.1 – 21 June 2022) *Code of Practice for Council Meeting Procedures* and to adopt the 14 February 2023 *Code of Practice for Council Meeting Procedures*, as contained in Appendix 1.
 - b. That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the 14 February 2023 *Code of Practice for Council Meeting Procedures* prior to the effective date.
3. That in relation to the *Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents*:
 - a. To approve the proposed *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents*, as contained in Appendix 2, for public consultation in accordance with the provisions of Council's *Public Consultation Policy* and for the further report to be provided to Council following the consultation process.
 - b. That the CEO be authorised to:
 - i. Make any formatting, nomenclature or other minor changes to the Code prior to being released for public consultation and
 - ii. Determine the consultation timings, media and processes while ensuring consistency and compliance with the provisions of applicable legislation and Council's *Public Consultation Policy*.

1. BACKGROUND

Code of Practice for Council Meeting Procedures (COPMP)

Adelaide Hills Council has had successive COPMPs for many years.

At each review of the COPMP, incremental changes are made in relation to the discretionary elements of the code to meet the emerging meeting culture of the Council.

The last full review of the COPMP by Council occurred at the 22 March 2022 meeting and a subsequent review under delegation occurred in June 2022 when the provisions relation to electronic meetings under Notice No.5 ceased.

Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents (COPA)

While the COPMP contains discretionary elements, the COPA strictly complies the legislative provisions applicable to council, council committee, and information or briefing session meetings and documents. As such, unless there is legislative change, the COPA does not change significantly from one review to another.

Council adopted its current COPA at its 23 April 2019 meeting following a mandatory public consultation period.

Since the 23 April 2019 policy adoption there have been a number of changes under delegation resulting from legislative changes including, the commencement of the information or briefing session provisions and the electronic meeting provisions related to the Public Health Emergency Declaration (COVID) and its subsequent cessation.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O5 We are accountable, informed and make decisions in the best interests of the whole community

Priority O5.1 Enhance governance structure and systems to prudently adapt to changing circumstances and meet our legislative obligations

Council, committee and information or briefing session meetings are an important window for the community to see these principles in action and the adoption of a robust and legislatively compliant suite of meeting procedures facilitates this process.

In addition to the two codes, other policies impacted by this reports are:

- *Petitions Policy;*
- *Information or Briefing Session Policy; and*
- *One Team – Communication Protocols for Council Members and the Administration*

➤ Legal Implications

Code of Practice for Council Meeting Procedures

Chapter 6 of the *Local Government Act 1999* (the Act) sets out the legislative requirements regarding (Part 1) council meetings.

Section 86 states that, subject to the Act, the procedures to be observed at a meeting of a council will be:

- a) As prescribed by regulation;
- b) Insofar as the procedure is not determined by regulation – as determined by the council.

The *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations), set out the procedures to be followed in council and council committee meetings.

The Regulations (Part 2, Division 2) prescribe a number of procedures that must be complied with for:

- a) The meetings of council;
- b) The meetings of council committees performing regulatory functions; and
- c) The meetings of any other council committee if the council has by resolution, determined that Part 2 should apply to that committee.

Regulation 6 states that where a provision of Part 2 is capable of being varied at the discretion of council, then the council may, by a resolution supported by at least **two-thirds of the council members**, determine that a code of practice be adopted that establishes its own procedures for matters which will apply in substitution of the relevant provision in Part 2. There is no requirement for public consultation.

The *Statutes Amendment (Local Government Review) Act 2021* resulted in a small number of legislative changes that impact on the COPMP, these are set out in the Additional Analysis section below.

Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents (COPA)

Section 92 of the *Local Government Act 1999* (the Act) sets out the provisions relating to the Code as follows:

92—Access to meetings and documents—code of practice

- (1) A council must prepare and adopt a code of practice relating to the principles, policies, procedures and practices that the council will apply for the purposes of the operation of Parts 3 and 4.
- (2) A council must, within 12 months after the conclusion of each periodic election, review the operation of its code of practice under this section.
- (3) A council may at any time alter its code of practice, or substitute a new code of practice.
- (4) A code of practice must include any mandatory provision prescribed by the regulations.
- (5) Before a council adopts, alters or substitutes a code of practice under this section it must undertake public consultation on the proposed code, alterations or substitute code (as the case may be).

➤ **Risk Management Implications**

Ensuring the currency of practical and legislatively compliant meeting and document access arrangements will assist in mitigating the risk of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (3E)	Low (3E)

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

Costs and resourcing associated with Council meetings are accommodated in the Governance & Performance Department budget and establishment.

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

There is a high expectation that Council has appropriate governance and accountability mechanisms in place in relation to its meeting structures and that the public have a reasonable opportunity to engage and observe with these meetings and access documents.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: While the COPA applies to council committees, they were not consulted in the preparation of the report. The COPMP does not apply to committees.

Council Workshops: A workshop/professional development session was held with Council Members on 17 January 2023 in relation to the provisions of the COPMP.

Advisory Groups: While the COPA applies to advisory groups, they were not consulted in the preparation of the report. The COPMP does not apply to advisory groups.

External Agencies: Office of Local Government
Local Government Association

Community: Not Applicable

➤ **Additional Analysis**

Code of Practice for Council Meeting Procedures

The key changes proposed to the COPMP (**Appendix 1**) are as follows:

1. Clarification of applicable legislative provisions (clause 1.1.2)
2. Removal of references to participation by electronic means (clause 1.3)
3. Additional notification provisions regarding Special Meetings with less than 24 hours' notice (clause 2.2.8)
4. Moderating the requirements to bring an item forward in an agenda (clause 3.2.1)

5. Insertion of a clause to provide guidance regarding the adjournment of a meeting (clause 3.3.5)
6. Clarification on the commencement of a leave of absence (clause 3.5.5)
7. Update and clarification of declaration of interest provisions (clause 3.7)
8. Addition to the petition reports (clause 3.10.2)
9. Addition to the depute bonafides requirements (clause 3.11.7)
10. Clarification of liability for information provided by Members (clauses 3.14.1 and 3.15.4)
11. Addition of consultation with the Mayor prior to the lodgement of a Motion on Notice (clause 3.15.1)
12. Addition to the contents of the CEO Report (clause 3.21.1)
13. Amending the Council Resolutions Update to be provided monthly (clause 3.16.10)
14. Removed the restriction on recording prescribed meeting attendance if notified by Council Member (clause 3.19.1)
15. Expansion of the provisions relating to the prevention of inaccurate or misleading information during debates by including Council Members and updating reference to the new Behavioural Standards (clauses 4.2.5-6)
16. Inclusion of the provisions regarding the suspension of Council Members from a meeting for disrupting a meeting (clause 4.12)

Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents (COPA)

The key changes proposed to the COPA (**Appendix 2**) are as follows:

1. Clarification of applicable legislative provisions relating to Information or Briefing Sessions (clause 5.2)
2. Clarification regarding the review and release provisions of confidentiality orders

Public consultation on the draft COPA will be undertaken in accordance with the provisions of Council's *Public Consultation Policy* and for the further report to be provided to Council following the consultation process.

3. OPTIONS

Council has the following options:

- I. That in relation to the *Code of Practice for Council Meeting Procedures*:
 - i. to approve the proposed Code. (Recommended)
 - ii. To determine not to approve the proposed Code at this time, potentially to make further changes to the Code.
- II. That in relation to the *Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents*:
 - i. to approve the proposed Code for public consultation in accordance with the *Public Consultation Policy*. (Recommended)
 - ii. To determine not to approve the proposed Code for public consultation at this time, potentially to make further changes to the Code.

Should Council identify the need for substantial amendments to either of the codes, it is recommended that they be referred to staff for review, so as to allow for analysis of the implications of the amendments, prior to being brought back to Council for consideration.

4. APPENDICES

- (1) *Code of Practice for Council Meeting Procedures (draft) – 14 February 2023*
- (2) *Code of Practice for Access to Council and Council Committee and Information or Briefing Session Meetings & Documents (draft) – 14 February 2023*

Appendix 1


Code of Practice for Council Meeting Procedures (draft)
– 14 February 2023

Council Policy

Code of Practice for Council Meeting Procedures



COUNCIL POLICY

	CODE OF PRACTICE FOR COUNCIL MEETING PROCEDURES
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Policy Number:	GOV-14
Responsible Department(s):	Governance & Performance
Relevant Delegations:	As per the delegations schedule and as included in this Code
Other Relevant Policies:	<i>Acknowledgement and Welcome to Country Policy</i> <i>Council Member Conduct Policy</i> <i>Code of Practice for Access to Council and Council Committee and Information or Briefing Sessions Meetings & Documents</i> <i>Petitions Policy</i> <i>Information or Briefing Sessions Policy</i> <i>One Team – Communication Protocols for Council Members and the Administration</i>
Relevant Procedure(s):	None
Relevant Legislation:	<i>Local Government Act 1999</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i>
Policies and Procedures Superseded by this policy on its Adoption:	Code of Practice for Council Meeting Procedures, 25 January 2022 <u>22 March 2022</u> , Item 12.7, 17/2065/22
Adoption Authority:	Council
Date of Adoption:	22 March 2022 <u>To be updated administratively</u>
Effective From:	<u>To be updated administratively</u> 21 June 2022
Minute Reference for Adoption:	<u>To be updated administratively</u> 65/22
Next Review:	No later than March 2025 <u>February 2024</u> or as required by legislation or changed circumstances

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	28/1/2020	Code adopted	Council – Res 17/20
1.1	25/2/2020	Amendments to clause 3.10 to provide consistency with changes to Council <i>Petitions Policy</i>	Council - Res 47/20
1.2	21/4/2020	Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i>	Council - Res 63/20
1.3	22/9/2020	Amendments to provide for the broadcasting of Council meetings	Council – Res 198/20
1.4	31/1/2021	Amendment to provide consistency with the <i>Acknowledgement and Welcome to Country Policy</i>	Council – Res 295/20
1.5	10/11/2021	Consequential amendments from adoption of Information or Briefing Sessions Policy and changes to Local Government Act regarding question and motion notice periods.	Council – Res 226/21
1.6	11/11/2021	Updated legislative references relating to publication of <i>Electronic Participation in Council Meetings Notice (No 5) 2021</i>	N/A
2.0	5/4/2022	Multiple amendment to Sections 3 and 4	Council – Res 65/22
2.1	21/6/22	Provisions relating to Notice No 5 (electronic participation) removed following 28 day elapsed period after Public Health Emergency Declaration cessation	Council – Res 65/22
<u>2.2</u>	<u>To be updated administratively</u>	<u>Removed all electronic meetings provisions regarding for Council Members, updated the conflict of interest provision references and the leave of the meeting definition, inserted reference to the Behavioural Standards for Council Members and provisions regarding suspension of Members</u>	<u>To be updated administratively</u>

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CODE OF PRACTICE FOR COUNCIL MEETING PROCEDURES

1. INTRODUCTION

- 1.0.1 Adelaide Hills Council (AHC) is committed to the principle of honest, open and transparent governance and encourages community participation in the business of Council. The rules and procedures for all meetings of Council and its Committees are outlined in the:
- Local Government Act 1999* (the Act)
 - Local Government (Procedures at Meetings) Regulations 2013* (the Regulations)
- 1.0.2 These Regulations provide that a council may develop and adopt a Code of Practice for its own meetings of Council and Committees that add to, or vary certain aspects of, these provisions. Committees, in this regard, refer to committees established under section 41 of the Act.
- 1.0.3 The purpose of this Code is to establish a consistent approach and provide clear expectations to Council Members, staff, residents, ratepayers and guests for the order of business, procedures and etiquette of AHC Council meetings.
- 1.0.4 This Code supplements the legislation, with any procedures that are required by legislation inserted into the document with reference to the relevant regulation (provided in boxes, with wording in italics). This enables the Code to be read in conjunction with AHC's meeting procedure requirements. Please note that this only applies to procedures at the meeting, rather than those aspects that relate to frequency, timing, and notice of meetings, where reference has only been made to the relevant section within the Act.

1.1. Application of the Code of Practice

- 1.1.1 This Code applies to all ordinary and special meetings of Council.
- 1.1.2 The section 41 committees of Council will be guided by the Act and Regulations as applicable to those committees and any provisions set out in the committee terms of reference. For clarity, Parts 1, 3 and 4 of the Regulations will apply to the committee but not the provisions of Part 2 of the Regulations.
- 1.1.3 References to the Mayor also include the acting Presiding Member in the Mayor's absence.

1.2. Guiding Principles

- 1.2.1 Regulation 4 of the Regulations prescribes guiding principles that should be applied with respect to the procedures to be observed at a meeting of a council of council committee.
- 1.2.2 In determining a matter of meeting procedure, the Mayor should consider the extent to which the proposed action upholds the following principles:

Legislation – Regulation 4

The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a Council or Council Committee.

- a) procedures should be fair and contribute to open, transparent and informed decision making.*
- b) procedures should encourage appropriate community participation in the affairs of the Council.*
- c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting.*
- d) procedures should be sufficiently certain to give the community and decision makers confidence in the deliberations undertaken at the meeting.*

1.2.3 These Guiding Principles underpin the details documented in this Code of Practice.

~~1.3. Suspension of other Inconsistent Provisions~~

~~1.3.1 To the extent that any other discretionary provision of this Code of Practice or specific procedure adopted by the Council in this Code of Practice could be read as being inconsistent or incompatible with the ability of a member of the Council to participate in a meeting of the Council by electronic means, the provision is suspended in respect of the member while they are participating in the meeting by electronic means.~~

~~1.3.2 In circumstances where a provision is suspended under this paragraph, the Mayor may give directions to a Member of the Council in respect of an alternative method of compliance with the suspended provision.~~

~~1.3.3 Any Member who disagrees with a direction of the Mayor under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a Member, by resolution.~~

2. OPERATING PROCEDURES – BEFORE THE MEETING

2.1. Calling Meetings

Ordinary Meetings

- 2.1.1 Section 81 of the Act prescribes the legislative requirements for the frequency and timing of Ordinary Council Meetings.
- 2.1.2 The schedules for Ordinary Council Meetings are resolved in advance and are maintained on the Council website.

Special Meetings

- 2.1.3 Section 82 of the Act prescribes the legislative requirements for the calling of Special Meetings of council.
- 2.1.4 Details of Special meetings of Council will be placed on the Council website as soon as possible after the decision to call the meeting.

2.2. Notice and Agendas for Meetings

Ordinary Meetings

- 2.2.1 Sections 83 and 84 of the Act prescribe the legislative requirements for providing Council Members and the public with notice for Council meetings.
- 2.2.2 At least three (3) clear days¹ before the Council meeting the Chief Executive Officer (CEO) must give written notice of the meeting to all Council Members setting out the date, time and place of the meeting.
- 2.2.3 The notice must contain or be accompanied by the agenda² and, as far as practicable, the documents and reports that are to be considered at the meeting. Council's practice, whenever possible, is to provide the notice four (4) clear days before the meeting (i.e. by 5.00pm Thursday for a Tuesday evening meeting).
- 2.2.4 Each Council Member may indicate their preference for delivery of the notice of meeting, agenda and reports for all Council meetings. Any changes to the delivery arrangements must be requested in writing.
- 2.2.5 For members of the public, a copy of the notice of meeting, agenda and reports (with the exception of confidential items) will be displayed for viewing on Council's website www.ahc.sa.gov.au and on public display at the principal office as soon as practicable after the time when the document or report is supplied to members of the Council³.
- 2.2.6 The notice will remain on the website and on public display until the completion of the meeting. In practice these notices remain available indefinitely.

¹ 'clear days' means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, (e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday). If a notice is given after 5 p.m. on a day, the notice will be taken to have been given on the next day

² 'agenda' under s4(1) of the Act means a list of items of business to be considered in a meeting. For clarity, reports and documents that accompany those business items are not considered to be the 'agenda'.

³ For more information on public access to the Council agenda, please see the *Code of Practice for Access to Council and Council Committee and Designated Informal Gatherings Meetings & Documents*

Special Meetings

- 2.2.7 For Special Meetings, the CEO must ensure that each Member of the Council is given at least four (4) hours' notice of a special meeting of the Council.
- 2.2.8 Notices of special meetings will be distributed by email to the Council-provided email address for each Member, and will be displayed on Council's website for viewing by members of the public. Where notice of Special Meetings is provided with less than 24 hours' notice, best endeavours will be used to bring the notice to the attention of each Member by making contact by phone, message service or similar.

2.3. Public Access to Meetings

- 2.3.1 Council has adopted a *Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings & Documents* which outlines the arrangements for public access to Council meetings.

2.4. Questions for Clarification Prior to the Meetings

- 2.4.1 To facilitate efficient and effective meetings, Council Members are encouraged to contact the CEO or nominated delegate prior to Council meetings to clarify matters appearing on the agenda. For Administration Reports, the nominated delegate is the Council Officer whose name is listed as the Responsible Officer.

3. OPERATING PROCEDURES – THE ORDER OF BUSINESS

3.1. Commencement of Meetings and Quorums

Legislation – Regulation 7

- (1) *A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.*
- (2) *If the number of apologies received by the chief executive officer indicates that a quorum will not be present at a meeting, the chief executive officer may adjourn the meeting to a specified day and time.*
- (3) *If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the chief executive officer, will adjourn the meeting to a specified day and time.*
- (4) *If a meeting is adjourned for want of a quorum, the chief executive officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.*
- (5) *If a meeting is adjourned to another day, the chief executive officer must-*
 - (a) *give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and*
 - (b) *give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the chief executive officer.*

3.1.1 A quorum for Council is determined under s85(1) of the Act by 'dividing the total number of members of the council for the time being in office by 2, ignoring any fraction resulting from the division, and adding one'. For the purposes of s85(1) the members of council in office used to calculate the quorum does not include a member of council who is suspended from office or a member of council who has taken a leave of absence under s55 (to contest a state election) – see s85(2).

3.1.2 In the normal course of events, AHC's quorum is seven (7) Council Members (this includes the Mayor).

3.2. Order of Business

3.2.1 The order of business for Council meetings will generally be in accordance with the attached agenda template – refer **Appendix A**. However the Mayor at their own initiative or at the request of a Member of Council may bring forward items, with the leave of the meeting, for debate and resolution where:

- a. ~~a large contingent of~~ interested parties are present in the gallery
- b. contractors or consultants are present to make presentations; or
- c. it may otherwise be considered expedient or appropriate.

3.3. Length of Council Meetings

3.3.1 Council meetings will commence upon a quorum being present at the time set down in the Notice of Meeting.

- 3.3.2 Council meetings will conclude at or before 10.00pm, or 3.5 hours after the commencement, whichever is the earlier, unless the meeting formally resolves on each specific occasion to continue beyond that time.
- 3.3.3 Where the business of a meeting is unlikely to be completed before 10.00pm, or within 3.5 hours of the commencement, a member may move a motion that the meeting be extended for a specified period. is to be put to the meeting whether to continue or adjourn to another date and time. Extensions of the meeting will normally be in 30 minute blocks.
- 3.3.4 During the course of a Council meeting, a motion may be put to adjourn the meeting for a specified period (e.g. for 10 minutes).
- 3.3.5 If a meeting agenda cannot be completed by the timeframes set out in clause 3.3.3 above, a formal motion to adjourn the meeting (see clause 4.3) will be required. The motion will need to specify the time and place that the meeting will resume. Ideally the resumption should be as soon as practicable to facilitate the continuity and completion of the meeting agenda.

3.4. Opening Statement

- 3.4.1 After calling a Council meeting to order, the meeting shall be opened with an Acknowledgement of Country consistent with the Council's *Acknowledgement and Welcome to Country Policy*, as amended from time to time.

3.5. Attendees, Apologies and Absences

- 3.5.1 If a Member expects to be late or unable to attend a meeting, the Governance & Performance Department (governanceandperformance@ahc.sa.gov.au) is to be advised prior to the commencement of the meeting or as soon as possible.
- 3.5.2 If a Member intends to seek a leave of absence, the request must be made in writing via the Governance & Performance Department, specifying the period of leave that is being requested, prior to the commencement of the meeting.
- 3.5.3 A leave of absence will only be granted by a resolution of the Council and will involve leave from all Council duties (including roles on council committees, panels and advisory groups).
- 3.5.4 Where a Member is intending to be interstate, overseas or otherwise not able to attend to the full range of duties, they should seek a leave of absence at the preceding meeting.
- 3.5.5 Where a Member recommences duties prior to the expiry of the approved period, the leave of absence will cease. For the sake of clarity, the leave of absence does not recommence without a new resolution of the Council to grant leave.
- 3.5.6 A leave of absence will not be retrospective.
- 3.5.7 All apologies and leaves of absence will be listed in the Minutes for each Council meeting that it relates to.

- 3.5.8 If no apology has been received by the commencement of the meeting and there is no leave of absence and the Member is not present, they will be recorded in the Minutes as being absent.
- 3.5.9 If a Member arrives after the meeting commences, the time of arrival will be included in the Minutes.
- 3.5.10 If a Member has to leave a meeting (for longer than a comfort break), the Member should draw their impending departure to the attention of the Mayor to ensure that the presence of a quorum can be monitored.
- 3.5.11 Council Officers who address the Council meeting will be recorded in the Minutes as being in attendance.
- 3.5.12 The number of members of the public or representation of any other organisations will not be recorded in the minutes, unless presenting on a specific item in the agenda.

3.6. Confirmation of Minutes

Legislation – Regulation 8

- (1) *The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting*
- (2) *No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.*
- (3) *On the confirmation of the minutes, the presiding member will-*
- (a) *initial each page of the minutes, which pages are to be consecutively numbered; and*
- (b) *place his or her signature and the date of confirmation at the foot of the last page of the minutes.*

- 3.6.1 The Minutes included in an Ordinary meeting agenda will be those unconfirmed minutes of any previous meetings less any information that is subject to an order under section 90 of the Act.

3.7. Declaration of Interest

- 3.7.1 The provisions in relation to a Council Member's interests are set out in sections 73, 74, 75 and 75A-C of the Act and Reg 8AAA in the *Local Government (General) Regulations 2013*. ~~Section 74—Dealing with material conflicts of interest has been amended to recognise electronic participation in Council meetings by a Member of Council.~~
- 3.7.2 It is a Council Member's responsibility to ensure they are aware of, and understand, the legislative provisions ~~of sections 73, 74, 75 and 75A of the Act in relation~~ to declarations of interest.
- 3.7.3 A Council Member who has an interest in a matter, as defined under sections ~~74~~ 73 and 75 of the Act, must disclose the interest to the Council in accordance with the provisions of sections ~~75B4~~ 75B4 and ~~75CA~~ 75CA of the Act. Disclosures will be recorded in the Minutes in accordance with the relevant provisions of the Act and Regulations.

- 3.7.4 Disclosure of a conflict of interest should be made at Item 5 in the agenda. Members should take care to ensure that the declaration is fulsome in accordance with the provisions of the Act. While written guidance is provided to Members to assist them with the making of a declaration, it is what is declared verbally that is recorded in the minutes rather than what is written on the guidance sheet.
- 3.7.5 While the declaration should be made at Item 5, a Member may make a declaration at any time during the meeting if it becomes apparent that a conflict may exist under the Act. Where a declaration has been made at Item 5 it does not need to be repeated when Council arrives at the item for which the Member has the conflict.
- 3.7.64 Council Members may seek advice about a possible interest before a meeting by contacting the CEO or the Governance & Performance Department. If necessary, the Governance & Performance Department will facilitate the Member to contact the Council's lawyers directly for advice, at Council's expense. For the avoidance of doubt, the onus always remains with the Member to determine and declare any conflict of interest.

3.8. Mayor's Opening Remarks

- 3.8.1 At each ordinary Council, the Mayor may present opening remarks which will be generally related to matters regarding the conduct of the meeting (e.g. acknowledging members of the gallery, advising break times, proposals to reorder the agenda) or to acknowledge a significant civic, cultural or other event. A brief summary of these remarks will be minuted.

3.9. Questions Adjourned/Lying on the Table

- 3.9.1 Sometimes 'questions'⁴ being debated in the Chamber may need to be adjourned for reasons such as required information not being available at that time. In these cases a 'formal motion'⁵ can be resolved to adjourn the matter for a later time.

Questions Adjourned

Legislation – Regulation 19
<p>(1) <i>If a formal motion for a substantive motion to be adjourned is carried:</i></p> <p>(a) <i>The adjournment may either be to a later hour of the same day, to another day, or to another place; and</i></p> <p>(b) <i>The debate, will, on resumption, continue at the point at which it was adjourned.</i></p> <p>(2) <i>If debate was interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was adjourned.</i></p> <p>(3) <i>Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting</i></p>

- 3.9.2 The resolution to adjourn a question will nominate the time and place that debate on the question will continue and therefore they do not require a resolution for debate to resume (at the point of interruption) however these questions must be considered prior to any new business being dealt with.

Questions Lying on the Table

- 3.9.3 Questions Lying on the Table require a resolution for the question to be retrieved (and debate resumed at the point of interruption).

Legislation – Regulation 12
<p>(19) <i>Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.</i></p> <p>(20) <i>The chief executive must report on each question that lapses under subregulation (19) to the council at the first ordinary meeting of the council after the general election.</i></p>

⁴ Regulation 12 (14) refers to a motion that has been moved and seconded as a 'question'.

⁵ For more information on formal motions see clause 4.3 of this Code.

3.10. Petitions

- 3.10.1 Petitions may be submitted to Council in line with Council's *Petition Policy*. If the petition is a compliant petition for the purposes of the Act and the *Petition Policy*, it will be placed on the agenda for the next scheduled meeting of Council.
- 3.10.2 The Council agenda will contain a report regarding petition(s) received. The report will contain the nature of the request or submission, the name and locality of the Principal Signatory, a brief statement as to the nature of the request or submissions, the number of signatories and an Officer's Response providing a brief commentary on the relationship/relevance of the petition topic to Council services/activities/plans/strategies/ resolutions and options available to Council to address the petition request. Further the report will recommend, as a minimum, that:
- a. The report be received and noted; and
 - b. The CEO advise the principal signatory of the Council's noting of the petition and of any resolutions relating to the matter
 - b.c. The recommendation may also include further actions for the Council to consider taking in relation to the matter.
- 3.10.3 A full copy of the petition will not be included in the agenda to protect the privacy of individuals. Council Members may request a copy of the petition and it is the Members' responsibility not to distribute or publish a copy of the full petition.
- 3.10.4 If, in consideration of a petition, a Council Member determines to move a Motion Without Notice, the Council will deal with the motion at that point in the agenda, subject to the compliance with the applicable requirements of legislation/policy.

3.11. Deputations

- 3.11.1 A deputation is a formal opportunity to address the Council on a particular matter during a meeting.

Legislation – Regulation 11

<p><i>Deputation means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter.</i></p>

<p><i>(1) A person or persons wishing to appear as a deputation at a meeting must deliver) a written request to the council.</i></p>
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<p><i>(2) The chief executive officer must transmit a request received under subregulation (1) to the presiding member.</i></p>

Making a Deputation Request

- 3.11.2 A person or persons wishing to appear as a deputation at a Council meeting must forward a written request to the CEO, indicating the reasons for the deputation. Deputations will be limited ordinarily to a maximum of two (2) per Ordinary Council meeting.
- 3.11.3 In the normal course of events, the deputation request must be received no less than seven (7) clear days prior to the Council meeting, for inclusion in the Agenda. Details of Council meeting dates are contained on the Council website.

- 3.11.4 If however the matter relates to an item of business on the Agenda and there are not two (2) deputations already approved for the meeting, the Deputation Request Form may be lodged up to 5.00pm on the day prior to the Council meeting.
- 3.11.5 A request to make a deputation should be made by submitting a *Deputation Request Form*, which is available on Council's website. The Form, which must be completed in full, includes an acknowledgment of the deputation obligations and procedures to be observed at the meeting.
- 3.11.6 A deputation may comprise one (1) or a number of persons. When a deputation appears at a meeting up to two (2) members of the deputation (e.g. deputies) will be allowed to speak, and to reply to questions from Council Members.
- 3.11.7 Should a deputy be speaking on behalf of an association, organisation or other body, they may be required to provide a copy of the constitution and rules of that organisation, association or other body prior to the deputy's address and evidence, such as committee meeting minutes, that they are authorised to make a deputation of behalf of the body.

Processing a Deputation Request

Legislation – Regulation 11

<i>(3) The presiding member may refuse to allow the deputation to appear at a meeting.</i>
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- 3.11.8 Whether or not a deputation may appear is to be determined on a case-by-case basis by the Mayor. In determining whether a deputation request is granted the following considerations will be taken into account:
- the subject matter of the proposed deputation;
 - relevance to the Council agenda nominated – and if not, relevance to the Council's powers or purpose;
 - the integrity of the request (i.e. whether it is considered to be frivolous and/or vexatious);
 - the size and extent of the agenda for the particular meeting; and
 - the number of times the deputy has addressed Council (either in a deputation or public forum) on the subject matter or a similar subject matter.
- 3.11.9 Upon the expiration of seven (7) clear days prior to the Council meeting, the Mayor will consider the Deputation requests received and determine, as per clause 3.11.8, the requests that will be granted.
- 3.11.10 Notwithstanding clause 3.11.2, the Mayor has the delegation to accept one (1) additional deputation if it is determined that the matter of sufficient importance and urgency that it must be heard at that meeting.

Legislation – Regulation 11 (cont.)
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<i>(4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.</i>

- 3.11.11 Written notification will be forwarded to the person who made the request for a deputation notifying them of the outcome of the deputation request. If approved they will be notified of the date and time of the meeting at which the deputation will be heard and the method by which the person or persons are to appear at the meeting. For deputation requests received in accordance with clause 3.11.4, phone/email contact will be made with the depute.

Legislation – Regulation 11 (cont.)
<p>(5) <i>If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).</i></p> <p>(6) <i>The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.</i></p> <p>(7) <i>A council may refer the hearing of a deputation to a council committee.</i></p>

Presenting a Deputation at a Council Meeting

- 3.11.12 If the depute wishes for notes or other documents are to be distributed for the deputation, these are to be provided to the Minute Secretary up to 5.00pm on the day prior to the Council meeting to distribute electronically to the Council Members. The depute will remain legally liable for the content of any documents distributed.

- 3.11.13 The depute(s) microphone will be unmuted and they will be invited by the Mayor to make the deputation on the topic or issue which has been nominated. The depute must state their name and locality of residence, which will be recorded in the minutes to the meeting (which is a public document).

- 3.11.14 Powerpoint (or similar) presentations are to be lodged up to 5.00pm on the day prior to the Council meeting for the purposes of confirming software compatibility and content suitability. The depute will remain legally liable for the content of any presentation.

- 3.11.15 Deputies may address questions to the Council. The Mayor will determine if an answer is to be provided.

- 3.11.16 In the interests of fairness, each deputation is to be no longer than ten (10) minutes in duration. Deputies may address questions to the Council which must be accommodated within the 10 minute allocation. The Mayor will determine if an answer is to be provided to any questions asked.

- 3.11.17 Following the Deputation, a maximum of five (5) minutes will be allocated for Members to direct questions to the depute(s) if required. Members of Council may ask questions of the depute(s) presenting. Care should be exercised in framing questions to ensure they clearly relate to the subject of the deputation. The Mayor will use their best endeavours to manage this process fairly.

- 3.11.18 Notes or presentation material provided as part of the deputation will be referenced in the minutes of the meeting.

Deputation Conduct

- 3.11.19 All deputations are to be conducted in an orderly manner. Deputations should reflect levels of formality appropriate to the nature and scope of the Council meeting. Any

comments that may amount to a criticism of individual Council Members or Officers must not be made during the depute's address. If this conduct occurs the Mayor will warn the depute, if the conduct is repeated the deputation will be ceased. Any such criticism or comments should properly be directed in writing to the CEO outside of the meeting.

3.11.20 Council meetings are also open to the public including being livestreamed/broadcast and there is unlikely to be any legal protection or other privilege attached to any statements made during a deputation in this forum. This means that anything said during the depute's address is subject to the normal laws of defamation. Consequently all deputees should take care in the statements they make and how they make their address.

3.11.21 An 'Information Sheet – Deputations and Public Forums – How to Address Council or Council Committees on Issues of Concern' provides a summary of the above requirements and is available on the Council website.

3.12. Public Forums

3.12.1 The Public Forum is a less formal opportunity to address Council on a particular matter during the meeting.

3.12.2 The guidelines which apply to Public Forum are:

- a. The total time allocation for the Public Forum will be ten (10) minutes, except with leave from the Council, in which case the time allocation can be increased.
- b. Each speaker in the Public Forum will have no longer than five (5) minutes (including questions), except with leave from the Council.
- c. If a large number of presentations have been requested, with leave from the Council, the time allocation of five (5) minutes per speaker may be reduced.
- d. People wishing to speak in the public forum (speakers) must advise the Mayor of their intention at the beginning of this section of the meeting. Those who do not flag their desire to speak at this time will only be permitted to speak at the discretion of the Mayor.
- e. Where an intending speaker has made a deputation at the same meeting of Council they will not be permitted to speak in the public forum on the same or similar subject matter at that meeting.
- f. Upon being requested to come forward to address the Council, the Mayor will ask the speaker to state their name and locality of residence and the subject matter they wish to speak on.
- g. These details will be recorded in the minutes of the meeting (which is a public document).
- h. The speaker will then wait for the Mayor to invite them to commence their speech.
- i. The speaker may address questions to the Council which must be accommodated within the five (5) minute allocation. The Mayor will determine if an answer is to be provided to any questions asked.
- j. Where a number of speakers are speaking on the same topic, the Mayor may encourage subsequent speakers to avoid repeating previous points and to focus on new points.

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- k. Members may ask questions of all speakers appearing relating to the subject of their presentation.

Public Forum Conduct

- 3.12.3 All public forum presentations are to be conducted in an orderly manner. These should reflect levels of formality appropriate to the nature and scope of the Council meeting. Any comments that may amount to a criticism of individual Council Members or Officers must not be made during the presentation. If this conduct occurs, the Mayor will warn the depute, if the conduct is repeated the deputation will be ceased. Any such criticism or comments should properly be directed in writing to the CEO outside of the meeting.
- 3.12.4 Council meetings are also open to the public including being livestreamed/broadcast and there is unlikely to be any legal protection or other privilege attached to any statements made during a presentation in this forum. This means that anything said during the speaker's address is subject to the normal laws of defamation. Consequently all speakers should take care in the statements they make and how they make their address.

3.13. Presentations

- 3.13.1 Presentations are defined as an opportunity for an organisation, community group, Council Officer(s) or member of the public to address Council to provide information relevant to the Council at the invitation of Council.
- 3.13.2 Such presentations do not include deputations or representations under the *Planning, Development and Infrastructure Act 2016*.
- 3.13.3 The duration of each presentation is to be no longer than fifteen (15) minutes plus five (5) minutes for questions, if required. There is to be a limit of two (2) presentations per scheduled meeting, except with the leave of the meeting.
- 3.13.4 If notes or other documents are to be distributed for the presentation, these are to be provided to the Minute Secretary up to 5.00pm on the day prior to the Council meeting to distribute electronically to the Council members..
- 3.13.5 Powerpoint (or similar) presentations are to be lodged up to 5.00pm on the day prior to the Council meeting for the purposes of confirming software compatibility and content suitability. The presenter will remain legally liable for the content of any presentation.
- 3.13.6 Notes or presentation material referred to as part of the presentation will be referenced in the minutes of the meeting.

3.14. Questions on Notice

Legislation – Regulation 9
<p>(1) <i>A member may ask a question on notice by giving the chief executive officer written notice of the question at least 7 clear days before the date of the meeting at which the question is to be asked.</i></p> <p>(2) <i>If notice of a question is given under subregulation (1) -</i></p> <p style="padding-left: 40px;"><i>(a) the chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and</i></p>

(b) the question and the reply must be entered in the minutes of the relevant meeting.

(6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

3.14.1 When sending the questions to the CEO, the Member asking the question should provide a brief history, context, or reason why the question is being asked. This preamble will be included in the agenda with the question(s). Subject to the provisions of the Act, the Member submitting the information is legally liable for its content.

3.14.2 On receipt of the questions the CEO will forward the questions to Mayor. The Mayor will inform the CEO on one of the following processes:

- Request that the CEO (or delegate) respond to the questions; or
- Respond to the questions themselves; or
- Make a determination at the nominated meeting regarding the response.

Process 1

3.14.3 If the Mayor opts that the CEO (or delegate) responds to the questions and there is sufficient time to consider and respond to the questions, the questions and answers will appear in the Agenda and would then be replicated in the minutes in accordance with Regulation 9.

3.14.4 If the referral to the CEO (or delegate) does not allow for sufficient time to consider and respond to the questions and include the answers in the agenda, the CEO (or delegate) will arrange for answers to be tabled at the relevant meeting. The questions and answers will be included in the minutes in accordance with Regulation 9.

OR

Process 2

3.14.5 If the Mayor opts to respond to the questions they can either:

- Provide the response to the CEO and, if these answers are provided in sufficient time, the questions and answers will be included in the Agenda and would be replicated in the minutes in accordance with Regulation 9.
- Table at the meeting the written responses to the questions on the night of the nominated meeting and the questions and answers will be included in the minutes in accordance with Regulation 9.

OR

Process 3

3.14.6 If the Mayor opts to make a determination at the nominated meeting regarding a response, the questions will appear in the Agenda and these questions and the answers will be included in the minutes in accordance with Regulation 9.

3.14.7 This could include the Mayor answering the questions, referring it to the CEO (or delegate) for a response on the night or rule not to accept the questions in accordance with Regulation 9(6).

- 3.14.8 If a Mayor makes a determination that a question shall not be answered as per Regulation 9(6) the question and the reason for the determination shall be stated and recorded in the minutes.

3.15. Motions on Notice

Legislation – Regulation 12

- (1) *A member may bring forward any business in the form of a written notice of motion.*
- (2) *The notice of motion must be given to the chief executive officer at least 7 clear days before the date of the meeting at which the motion is to be moved.*
- (3) *A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.*
- (4) *If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought-*
 - (a) *until after the expiration of 12 months; or*
 - (b) *until after the next general election, whichever is sooner*

- 3.15.1 Prior to [formally](#) lodging a motion, Members should liaise with the [Mayor and CEO/](#)~~or~~[nominated delegates](#) on the content of the proposed motion to explore options and implications.

- 3.15.2 In circumstances where a Motion on Notice has been placed on the Agenda and the Member who placed the Motion on Notice is not in attendance at the meeting, another Member may move the motion in their stead.

- 3.15.3 The following are desirable characteristics when framing a motion⁶:

- a. *Form* – a motion should be in a positive, affirmative form. It should not be in a negative form, unless it achieves some specific advantage or value;
- b. *Content* – a motion should be complete and plain, so that a resultant resolution when read in the future, identifies with certainty its object and substance;
- c. *Wording* – It should be in precise and definite language. Its intention and import should be clear; and
- d. *Drafting* – a motion should be framed and phrased in a way to enable persons to vote in favour of or against the proposal, and thus facilitate the ability of the meeting to make a decision,

- 3.15.4 The attached proforma should be used when framing Notices of Motion – refer [Appendix B. Subject to the provisions of the Act, the Member submitting the information is legally liable for its content.](#)

3.16. Administration Reports

- 3.16.1 Each Council agenda includes report items prepared by the Council Administration, which may include recommendations. These recommendations are not a motion, and have no status until moved by a Member. Alternatively Members may move a completely different motion.

- 3.16.2 Administration Reports to Council will be prepared using the standard format – refer [Appendix C.](#)

⁶ A. D. Lang (2015) Horsley's Meetings procedure, Law and Practice (7th ed.), 119.

- 3.16.3 Administration Reports in the Order of Business will be grouped into the following categories:
- a. **Decision Items** – these are agenda items that are seeking the Council’s resolution in relation to a course of action in relation to the matter; and
 - b. **Information Items** – these are agenda items that are informing the Council of the status of the matter. Generally, the recommendation in these reports will be for the receiving and noting of the item.
- 3.16.4 Where additional information is required this may be included as attachments to the report which will be inserted in the agenda papers immediately following the report.
- 3.16.5 In order to contain the number of reports going before Council, report writers should consider any subsequent steps and, wherever practical, include them in the initial report and set of recommendations. Examples of these subsequent steps that should be included in the initial report include:
- a. the authorisation for the Mayor and/or CEO to sign and seal documents
 - b. authorising the Chief Executive Officer or relevant Director to make minor amendments to an associated document
 - c. if a working party or sub-committee is required, to indicate that in the report and include a recommendation seeking nominations for Membership of the working party, etc.
 - d. indicating a price or value range within which a delegated staff member can negotiate rather than a single fixed price.
- 3.16.6 Reports are to be prepared so as to communicate the required information in a clear and succinct way. The information presented should be impartial, balanced and evidence-based (where reasonably possible).
- 3.16.7 As per clause 2.4, to facilitate efficient and effective meetings, Council Members are encouraged to contact the CEO or nominated delegate as early as possible prior to Council meetings to clarify matters appearing on the agenda. The nominated delegate is the Council Officer whose name is listed as the Responsible Officer.
- 3.16.8 In the normal course of business, report authors will not introduce their report unless requested by the Mayor. However the Mayor will ask the author whether there are any updates to be provided based on queries received or recent events since agenda distribution.
- 3.16.9 Where practicable, Council Officers may utilise online meeting functionality to provide information to the Council meeting rather than physically attending the meeting.

Status Report – Council and Committee Resolutions Update

- 3.16.10 A report will be provided ~~at each Council meeting~~ monthly for noting, setting out the status of each resolution from Council meetings until the item is completed.

3.17. Questions Without Notice

Legislation – Regulation 9

- (3) A member may ask a question without notice at a meeting.*
- (4) The presiding member may allow the reply to a question without notice to be given at the next meeting.*
- (5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.*
- (6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.*

- 3.17.1 To facilitate the efficiency of meetings, Members are encouraged to use the availability of the CEO or nominated delegates prior to the meetings to clarify issues of concern.
- 3.17.2 Questions Without Notice can be asked at a meeting and the Mayor has the discretion to accept the questions in accordance with Regulation 9(6).
- 3.17.3 If the question is accepted, the Mayor will make the determination to choose to answer the questions or refer them to the CEO (or delegate) for a response. Where an answer is not possible at the meeting, the questions may be taken “on notice” and a response provided by email [to all Council Members](#) within 14 days.
- 3.17.4 In accordance with Regulation 9(5) Questions Without Notice and the reply will not be included in the minutes unless the Council meeting resolves to do so.

3.18. Motions Without Notice

Legislation – Regulation 12

- (5) Subject to the Act and these regulations, a Member may also bring forward any business by way of a motion without notice.*
- (6) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.*
- (7) The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be)*

- 3.18.1 As they have not been foreshadowed to Members or the broader community and do not have an accompanying analysis (as do Motions On Notice and Administration Reports), it is not considered to be in the interests of good governance practice, and is a denial of natural justice, to consider Motions Without Notice other than those that meet the ~~following~~ criteria [set out in clause 3.18.2](#).
- 3.18.2 In general, Motions Without Notice should be restricted to:
 - a. A request that a report on a particular topic be presented at a future meeting;
 - b. A simple matter, requiring little information to be considered, and the impact of which on Council is deemed to be minor;

- c. A matter arising from an item before Council that has been considered in detail at that meeting, and where a Motion Without Notice is seen as the best way to resolve or progress the matter in a timely manner; and/or
- d. A matter of such urgency and importance that failure to consider it at the meeting would be likely to result in detriment to the Council or community.

3.18.3 Wherever practicable, Members wishing to move a Motion Without Notice (including a motion different from a report recommendation) are encouraged to make available a written copy of their motion to assist the Mayor in the conduct of the meeting and in the subsequent preparation of the minutes of the meeting.

3.18.4 Following the moving of a Motion Without Notice and prior to the seeking of a seconder, the Mayor will seek advice from the CEO or nominated delegate regarding the perceived implications of the motion.

3.18.5 The Mayor may refuse to accept the Motion Without Notice if, after taking into account the Guiding Principles (Regulation 4 and clause 1.2 of this Code), it is considered that the motion should be dealt with by way of a written Motion On Notice.

3.18.6 Any Motions Without Notice which, in the opinion of the Mayor, require action involving the expenditure of unbudgeted resources should be on the basis of a Motion On Notice.

3.19. Council Member Reports

3.19.1 At each ordinary Council meeting, Council Members may present a written or verbal report detailing those functions or activities on the business of Council ~~but not the prescribed meetings or advisory groups of Council.~~

3.19.2 Council Members are encouraged to submit their written reports seven (7) clear business days before the date of the meeting to enable the report to be incorporated into the Agenda.

3.19.3 Reports will be recorded in the minutes in summary form and will not include commentary on the activities or functions reported or the attendance of other Council Members or the personal details of residents/ratepayers.

3.20. Reports of Members/Officers as Council Representatives on External Organisations

3.20.1 At each Ordinary Council meeting, Members or Officers who are appointed as Council representatives on external organisations (e.g. regional subsidiaries) may provide a verbal or written report on their involvement in activities associated with that organisation.

3.20.2 Members and Officers are encouraged to submit their written reports seven (7) clear days before the date of the meeting to enable the report to be incorporated into the Agenda.

3.21. CEO Report

3.21.1 At each ordinary Council meeting, the CEO will present a verbal report detailing the status of key activities and initiatives and/or other items of importance which the

CEO determines should be brought to the Council's attention. A brief record of the items raised will be noted in the minutes.

3.22. Reports of Committees

- 3.22.1 Committees will report to Council in accordance with the reporting requirements detailed in their respective terms of reference.
- 3.22.2 Council Committees will report to Council at the next Council meeting following the Committee meeting. The form of report will be by way of a verbal report from the Presiding Member (or other Member of the Committee should the Presiding Member not being present) in support of the minutes of the Committee meeting.
- 3.22.3 A copy of these minutes will be included in the Agenda of the next Council meeting. All recommendations from the Committee will be considered by Council in the form of an Administration Report.
- 3.22.3 Recommendations to Council arising from a Committee meeting will either be the subject of a separate Administration Report or consolidated in a report under this section accompanying the Committee minutes.

3.23. Confidential Items

- 3.23.1 Before Council orders that the public be excluded to enable the receipt, discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter.
- 3.23.2 This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, will not be able to view or listen to the meeting proceedings. For the operation of section 90(2) of the Act a member of the public does not include a Member of Council.
- 3.23.3 Once discussion on that particular matter is concluded, the public will be permitted to re-enter the meeting. If there is a further matter that needs to be considered in confidence it is necessary to again undertake the formal determination process and to resolve to exclude the public as above.
- 3.23.4 Additional information of the use of the confidentiality provisions of the Act are contained in Council's *Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings & Documents*.

4. OPERATING PROCEDURES – CONDUCT AT THE MEETING

4.1. Leave of the Meeting

Legislation – Regulation 3

(4) *For the purposes of these regulations, a vote on whether leave of the meeting is granted may be conducted by—
a show of hands; ~~or (but nothing in this subregulation prevents a division from being called in relation to the vote) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative, (but nothing in this subregulation prevents a division from being called in relation to the vote).~~*

4.2. Motions in General, Speaking to Motions and Rights of Reply

Legislation – Regulation 12

- (5) *Subject to the Act and these regulations, a Member may also bring forward any business by way of a motion without notice.*
- (6) *The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.*
- (7) *The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be)*
- (8) *A motion will lapse if it is not seconded at the appropriate time.*
- (9) *A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion.*
- (10) *A member may only speak once to a motion except-*
 (a) *to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or*
 (b) *with leave of the meeting ; or*
 (c) *as the mover in reply.*
- (11) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion
- (21) Subregulations (9), (10) and (11) may be varied at the discretion of the council pursuant to regulation 6.

Seconded Speaking to a Motion

4.2.1 Regulation 12(9) is able to be varied at the discretion of Council and therefore Council has determined that the seconder has the option of reserving their right to speak to the motion at the time of seconding but if they choose to exercise this right it must be done prior to the mover in reply.

4.2.2 For clarity, where a Member seconds a motion and reserves their right to speak to it, they will not be considered to have spoken to the motion until they have exercised that right.

Questions Regarding a Motion

4.2.3 Council Members may ask questions of the Administration and/or other Members and answer questions directed to them regarding a motion for the purpose of

clarification (but not debate) and this will not be considered as speaking to the motion. Members should ensure that it is clearly a question and not used as an opportunity to contribute to the debate.

Contributing to the debate

- 4.2.4 There is no legislative requirement for any or all Members to contribute to the debate (only to vote as per clause 4.7). In considering whether to contribute, particularly where there is a large agenda to be transacted, Members may wish to evaluate whether their contribution will facilitate a more informed and/or progressive debate. Further, Members are not required to advise whether they will/not support the motion as the voting process will reveal their intentions.

Prevention of inaccurate or misleading information during debates

- 4.2.5 If during the course of debate a Council [Member or](#) Officer becomes aware that the debate is predicated on incorrect/misleading information and could lead to any erroneous outcome [\(and may also potentially be a breach of the Behavioural Standards for Council Members\)](#), they may signal to the Mayor that they wish to advise the meeting to correct the record. It will be at the Mayor's discretion as to whether the [Member or](#) Officer is to be heard.
- 4.2.6 If an opportunity to advise the meeting is granted, the [Member or](#) Officer will limit their comments, to the best of their knowledge, the factual information related to the matter. For clarity, the [Member or](#) Officer will take due care to ensure that they do not enter the debate.

Rights of Reply

- 4.2.7 Only the mover of the original motion will be granted the right to reply (this shall close the debate). This will occur after any or all amendments have been dealt with and immediately prior to the original motion or substantive motion being put to the meeting (i.e. immediately prior to the final vote).
- 4.2.8 The right of reply should be utilised to reinforce the rationale for moving the motion and to respond to issues raised in debate. Where possible, it should not be used to introduce new material into the debate.

4.3. Formal Motions

Legislation – Regulation 12

- (12) *A member who has not spoken in the debate on a question may move a formal motion.*
- (13) *A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).*
- (14) *If the formal motion is:-*
- (a) *that **the meeting proceed to the next business**, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or*

- (b) that **the question be put**, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or
 - (c) that **the question lie on the table**, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
 - (d) that **the question be adjourned**, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
 - (e) that **the meeting be adjourned**, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- (15) If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- (16) A formal motion does not constitute an amendment to a substantive motion.
- (17) If a formal motion is lost-
- (a) the meeting will be resumed at the point at which it was interrupted ; and
 - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (i.e., a motion to the same effect) cannot be put until at least 1 member has spoken on the question.
- (18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- (19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.

4.3.1 For clarity, a ‘question’ as referred to Regulation 12 (14)(b-d) is a motion that has been moved and seconded.

4.3.2 A formal motion “the question be adjourned” must include the reasons for the adjournment and the details of time and place for the resumption of the debate.

4.3.3 If a formal motion that ‘the question lie on the table’ or “the question or meeting be adjourned” as per Regulation 14(c), (d) and (e) is carried, the minutes shall record those that have spoken in the debate. This will ensure that the debate can recommence at the point of the interruption.

4.4. Amendments to Motions

Legislation – Regulation 12

(11) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.

Legislation – Regulation 13

(1) A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.

(2) An amendment will lapse if it is not seconded at the appropriate time.

(3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.

(4) If an amendment is lost, only 1 further amendment may be moved to the original motion.

(5) If an amendment is carried, only 1 further amendment may be moved to the original motion.

(5)(6) Subregulations (1), (3), (4) and (5) may be varied at the discretion of the council pursuant to regulation 6.

4.4.1 The purpose of an amendment is to refine or modify the substantive motion but not to substantially change the intent of the motion or contradict it. The Mayor will not accept a proposed amendment that is direct negative of the motion.

4.4.2 For the avoidance of doubt, any Member (including the mover and seconder of the original motion and any other person who has spoken to the original motion at an earlier stage) is entitled to speak to the amendment and, in doing so, is not taken to have spoken to the original motion.

4.4.3 Members speaking in a debate on an amendment must confine their remarks to the amendment and not debate the substantive motion.

4.4.4 There is no right of reply to an amendment because it is not a motion. Likewise, no division can be called on an amendment because it is not a motion.

4.5. Variations

Legislation – Regulation 14

(1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.

(2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

4.5.1 The withdrawal of a motion does not preclude another motion on the same matter being moved. Variations, alterations or withdrawal of a motion will be minuted in accordance with Regulation 8(4)(d).

4.6. Addresses by Members

Legislation – Regulation 15

(1) A member must not speak for longer than 5 minutes at any 1 time without leave of the meeting

(2) A member may, with leave of the meeting, raise a matter of urgency

(3) A member may, with leave of the meeting, make a personal explanation

(4) The subject matter of a personal explanation may not be debated

(5) The contribution of a member must be relevant to the subject matter of the debate

(5)(6) Subregulations (1) and (2) may be varied at the discretion of the council pursuant to regulation 6.

-
- 4.6.1 A personal explanation should provide the Member's account of the reasons or factors regarding an event or situation in which he/she had an involvement. The explanation should not: (a) make imputations of improper motives or contain personal opinions on fellow Council Members, the Administration or members of the public; or (b) be used for making statements regarding Council resolutions.
- 4.6.2 If a Member making a personal explanation wishes that the full text of that Personal Explanation be included in the minutes, it may be included by resolution of the Council, if not, only a brief account shall be included.

4.7. Voting

Council Meetings

4.7.1 Voting in Council meetings is applied as follows:

Legislation – Regulation 16

- (1) The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.*
- (2) The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.*
- 3) A person who is not in his or her seat is not permitted to vote.*
- 4) Subregulation (3)—*
 - a) may be varied at the discretion of the council pursuant to regulation 6; and*
 - b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act.*

4.7.2 Each Member present at the meeting of council, must, subject to the provisions of the Act to the contrary, vote on a question arising from that meeting [section 86(4)].

4.7.3 The Mayor, or another member presiding in the absence of the Mayor, at a meeting of council, does not have a deliberative vote on a question arising but has, in the event of an equality of votes, a casting vote [section 86(6)].

4.7.4 In most cases the requirement is a simple majority of the Members present and entitled to vote however there are provisions in both the Act and the Regulations that require either a two-thirds or an absolute majority of the Members of Council for resolutions on specified matters [\[section 84\(5\)\]](#).

4.7.5 A vote in relation to a question for decision before the Council may be taken a show of hands.

4.7.6 The Mayor, or any other Member, may ask the CEO to read out a motion or amendment before a vote is taken.

4.7.7 In relation to a Member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

Appointments to Positions

4.7.8 Due to the potential implications of the Conflict of Interest provisions under s743 and s75 regarding the appointment of Council Members to positions (particularly those with potential personal or pecuniary benefits), the Council should adjourn the meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote (Indicative Voting Process) to determine the preferred person for the positions.

4.7.9 As the Indicative Voting Process involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council, it is an Information or Briefing Session that is required to be open to the public under s90A(3) (see the *Information or Briefing Sessions Policy* (the Policy)). As an Information or Briefing Session that is required to be open to the public, the Chief Executive will conduct the meeting in accordance with the Policy.

4.7.10 The Indicative Voting Process is:

- a. The Mayor seeks a motion to adjourn the meeting for the purpose of conducting an Indicative Voting Process.
- b. Once the meeting is adjourned (and the Information or Briefing Session has commenced), the Chief Executive Officer calls for self-nominations for the position(s). If Council Officers or Independent Committee Members are eligible for appointment to the position, they can also self-nominate. If Council Officers are being put forward for consideration by the CEO this will be included in the report.
- c. If the number of nominees is equal to or less than the number of positions, no election will be required. If the number of nominees is greater, an election will be necessary.
- d. The CEO will appoint a Council Officer as the Returning Officer and may enlist other Council Officers to assist with the conduct of the vote and the count.
- e. The method of voting will be by secret ballot utilising the preferential counting system
- f. Each Council Member (including the Mayor) shall have one vote.
- g. Ballot papers will be provided to each Council Member
- h. The nominee's names will be drawn by the Returning Officer to determine the order on the ballot paper.
- i. Each Member will write the nominee's names on the ballot paper in the order they are drawn.
- ~~i.~~ Each nominee will have two (2) minutes to speak to the Information or Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.
- ~~j.~~~~k.~~ Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) and/or an Officer] present.
- ~~k.~~~~l.~~ In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- ~~l.~~~~m.~~ After all votes have been counted, the Returning Officer shall return to the Gathering and publicly declare the result of the election (i.e. the preferred person).
- ~~m.~~~~n.~~ The ballot papers will be shredded.
- ~~n.~~~~o.~~ With the conclusion of the Indicative Voting Process, the Council meeting will resume in accordance with the adjournment resolution.
- ~~o.~~~~p.~~ Upon resumption, any Council Members who nominated for the positions would be advised to consider their obligations under s75B4 or s75CA of the Act (as applicable).
- ~~p.~~~~q.~~ Council can then consider a motion for the preferred person to be appointed to the position(s)

4.8. Divisions

Legislation – Regulation 17

- (1) A division will be taken at the request of a member.*
- (2) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.*
- (3) The division will be taken as follows:*
 - (a) subject to subregulation (3a), the members voting in the affirmative will, until the vote is recorded, stand in their places;*
 - (b) subject to subregulation (3a), the members voting in the negative will, until the vote is recorded, sit in their seats;*
 - (c) the presiding member will count the number of votes and then declare the outcome.*
- (3a) Where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.*
- (4) The chief executive officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).*
- (5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6*

4.9. Tabling of Information

Legislation – Regulation 18

- (1) A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).*
- (2) The chief executive officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.*

- 4.9.1 A record of any request for documents tabled at the meeting and a record of any documents tabled at the meeting must be made in the minutes of the meeting.
- 4.9.2 If the tabling of documents is crucial to the consideration of the matter and the documents are not able to be tabled in an expeditious manner, the meeting may consider a formal motion to adjourn the question.

4.10. Short-Term Suspension of Proceedings

Legislation – Regulation 20
<p>(1) <i>If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.</i></p> <p>(2) <i>The Guiding Principles must be taken into account when considering whether to act under subregulation (1).</i></p> <p>(3) <i>If a suspension occurs under subregulation (1)—</i></p> <p style="padding-left: 40px;">(a) <i>a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and</i></p> <p style="padding-left: 40px;">(b) <i>the meeting may proceed provided that a quorum is maintained but, during the period of suspension—</i></p> <p style="padding-left: 80px;">(i) <i>the provisions of the Act must continue to be observed; and</i></p> <p style="padding-left: 80px;">(ii) <i>no act or discussion will have any status or significance under the provisions which have been suspended; and</i></p> <p style="padding-left: 80px;">(iii) <i>no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and</i></p> <p style="padding-left: 40px;">(c) <i>the period of suspension should be limited to achieving the purpose for which it was declared; and</i></p> <p style="padding-left: 40px;">(d) <i>the period of suspension will come to an end if—</i></p> <p style="padding-left: 80px;">(i) <i>the presiding member determines that the period should be brought to an end; or</i></p> <p style="padding-left: 80px;">(ii) <i>at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.</i></p>

4.10.1 Use of a short term suspension can be useful when Members could benefit from some informal sharing of ideas, opinions without the constraints of speaking to motions.

4.11. Points of Order

Legislation – Regulation 28
<p>(1) <i>The presiding member may call to order a member who is in breach of the Act or these regulations</i></p> <p>(2) <i>A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach</i></p> <p>(3) <i>A point of order takes precedence over all other business until determined</i></p> <p>(4) <i>The presiding member will rule on a point of order</i></p> <p>(5) <i>If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately</i></p> <p>(6) <i>The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put</i></p>

- | |
|---|
| <p>(7) <i>A resolution under subregulation (5) binds the meeting and, if a ruling is not agreed with –</i></p> <p><i>(a) the ruling has no effect; and</i></p> <p><i>(b) the point of order is annulled</i></p> |
|---|

4.11.1 Points of order are not recorded in the minutes. The only entry in the minutes in relation to a point of order would be to record the process of a motion to disagree with a ruling by the Mayor.

4.12. Interruption of Meetings by Members

Legislation – Regulation 29	
(1)	<i>A member of a council or council committee must not, while at a meeting –</i>
	<i>(a) behave in an improper or disorderly manner or</i>
	<i>(b) cause an interruption or interrupt another member who is speaking</i>
(2)	<i>Subregulation (1)(b) does not apply to a member who is –</i>
	<i>(a) objecting to words used by a member who is speaking or</i>
	<i>(b) calling attention to a point of order or</i>
	<i>(c) calling attention to want of a quorum</i>
(3)	<i>If the presiding member considers that a member may have acted in contravention of subregulation (1), the member must be allowed to make a personal explanation</i>
(4)	<i>Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting</i>
(5)	<i>If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution –</i>
	<i>(a) censure the member or</i>
	<i>(b) suspend the member for a part, or for the remainder, of the meeting</i>
(6)	<i>A member who –</i>
	<i>(a) refuses to leave a meeting in contravention of subregulation (4) or</i>
	<i>(b) enters a meeting in contravention of a suspension under subregulation (5)</i>
	<i>is guilty of an offence.</i>

4.12.1 Offences under Regulation 29 carry a financial penalty of \$1,250.

4.12.2 Section 86(6b) provides that any suspension resolved by the Council in accordance with Regulation 29(5)(b) will be for a period not exceeding 15 minutes as determined by the Mayor. Further, a matter must not be put to the vote while a member is suspended [section 68(6d)].

4.12.3 The suspended member must for the duration of the suspension, leave the meeting room (including any area set aside for the public) such that the member cannot view or hear and discussion at the meeting [section 86(6b)].

4.13. Interruption of Meetings by Others

Legislation – Regulation 30	
<i>A member of the public who is present at a meeting of a council or council committee must not –</i>	
<i>(a)</i>	<i>behave in a disorderly manner or</i>
<i>(b)</i>	<i>cause an interruption</i>

4.13.1 Offences under Regulation 30 carry a financial penalty of \$500.

4.14. Meeting Protocols

Mobile Phones/Pagers

4.14.1 Mobile phones/pagers should be switched off or silent during Council meetings unless prior approval is granted by the Mayor for the phone/pager to remain active.

Speaking during meetings

4.14.2 Council Members and Council Officers will raise their hand and wait to be invited to speak by the Mayor prior to addressing the Council.

4.14.3 Upon being invited to speak, the Member or Officer will lower their hand, unmute their microphone for the duration of their speech and will mute their microphone when concluded.

4.14.4 When addressing Council, the Member or Officer will speak 'through the chair' (e.g. 'through your Worship').

Forms of Address

4.14.5 The Mayor shall be addressed as Your Worship or Mayor.

4.14.6 Councillors should be referred to as 'Councillor' followed by their surname.

4.14.7 Council Officers should be referred to by the relevant prefix followed by their surname or by their position title (i.e. CEO, Director Community Capacity).

Interaction with the Gallery

4.14.8 The Mayor may speak to members of the Gallery for the purposes of welcoming attendees, arranging Deputies and Public Forum speakers and providing other information related to the functioning of the meeting.

4.14.9 Councillors must not speak to members of the Gallery during the meeting or accept notes from those present in the Gallery. The only exception is when Members of the Gallery are making a Deputation or speaking in the Public Forum.

4.14.10 Council Officers should also minimise discussion with members of the Gallery during the meeting other than to provide guidance regarding meeting logistics.

5. OPERATING PROCEDURES – RECORDING/BROADCASTING OF THE MEETING

5.1. Recording of Meetings

- 5.1.1 Council meetings will be recorded using the electronic meeting software (i.e. audio and visual).
- 5.1.2 As a general rule, the recordings will be captured by the Administration of open Council meetings to be used for the purpose of:
 - a. assisting in the preparation of minutes
 - b. ensuring decisions are accurately recorded
 - c. verifying the accuracy of minutes prior to their confirmation.
- 5.1.3 Recordings will be managed in accordance with the provisions of the *State Records Act 1997*, *Surveillance Devices Act 2016* and the *Freedom of Information Act 1991* (FOI Act).
- 5.1.4 The recording is an internal working document and is not the official record of the meeting. The official record of the meeting is the meeting minutes which require confirmation by resolution and are signed by the Mayor.
- 5.1.5 In the absence of any technical difficulties, recordings of Council meetings [with any provisions subject to s90(3) redacted] will be placed on the Council website to coincide with the publication of the Council minutes.

5.2. Livestreaming/broadcasting of Meetings

- 5.2.1 Council meetings will be livestreamed/broadcast using the electronic meeting software (i.e. audio and visual) into social media channels and/or Council's website as determined by the Chief Executive Officer.
- 5.2.2 Details of the livestream/broadcast will be included on the Council website to enable members of the public to observe the meeting. The livestream/broadcast settings will not allow the public to participate in the meeting, other than by deputation.
- 5.2.3 Further information on the public access to Council Meetings can be found in the *Code of Practice for Access to Council, Council Committee and Information or Briefing Session Meetings & Documents*.

5.3. Minutes of Meetings

- 5.3.1 In accordance with section 91 of the *Local Government Act 1999*, the CEO must ensure that minutes are kept of the proceedings at every meeting of Council.
- 5.3.2 If the CEO is excluded from a meeting, the Mayor must ensure the minutes are kept.
- 5.3.3 Each Member of the Council must, within five (5) days after a meeting of a Council, be supplied with a copy of all minutes of the proceedings of the meeting.
- 5.3.4 Minutes of all Council meetings will be posted on Council's website as soon as practicable after they are completed.

- 5.3.5 More information of public access to Council documents is contained in the *Code of Practice for Access to Council, Council Committee and Information or Briefing Session Meetings & Documents*.

Legislation – Regulation 8

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.*
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.*
- (3) On the confirmation of the minutes, the presiding member will -*
 - (a) initial each page of the minutes, which pages are to be consecutively numbered; and*
 - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.*
- (3a) For the purposes of subregulation (3), the presiding member may initial or sign the minutes in hardcopy or electronically.*
- (4) The minutes of the proceedings of a meeting must include –*
 - (a) the names of the members present at the meeting; and*
 - (b) in relation to each member present -*
 - (i) the time at which the person entered or left the meeting; and*
 - (ii) unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and*
 - (c) each motion or amendment, and the names of the mover and seconder; and*
 - (d) any variation, alteration or withdrawal of a motion or amendment; and*
 - (e) whether a motion or amendment is carried or lost; and*
 - (f) any disclosure of interest made by a member; and*
 - (g) an account of any personal explanation given by a member; and*
 - (h) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and*
 - (i) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and*
 - (j) details of any adjournment of business; and*
 - (k) a record of any request for documents to be tabled at the meeting; and*
 - (l) a record of any documents tabled at the meeting; and*
 - (m) a description of any oral briefing given to the meeting on a matter of council business; and*
 - (n) any other matter required to be included in the minutes by or under the Act or any regulation.*

5.3.6 As the minutes are a reflection of decisions made by meeting as a whole, minutes of the meeting do not record (with the exception of a Division in accordance with Regulation 17 and as required under section 75BA – *Dealing with ~~actual and perceived~~ general conflicts of interest*) the ~~names of~~ manner in which the Member ~~s who voted~~ and the manner in which the majority of persons who were entitled to vote at the meeting voted on the matter in the affirmative or negative for a particular item.

5.3.7 Minutes will also not record or reflect specifics of debate of an item.

6. ADMINISTRATIVE ARRANGEMENTS

6.1. Availability of the Code

6.1.1 This Code is available via the Council's website www.ahc.sa.gov.au.

6.2. Delegation

6.2.1 The CEO has the delegation to:

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

APPENDIX A - AGENDA TEMPLATE FOR ORDINARY COUNCIL MEETINGS

- 1. COMMENCEMENT**
- 2. OPENING STATEMENT**
- 3. APOLOGIES/LEAVE OF ABSENCE**
 - 3.1. Apology**
 - 3.2. Leave of Absence**
 - 3.3. Absent**
- 4. MINUTES OF PREVIOUS MEETINGS**
- 5. DECLARATION OF INTEREST BY MEMBERS**
- 6. MAYOR'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**
 - 8.2. Deputations**
 - 8.3. Public Forum**
- 9. PRESENTATIONS**
- 10. QUESTIONS ON NOTICE**
- 11. MOTIONS ON NOTICE**
- 12. ADMINISTRATION REPORTS – DECISION ITEMS**
- 13. ADMINISTRATION REPORTS – INFORMATION ITEMS**
- 14. QUESTIONS WITHOUT NOTICE**
- 15. MOTIONS WITHOUT NOTICE**
- 16. REPORTS**
 - 16.1. Council Member Reports**
 - 16.2. Reports of Members/Officers as Council Representatives on External Organisations**
 - 16.3. CEO Report**
- 17. REPORTS OF COMMITTEES**
- 18. CONFIDENTIAL ITEMS**
- 19. NEXT MEETING**
- 20. CLOSE MEETING**

APPENDIX B – MOTION ON NOTICE TEMPLATE

ADELAIDE HILLS COUNCIL ORDINARY COUNCIL MEETING <day> <date> AGENDA BUSINESS ITEM

Item: 12.1 Motion on Notice

Originating from:

Subject:

1. MOTION

I move... <body of motion>

2. BACKGROUND

3. OFFICER’S RESPONSE – Officer Name, Position

ANALYSIS

- Strategic Management Plan/ Functional Strategy/Council Policy Alignment
- Legal Implications
- Risk Management Implications
- Financial and Resource Implications
- Customer Service and Community/Cultural Implications
- Sustainability Implications
- Engagement/Consultation conducted in the development of the report
- Other Matters

APPENDIX C – ADMINISTRATION REPORT TEMPLATE

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
<day> <date>
AGENDA BUSINESS ITEM**

Item: 12.

Responsible Officer:

Subject:

For: Decision/Information

SUMMARY

RECOMMENDATION

That Council resolves:

1. To receive and note the report
- 2.

1. BACKGROUND

2. ANALYSIS

- Strategic Management Plan/ Functional Strategy/Council Policy Alignment
- Legal Implications
- Risk Management Implications
- Financial and Resource Implications
- Customer Service and Community/Cultural Implications
- Sustainability Implications
- Engagement/Consultation conducted in the development of the report
- Other Matters

3. OPTIONS

4. APPENDICES

Appendix 2


*Code of Practice for Access to Council and Council
Committee and Information or Briefing Session
Meetings & Documents (draft)
– 14 February 2023*

Council Policy

Code of Practice for Access to Council,
Council Committee and Information or
Briefing Session Meetings & Documents



COUNCIL POLICY

	CODE OF PRACTICE FOR ACCESS TO COUNCIL, COUNCIL COMMITTEE AND INFORMATION OR BRIEFING SESSION MEETINGS & DOCUMENTS
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Policy Number:	GOV-17
Responsible Department(s):	Governance & Performance
Relevant Delegations:	As per the delegations schedule and as included in this Code
Other Relevant Policies:	<i>Code of Practice for Meeting Procedures Council Member Conduct Policy Information or Briefing Sessions Policy Advisory Group Operation and Conduct Policy</i>
Relevant Procedure(s):	None
Relevant Legislation:	<i>Local Government Act 1999 Local Government (General) Regulations 2013</i>
Policies and Procedures Superseded by this policy on its Adoption:	<i><u>Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings & Documents - 23 April 2019, Item 12.7, 75/1914 November 2017, Item 5.2, 264/17</u></i>
Adoption Authority:	Council
Date of Adoption:	<i><u>To be updated administratively</u></i> 23 April 2019
Effective From:	<i><u>To be updated administratively</u></i> 21 June 2022
Minute Reference for Adoption:	<i><u>To be updated administratively</u></i> 23 April 2019, Item 12.7, 75/19
Next Review:	No later than November 2023 <u>February 2026</u> or as required by legislation or changed circumstances

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	7/5/2019	Code adopted	Council – Res 75/19
1.1	21/4/2020	Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i>	Council – Res 63/20
1.2	22/9/2020	Amendments to provide for the broadcasting of Council meetings	Council – Res 198/20
1.3	9/11/2021	Consequential amendments from adoption of Information or Briefing Sessions Policy	Council – Res 226/21
1.4	26/11/2021	Updated legislative references relating to publication of Electronic Participation in Council Meetings Notice (No 5) 2021	N/A
1.5	21/6/22	Provisions relating to Notice No 5 (electronic participation) removed following 28 day elapsed period after Public Health Emergency Declaration cessation	N/A
<u>1.6</u>	<u>To be updated administratively</u>	<u>Minor updates to legislative provisions and terminology</u>	<u>To be updated administratively</u>

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CODE OF PRACTICE FOR ACCESS TO COUNCIL, COUNCIL COMMITTEE AND INFORMATION OR BRIEFING SESSION MEETINGS & DOCUMENTS

1. INTRODUCTION

1.1. This Code sets out the commitment of Council to provide public access to Council, Council Committee and Information or Briefing Session meetings and Council and Council Committee documents and outlines the policies and procedures contained within the [Local Government Act 1999 \(the Act\)](#), to restrict public access. The Code includes:

- information on the relevant provisions of the Act;
- Council's policy on public access and participation;
- the process that will be adopted where public access to a meeting or a document is restricted;
- grievance procedures to be followed if a member of the public believes that the Council has unreasonably restricted public access on a particular matter.

1.2. This Code sets out the policy of Council for access to meetings and documents and includes information relating to:

- access to the agenda for meetings;
- public access to meetings;
- livestreaming/broadcasting of meetings;
- the process to exclude the public from meetings;
- matters for which the Council, a Council Committee, or an Information or Briefing Session can order that the public be excluded;
- how the Council will approach the use of the confidentiality provisions in the Act;
- public access to documents, including minutes;
- review of confidentiality orders;
- accountability and reporting to the community, and the availability of the code; and
- grievances about the use of the code by Council.

1.3. On 15 September 2020, Council resolved (198/20) to commence broadcasting the proceedings of Council meetings.

2. STATEMENT OF PRINCIPLE

2.1. In fulfilling the role of an effective council that is responsive to the needs of the community and which operates within the legal framework prescribed by the Act, the Adelaide Hills Council (Council) is fully committed to the principle of open and accountable government.

2.2. However, Council also recognises that on a limited number of occasions it may be necessary, in the public interest, to restrict public access to discussion/decisions and/or documents.

3. OBJECTIVES

3.1. The objectives of the *Code of Practice for Access to Council and Council Committee¹ and Information or Briefing Session² Meetings & Documents* (Code) are:

- Clearly outline to the community for what purpose and on what basis Council may apply the provisions of the Act to restrict public access to meetings or documents;
- Provide information on Council's code of practice to the community; and
- Summarise the legal position relating to public access to Council and Council Committee and Information or Briefing Session meetings and documents.

4. PUBLIC ACCESS TO THE AGENDA FOR COUNCIL AND COUNCIL COMMITTEE MEETINGS

- 4.1. At least three (3) clear days³ before the Council or Council Committee meeting (unless it is a special meeting⁴) the Chief Executive Officer (CEO) must give written notice of the meeting to all Council/Committee Members setting out the date, time and place of the meeting. Where possible, the CEO will endeavour to have notices available in advance of the above timeframe.
- 4.2. The notice of meeting and agenda will be publically displayed at the principal office of council and the notice and agenda will be published on the Council's website www.ahc.sa.gov.au.
- 4.3. Items listed on the agenda will be described accurately and in reasonable detail.
- 4.4. The notice and agenda will be kept on public display and continue to be published on the website until the completion of the relevant Council or Council Committee meeting.
- 4.5. The electronic and/or paper copies of the agenda documents and non-confidential reports that are to be considered at the meeting will be made available to members of the public both prior to and at the meeting.
- 4.6. Members of the public may obtain a paper copy of the agenda and any particular reports for a fee to cover the costs of photocopying, in accordance with a Council's schedule of fees and charges.
- 4.7. Where the CEO (after consultation with the principal member, or in the case of a Committee - the presiding member) believes that a document or report on a particular matter should be considered in confidence with the public to be excluded, the basis under which the order could be made in accordance with section 90(3) of the Act will be specified. [see sections 83(5) (Council) and 87(10) (Committee) of the Act.]

¹ Council Committee means a committee established under Section 41 of the Act. For clarity it does not include the Council Assessment Panel created under Sections 82 & 83 of the *Planning Development and Infrastructure Act 2016*.

² Information or briefing session is a session to which more than one (1) member of the council or a council committee is invited by the council or the chief executive officer (CEO) of the council to attend or be involved in for the purpose of providing information or a briefing to attendees [Section 90A(1)]

³ 'clear days' means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday.

⁴ Special meetings under s83(2) of the Act require at least four (4) hours' notice.

- 4.8. The above provisions apply to Council, Council Committees that have as part of their responsibility some regulatory activities and those other committees to which Council has determined these procedures will apply⁵. Where a Council Committee is not performing a regulatory activity these procedures may be varied, e.g. notice may be given in a form decided by the committee, and need not be given for each meeting separately. Public notice may be given at a place determined by the CEO taking into account the nature and purpose of the Committee.

5. PUBLIC ACCESS TO THE AGENDA FOR INFORMATION OR BRIEFING SESSIONS⁶

- 5.1. A council or the CEO must comply with the requirements of regulations relating to the publication of prescribed information relating to the Information or Briefing Session [s90A(7)].

5.1.5.2. ~~The current provisions are~~ Regulation 8AB of the *Local Government (General) Regulations 2013* requires the following information to be published as soon as practicable after the holding of an information or briefing session:

- the place, date and time;
- the matter discussed;
- whether or not the session was open to the public.

5.2.5.3. Council has determined that, where reasonably practicable, the details relating to the following Information or Briefing Sessions will be published prior to the session to inform interested members of the public:

- Workshops;
- Professional Development [where the provisions of clause Section 90A(3) apply]; and
- Advisory or Working Group meetings [where the provisions of Section 90A(3)] apply.

5.3.5.4. Agenda documents will be published on the website.

5.4.5.5. Where a confidential informal discussion declaration applies to an Information or Briefing Session (see clause 9), the reason for the Information or Briefing Session being held entirely or partially in confidence will be published on the Council's website.

6. PUBLIC ACCESS TO MEETINGS

- 6.1. Council, Council Committee and Information or Briefing Session meetings are open to the public and attendance is encouraged, except where the Council, the Council Committee or, in the case of an Information or Briefing Session, the Council or CEO, believes it is necessary in the public interest to exclude the public from the discussion (and, if necessary, decision⁷) of a particular matter.

⁵ Council's *Code of Practice for Meeting Procedures* sets out the Council Committees to which clause 5 applies.

⁶ Further details of the provisions applying to Information or Briefing Sessions, are contained in Council's *Information or Briefing Sessions Policy* available at ahc.sa.gov.au

⁷ Information or Briefing Sessions do not make decisions on any matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee

- 6.2. The public will only be excluded when considered proper and necessary (i.e. the need for confidentiality outweighs the principle of open decision-making). The following is an example:

Council is intending to bid at an auction to acquire land and would not want others involved, such as the vendor to have prior knowledge of what Council was setting as an upper limit to bid at the auction, as to do so would prejudice the position of Council and disadvantage the community.

- 6.3. Council encourages public attendance at meetings of the Council, Committees and Information or Briefing Sessions through public notification of meetings in the Council, Committee and Information or Briefing Sessions Schedule, located on Council's website.
- 6.4. Council has adopted the *Information or Briefing Sessions Policy* which provides information on the manner in which the provisions in Section 90A relating to information or briefing sessions will be managed.
- 6.5. When Council is meeting in person (i.e. in the Council Chamber) the meeting proceedings will be live streamed on a social media channel determined by the CEO. Details of the broadcast will be on the Council's website.
- 6.6. Council's position is that Workshop or Professional Development Information or Briefing Sessions that are required to be open to the public under s90A(3) will be live streamed unless the confidentiality provisions of s90(3) and (4) apply.

7. PROCESS TO EXCLUDE THE PUBLIC FROM A COUNCIL OR COUNCIL COMMITTEE MEETING

- 7.1. Before a Council or Council Committee meeting orders that the public be excluded to enable the receipt, discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter.
- 7.2. If this occurs then the public must leave the room. This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, are required to leave the room. For the operation of section 90(2) a member of the public does not include a Member of the Council /Committee. The live streaming of a Council meeting will be ceased for the period that the meeting is closed to the public pursuant to an order made under section 90(2).
- 7.3. Once Council or a Council Committee has made the order, it is an offence for a person, who knowing that an order is in force, enters or remains in a room in which such a meeting is being held. It is lawful for an employee of Council or a member of the police to use reasonable force to remove the person from the room if he or she fails to leave on request.
- 7.4. Once discussion on that particular matter is concluded, the public are then permitted to re-enter or reconnect to the meeting and the broadcasting, if applicable, will recommence. If there is a further matter that needs to be considered in confidence it is necessary to again undertake the formal determination process and to resolve to exclude the public as above.

- 7.5. Please note that the Council, or the Council Committee, can by inclusion within the resolution permit a particular person or persons to remain in the meeting. An example would be allowing a ratepayer who is suffering personal hardship to remain in the meeting when their circumstances concerning the payment of rates are being discussed.
- 7.6. Council's practice is that, for the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, that the matter (unless there are pressing reasons as to why it should be debated at that point of the meeting) may be deferred until all other business has been dealt with. This is the preferred option of Council rather than asking the public to leave the room and wait for however long it takes until the matter is concluded and then invite them back to the meeting room with the possibility of the same process being repeated for a subsequent matter.

8. PROCESS TO EXCLUDE THE PUBLIC FROM AN INFORMATION OR BRIEFING SESSION⁸

- 8.1. The Council or CEO may, on a case-by-case basis, declare an information or briefing session [to which Section 90A(3) applies] discussion to be a 'confidential discussion' where the information or briefing session is a briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Local Government Act [see clause 9 below for the provisions of s90(3)].
- 8.2. If an information or briefing session [to which Section 90A(3) applies] has been declared to be a 'confidential discussion' under s90A(4), then the information or briefing session may be attended by Council/Committee Members, the CEO and any other person invited to attend by the Council or the CEO.
- 8.3. If a confidential declaration has been made in respect of only some of the matters to be discussed at an information or briefing session, then these confidential matters will normally be scheduled to be discussed at the end of the agenda for the information or briefing session. The information or briefing session will be open to the public until immediately prior to the discussion on confidential matters commencing and post the discussion, as applicable.

9. MATTERS FROM WHICH THE PUBLIC CAN BE EXCLUDED

- 9.1. In accordance with the requirements of section 90(3) of the Act, Council, or a Council Committee or an Information or Briefing Session [to which Section 90A(3) applies], may order that the public be excluded in the following circumstances:
 - (a) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
 - (b) *information the disclosure of which—*

⁸ Further details of the provisions applying to Information or Briefing Sessions, are contained in Council's *Information or Briefing Sessions Policy* available at ahc.sa.gov.au

- (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;*
- (c) *information the disclosure of which would reveal a trade secret;*
- (d) *commercial information of a confidential nature (not being a trade secret) the disclosure of which—*
 - (i) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
 - (ii) *would, on balance, be contrary to the public interest;*
- (e) *matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;*
- (f) *information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;*
- (g) *matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;*
- (h) *legal advice;*
- (i) *information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;*
- (j) *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;*
- (k) *tenders for the supply of goods, the provision of services or the carrying out of works;*
- (l) *information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act; or*
- (m) *information relating to a proposal to prepare or amend a designated instrument under Part 5 Division 2 of the Planning, Development and Infrastructure Act 2016 before the draft instrument or amendment is released for public consultation under that Act;*

- (n) *information relevant to the review of a determination of a Council under the Freedom of Information Act 1991;*
- (o) *information relating to a proposed award recipient before the presentation of the award.*

9.2. The Act provides for a definition of “personal affairs”, being a person’s financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person’s employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person, but does not include the personal affairs of a body corporate.

9.3. In some sections under section 90(3) of the Act a public interest balancing test must be satisfied for the ground of exclusion to apply. The “*public interest balancing test*” applies to sections:

- 90(3)(b)(ii) – ‘commercial advantage’;
- 90(3)(d)(ii) – ‘commercial information’; and
- 90(3)(j)(ii) – ‘information provided on a confidential basis’.

This test requires that public interest reasons for closing a meeting to the public must outweigh the general requirements for meetings to be held in public. This requirement to satisfy a public interest test is mirrored in certain provisions of the *Freedom of Information Act 1999* (SA) (“the FOI Act).

9.4. In considering whether an order should be made under section 90(2), it is irrelevant that discussion of a matter in public may [s.90(4)]:

- cause embarrassment to the Council or Committee concerned, or to members or employees of the Council; or
- cause a loss of confidence in the Council or Committee; or
- involve discussion of a matter that is controversial within the council area; or
- make the council susceptible to adverse criticism.

9.5. If a decision to exclude the public is taken, the Council, the Council Committee or an Information or Briefing Session [to which Section 90A(3) applies] is required to make a note in the minutes of the making of the order and the grounds on which it was made. Sufficient detail of the grounds on which the order was made will be included in the minutes.

10. USE OF THE CONFIDENTIALITY PROVISIONS

10.1. Any consideration of the use of the confidentiality provisions to exclude the public from the discussion of a particular matter at a meeting will require the identification of one or more of the grounds listed within section 90(3) of the Act and the factual reasons for the relevance and application of the ground(s) in the circumstances. These are listed in paragraph 9.1 of this Code.

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- 10.2. In relation to Council and Council Committee meetings, Council's policy approach is as follows:
- 10.2.1. The principle of open and accountable government is strongly supported;
 - 10.2.2. Information of the grounds on which an order to exclude the public is made will be conveyed to the public at the time of them being ordered to leave the meeting – the public will not be excluded until after a confidentiality motion has been debated and passed and sufficient reasons for the need to exclude the public given;
 - 10.2.3. Once discussion of the matter is concluded, the meeting will then consider if it is necessary to make an order that a document associated with this agenda item (including minutes) remain confidential. In determining this, the meeting will have regard to the provisions of section 91 and in particular section 91(8) which details when a Council or Committee must not order that a document remain confidential;
 - 10.2.4. If the meeting determines that it is proper and necessary to keep a document confidential, then a resolution for an order to this effect is required to be resolved by the meeting in accordance with section 91(7) of the Act. When making an order the meeting must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed;
 - 10.2.5. Once discussion of the matter is concluded and the public have returned, the decision of the meeting in relation to this matter will be made publicly known unless the Council or Committee has resolved to order that some information remain confidential. Details relating to any order to keep information or a document confidential in accordance with section 91(7) are also to be made known;
 - 10.2.6. In all cases the objective is that the information be made publicly available at the earliest possible opportunity and that the community is informed of any Council or Committee order and the associated implications; and
 - 10.2.7. Where a person provides information to the Council or Committee and requests that it be kept confidential, Council or Committee is not able to even consider this request unless the matter is one that falls within section 90(3). If this is the case, Council or Committee will then be in a position to consider the request on its merits.
- 10.3. There is no legal requirement to resolve to "come out of confidence" or to go back into "public session". The public may and should be invited to re-enter the meeting when consideration of the relevant Agenda Item has concluded. The public are also entitled to be present for the debate on whether any subsequent item should be considered in confidence.
- 10.4. The Council or Committee will not consider a number of agenda items "in confidence" together (i.e. en bloc). It will determine each item separately and consider the exemptions relevant to each item.

11. EXAMPLE CONFIDENTIALITY PROVISIONS

- 11.1. The Council will record in the minutes of any Council or Council Committee meetings the making of an order in accordance with sections 90(2) and (3) and section 91(7) as follows:

Example: If Council were considering the terms for a waste resources contract.

A Section 90(3)(b) order would be made before Council went into confidence such as:

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except Joe Bloggs, CEO of ABC Council and Ivana Citizen, lawyer, XYZ Lawyers, be excluded from attendance at the meeting for Agenda Item 10.1 (Terms of Waste Resources Contract).

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is proposing to conduct business, and the information would prejudice the commercial position of the Council, in that the Council is currently engaged in a post tender negotiation with a preferred tenderer to finalise the terms and conditions of engagement for this service – the information to be considered in relation to this Agenda Item include detailed costings for in-house provision of waste resources services and other specific financial information, the disclosure of which would prejudice the Council's commercial position during the current ongoing negotiations.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.

If the Council resolved for the report containing the commercial information to remain in confidence, a Section 91(7) would be made at the conclusion of considering the item, such as:

That having considered Agenda Item 10.1 (Terms of Waste Resources Contract) in confidence under section 90(2) and (3)(b) of the Local Government Act 1999, the Council, pursuant to section 91(7) of that Act orders that the Tender documents and related Council reports and all minutes be retained in confidence for a period of 2 years, or until a contract has been signed.

12. REVIEW OF CONFIDENTIALITY ORDERS

- 12.1. A confidentiality order made under section 91(7) of the Act must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed.
- 12.2. An order will lapse if the time or event specified has been reached or carried out. There is no need for the Council to resolve for the confidential order to be lifted. Once the order has lapsed, the minutes and/or documents automatically become public.

Orders that exceed 12 months must be reviewed annually, under s91(9), and the Council must assess whether the grounds for non-disclosure are still relevant and, if so, provide the relevant grounds and reasons for the minutes and/or documents remaining confidential.
- 12.3. The ~~conduct of the annual review can be~~ Council may delegated to the Chief Executive Office and sub-delegated to an employee of the Council, if appropriate, the power to revoke an order.
- 12.4. If there are any items that require a fresh confidentiality order because the original order is about to expire, then the reviewer will prepare a report to Council making recommendations with respect to each item to be retained in confidence.
- 12.5. Each item must then be addressed separately and assessed against section 90(3) and section 91(7) of the Act.
- 12.6. ~~While a Council may delegate the power to undertake an annual review, t~~The Council cannot delegate the power to apply sections 90(3) and 91(7) of the Act.
- 12.7. A Council may resolve to exclude the public from a meeting to discuss and undertake consideration of the recommendations arising from the annual review in confidence, subject to the application of the relevant ground under section 90(3) of the Act. Section 90(3) of the Act must be applied separately to each item and not en bloc.
- 12.8. If there is no longer any need for the confidentiality order then the Council or Council Committee may delegate to an employee of the Council the power to revoke an order made in accordance with section 91(7) of the Act. The Council or Council Committee may also include in the resolution whether any delegation is given to an employee to revoke the order and if relevant, any conditions associated with the delegation.

13. PUBLIC ACCESS TO MINUTES

- 13.1. Minutes of a meeting of Council or a Council Committee will be publicly available, within 5 days after the meeting.
- 13.2. Formal minutes are not recorded at Information or Briefing Sessions. While notes may be taken at these sessions, they will not be published on the website or made available to the public unless otherwise provided for in Council policy (see clause 14 regarding Public Access to Documents).

14. PUBLIC ACCESS TO DOCUMENTS

- 14.1. Various documents can be available for inspection and purchase (for a fee) by the public. Council may also make a document available in electronic form and place it on the Internet for public access.
- 14.2. The Council or the Council Committee will only order that a document associated with a discussion from which the public are excluded is to remain confidential if it is considered proper and necessary in the broader community interest (as per the processes described above).
- 14.3. The Council or the Council Committee can only resolve to keep minutes and/or documents confidential under section 91(7) if they were considered in confidence pursuant to sections 90(2) and 90(3).
- 14.4. In accordance with section 91(8) the Council or the Council Committee must not make an order to prevent:
 - the disclosure of the remuneration or conditions of service of an employee of the Council after the remuneration or conditions have been set or determined; or
 - the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by the Council as to why a successful tenderer has been selected; or
 - the disclosure of the amount or amounts payable by the Council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the Council after the contract has been entered into by all parties to the contract; or
 - the disclosure of the identity of land that has been acquired or disposed of by the Council, or of any reasons adopted by the Council as to why land has been acquired or disposed of by the Council.
- 14.5. Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required which shall include:
 - the grounds for confidentiality; and
 - the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed – if the order has a duration of more than 12 months, the order must be reviewed at least once in every year; and
 - (if applicable) whether the power to revoke the order will be delegated to an employee of the Council. [s.91(9)]
- 14.6. Requests to access Council and Council Committee documents can be made under the *Freedom of Information Act 1991*.

14.6.1. Freedom of Information applications can be submitted by either should be submitted using the correct application form or in writing. They must be and be as specific as possible to enable the correct documents to be identified.

14.6.2. Application forms are available ~~from~~ at each office of the Council that is open to the public for the general administration of Council business or on the State Records of South Australia website: www.archives.sa.gov.au, under Managing Information/Releasing Information/Freedom of Information, ~~Forms for FOI Process~~. The application form contains details of the fees payable and fee waivers available.

14.6.3. Freedom of Information requests should be addressed to:
Freedom of Information Officer
Adelaide Hills Council
~~PO Box 4463 Mt Barker Road~~
WOODSIDE-STIRLING SA 5251244

15. ACCOUNTABILITY AND REPORTING TO THE COMMUNITY

15.1. A report on the use of sections 90(2) and 91(7) by the Council and Council Committees must be included in the annual report of Council as required by Schedule 4 of the Act. This supports commitment to the principle of accountability to the community. The reporting should include the following information, separately identified for both Council and Council Committees:

- Number of occasions each of the provisions of sections 90(2) and 90(3) were utilised;
- Number of occasions each of the provisions of sections 90(2) and 90(3) and section 91(7) were utilised, expressed as a percentage of total agenda items considered;
- An indication of any particular issues that contributed to the use of confidentiality provisions on more than one occasion (e.g. a proposal to acquire a parcel of land was considered on 3 separate occasions);
- Number of occasions that information originally declared confidential has subsequently been made publicly available; and
- Number of occasions that information declared confidential has not been made publicly available and the reason for this in each case.

15.2. The Council's Annual Report will include details of ~~an~~ Information or Briefing Sessions held by Council in the preceding financial year, including their purpose, the matters discussed at workshops and professional development/training sessions and whether the public were able to attend.

16. REVIEW OF THE CODE

16.1. Council is required to review this Code within 12 months after the conclusion of each periodic election, therefore the next mandated review is due to occur in

November 202~~7~~³. However, Council has the ability to review this Code at any time if considered desirable.

17. GRIEVANCE

17.1. Council has established procedures for the review of decisions under section 270 of the Act for:

- Council, and its Committees;
- employees of the Council; and
- other persons acting on behalf of the Council.

~~17.1.~~17.2. Should a person be aggrieved about public access to either a meeting or a document then they can lodge an application for review of that decision under the procedures established by Council. The Procedures are available in Council's *Internal Review of Council Decisions Policy* which is available at Council's Service and Community Centres or on Council's website www.ahc.sa.gov.au.

18. DELEGATION

18.1. The CEO has the delegation to:

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

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item:	12.5
Responsible Officer:	Steven Watson Governance and Risk Coordinator Office of the CEO
Subject:	Audit Committee Independent Member Recruitment
For:	Decision

SUMMARY

Council utilises its Council Committees to provide advice to Council which collectively contribute to the achievement of Council's goals and strategies and discharge of its legislative obligations.

Council currently has three Council Committees being the Audit Committee, the Chief Executive Officer Performance Review Panel (CEOPRP), and the Boundary Change Committee.

The membership of the Audit Committee, as per the Committee's Terms of Reference (TOR), is two (2) Council Members and three (3) Independent Members.

The membership term for one (1) Independent Member (Natalie Johnston) concludes on 30 April 2023 and for the other two (2) Independent Members (Peter Brass and David Moffatt) to conclude on 30 November 2023.

This report seeks Council's consideration to commence an Independent Member recruitment process for all three (3) Independent Members, to consider a proposal to insert a maximum membership term for Independent Members and for the appointment of Council Members to a selection panel.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted**
- 2. To amend clause 5.7 on the AHC Audit Committee Terms of Reference to include:**
 - A maximum term of eight (8) years applies for Independent Members, along with a minimum two (2) year hiatus prior to being eligible for reappointment.**
- 3. To undertake a recruitment process for the selection of three Independent Ordinary Members for the Audit Committee, as follows:**

- a. For one Independent Member for a term commencing 1 May 2023 and concluding 30 April 2025 (inclusive); and
 - b. For two Independent Members for a term commencing 1 December 2023 and concluding 30 November 2025 (inclusive).
 4. To appoint _____, _____ and the CEO (or delegate) as members of the Audit Committee Independent Member Selection Panel.
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1. BACKGROUND

Legislative Provisions regarding Audit Committees

Functions

Section 126(4) of the LG Act requires councils to have an audit committee with the following mandatory functions:

- Reviewing financial statements to ensure that they present fairly the state of affairs of the council
- Proposing, and providing information relevant to, a review of the council's strategic management plans and annual business plans
- Proposing and reviewing the exercise of s130 (economy and efficiency investigations)
- Liaising with the council's auditor; and
- Reviewing the adequacy of accounting, internal control, reporting and other financial management systems and processes.

Council's Audit Committee Terms of Reference (***Appendix 1***) contains these functions in expanded form along with a number of other discretionary functions.

The Amendment Act contains provisions relating to audit committees which will come into effect on 30 November 2023, requiring these committees to be referred to as audit and risk committees and have the following additional mandatory functions:

- Monitoring the responsiveness of the council to recommendations for improvement on previous audit and risk assessments
- If the council has an internal audit function:
 - Providing oversight of planning and scoping of internal audits; and
 - Reviewing and commenting on internal audit reports
- Reviewing and evaluating the effectiveness of strategic, operational and financial risk management systems
- Reviewing any prudential management reports
- Performing any other functions prescribed in legislation.

The revised provisions of s126(4) are proposed to commence on 30 November 2023. As yet no additional regulations have been drafted. While some minor modifications may be required at that time, the Committee's current TOR and *Risk Management Policy* effectively cover off on the known incoming mandatory requirements. A revised TOR will be brought to Council for consideration closer to the time when the final legislative changes are known.

Membership

Section 126(2) of the LG Act sets out the membership of an audit committee as follows:

- May include persons who are not members of the council;
- May not include an employee of the council;
- May include members of another council's audit committee
- Any other provisions of Regulations (which under Regulation 17) include:
 - Must have between 3 and 5 members
 - Must include one person who is not a member of the council and who is determined by the council to have financial experience relevant to the functions of the committee; and
 - Must not include the council's auditor.

The Amendment Act revises s126(2) as follows:

- The majority of members of the committee must not be members of the council;
- The members of the committee (when taken as a whole) must have the skills knowledge and experience relevant to the functions of the committee including financial management, risk management, governance and any other prescribed matter.

As per the above section, a revised TOR will be brought to Council closer to the time when the final legislative changes are known.

AHC's Audit Committee Independent Membership Terms

The Audit Committee TOR provides for the staggering of Independent Member terms as follows:

- 5.8 The terms of appointment of the Independent Members should be arranged to ensure the orderly rotation and continuity of membership despite changes to the composition of the Council.

Consistent with this staggered approach:

- At its 14 December 2021 meeting, Council appointed Peter Brass and David Moffatt for a term concluding on 30 November 2023 (Res: 284/21)
- At its 25 January 2022 meeting, Council appointed Natalie Johnston for a term concluding on 30 April 2023 (Res: 19/22).

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.3 Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

➤ **Legal Implications**

Section 41 of the *Local Government Act 1999* (the “LG Act”) sets out the processes for the establishment of council committees. These committees may be formed to assist council in the performance of its functions; to enquire into matters; to provide advice to council and to exercise delegated powers, functions and duties.

The Council’s Audit Committee is a s41 Committee.

Council adopted the current Audit Committee Terms of Reference (TOR) (**Appendix 1**) at its 17 December 2019 meeting (Res: 302/19). The TOR sets out the role, functions and membership provisions which are compliant with the provisions of s126 of the LG Act and the *Local Government (Financial Management) Regulations 2011* (the “Regulations”).

The *Statutes Amendment (Local Government Review) Act 2021* (the “Amendment Act”) was assented to by the Governor on 17 June 2021. The commencement new/revised provisions to the LG Act and other related legislation are coming into effect in tranches.

There are a number of revised and new provisions that, when those sections commence, will impact on the functions and membership of Council’s Audit Committee. These matters are set out in the background section of this report.

➤ **Risk Management Implications**

The Council’s consideration of the Independent Member membership of the Audit Committee will assist in mitigating the risk of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (3E)	Low (3E)

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

The costs specifically associated with this report relate to advertising for Expressions of Interest for membership of the Audit Committee. The costs have been incorporated in the adopted budget.

The ongoing costs associated with Independent Members are the sitting fees paid for meeting attendance and training-related costs. These have been accommodated in the 2022-23 Annual Business Plan and Budget process.

The resource implications are predominately in relation to the conduct of the Independent Member selection process. The proposed approach to recruit to all three position at one time is recommend to reduce the resource impact to the Administration and the Selection Panel from two separate recruitment processes months apart.

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

There is a high expectation that Council has appropriate governance and accountability mechanisms in place in relation to its meeting structures and that Council Committee members are competent and understand the role and functions of the committee and their individual obligations with regard to conduct.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

<i>Council Committees:</i>	The Presiding Member of the Audit Committee (Cr Malcolm Herrmann) was consulted in relation to the proposed amendment to the Committee TOR.
<i>Council Workshops:</i>	Not Applicable
<i>Advisory Groups:</i>	Not Applicable
<i>External Agencies:</i>	Local Government Association
<i>Community:</i>	There is no requirement for community consultation in relation to the appointment of Independent Members and Presiding Members to Council Committees.

➤ **Additional Analysis**

Terms of Reference

As set out in the previous section, the current Audit Committee TOR already adequately addresses both the enhanced functions and membership requirements of audit and risk committees under the Amendment Act.

While it is envisaged that the TOR will require review prior to the proposed 30 November 2023 commencement date, it is not considered necessary to conduct a review prior to undertaking the recruitment of the two Independent Member positions which will become vacant on 1 December 2023. All the more so as the terms of these two Independent Members will expire on the same date that the new provisions are scheduled to commence.

Clause 5.3 of the Audit Committee TOR requires members to have recent and relevant skills and experience in professions such as, but not limited to accounting, financial management, risk management, law, compliance, internal audit and governance. This clause and the provisions of the revised s126(2) will guide the selection process.

In relation to Independent Member membership, the current TOR does not identify a maximum term or number of terms. It is good governance practice to limit the terms of independent members on boards and committees to ensure that those members are able to remain independent and objective in the conduct of their duties. This is not intended, nor should be perceived, as any commentary on the effectiveness of the current or past Independent Members on the Audit Committee.

On the basis of the good governance practice, it is proposed that the Committee TOR be amended to specify a maximum term for Independent Members along with a mandatory exclusion period from membership prior to being eligible for reappointment. The draft TOR (Appendix 2) contains the following proposed amended clause 5.7:

“
5.7 → ~~Members of the Committee are eligible for reappointment at the expiration of their term of office, however a maximum term of eight (8) years applies for Independent Members, along with a minimum two (2) year hiatus prior to being eligible for reappointment.~~¶
¶

Selection Panel

If Council determines to commence a recruitment process for the selection of three Independent Member positions, it will also need to determine a Selection Panel. In more recent times, the Selection Panel for Audit Committee Independent Members has consisted of the two Council Members currently appointed to the Audit Committee, but that does not have to be the case. It is proposed that the CEO (or delegate) also be appointed to the Selection Panel due to the expertise of Council Officers in the disciplines associated with the Audit Committee's functions and in good recruitment practice.

If Council seeks to utilise a voting process for the determination of the Selection Panel members, the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures*.

The Selection Panel will need to complete its process and provide a recommendation to Council no later than the 26 April 2023 Ordinary Council Meeting, although the 11 April 2023 meeting will be targeted.

3. OPTIONS

Council has the following options:

- I. To amend the Audit Committee Terms of Reference and determine to commence the Audit Committee Independent Member recruitment process and appoint the Selection Panel Members (Recommended).
- II. To determine an alternative course of action (Not Recommended).

4. APPENDIX

- (1) *Audit Committee – Terms of Reference – 17 December 2019*
- (2) *Draft Audit Committee Terms of Reference – 14 February 2023*

Appendix 1

Audit Committee – Terms of Reference
19 December 2019

ADELAIDE HILLS COUNCIL

Audit Committee



TERMS OF REFERENCE

Adopted 17 December 2019

1. ESTABLISHMENT

- 1.1 The Audit Committee (the Committee) of Council is established under Section 41 of the *Local Government Act 1999* (the Act), for the purposes of Section 126 of the Act and in compliance with regulation 17 of the *Local Government (Financial Management) Regulations 2011*.
- 1.2 The Audit Committee does not have executive powers or authority to implement actions in areas which management has responsibility and does not have any delegated financial responsibility. The Audit Committee does not have any management functions and is therefore independent from management.

2. ROLE

- 2.1 The overall role of the Audit Committee will be to assist Council to accomplish its objectives by monitoring and providing advice on the adequacy and effectiveness of the systems and processes regarding financial management and reporting, internal control and risk management, internal audit and governance functions through the following functions:

3. SPECIFIC FUNCTIONS

- 3.1 Financial Reporting and Prudential Requirements

The Committee shall:

- 3.1.1 Provide comment on the assumptions underpinning Council's Strategic Management Plans (Strategic Plan, Annual Business Plan and Budget and Long Term Financial Plan), the consistency between plans and the adequacy of Council's plans in the context of maintaining financial sustainability;
- 3.1.2 Review and provide advice to Council on the degree to which the annual financial statements present fairly the state of affairs of the Council;
- 3.1.3 Monitor the integrity of the financial statements of the Council, including its annual report, reviewing significant financial reporting issues and judgements which they contain.;
- 3.1.4 Review and challenge where necessary:
 - 3.1.4.1 The consistency of, and/or any changes to, accounting policies;
 - 3.1.4.2 The methods used to account for significant or unusual transactions where different approaches are possible;

- 3.1.4.3 Whether the Council has followed appropriate accounting standards and made appropriate estimates and judgements, taking into account the views of the external auditor;
- 3.1.4.4 The clarity of disclosure in the Council's financial reports and the context in which statements are made; and
- 3.1.4.5 All material information presented with the financial statements, such as the operating and financial review and the corporate governance statement (insofar as it relates to the audit and risk management);

- 3.1.5 Review prudential reports prepared under Section 48(1) of the Act and provide advice to Council, upon request, on other prudential matters.

3.2 Internal Controls and Risk Management Systems

The Committee shall:

- 3.2.1 Ensure that appropriate policies, practices and procedures of internal control (and other financial and risk management systems) are implemented, reviewed and maintained in order to assist the Council to carry out its activities in an efficient and orderly manner to achieve its objectives;
- 3.2.2 Review Council's risk management framework and monitor the performance of Council's risk management program;
- 3.2.3 Monitor the corporate risk profile and significant risk exposures for the organisation to ensure that there are appropriate management plans to manage and mitigate this business risk; and
- 3.2.4 Ensure an appropriate legislative compliance framework exists to identify risks and controls over compliance with applicable legislation and regulations.

3.3 Public Interest Disclosures

The Committee shall:

- 3.3.1 Review annually the Council's Public Interest Disclosure arrangements and compliance with the requirements of the *Public Interest Disclosure Act 2018*.
- 3.3.2 Provide recommendations to Council regarding Public Interest Disclosure Policy and resourcing required to comply with legislative requirements
 - 3.3.2.1 2013.

3.4 Internal Audit

The Committee shall:

- 3.4.1 Monitor and review the effectiveness of the Council's internal audit function in the context of the Council's overall risk management system;

- 3.4.2 Consider and make recommendation on the program of the internal audit function and the adequacy of its resources and access to information to enable it to perform its function effectively and in accordance with the relevant professional standards.
- 3.4.3 Review all reports on the Council's operations from the internal auditors;
- 3.4.4 Review and monitor management's responsiveness to the findings and recommendations of the internal auditor; and
- 3.4.5 Where appropriate, meet the "head" of internal audit (internal or outsourced) at least once a year, without management being present, to discuss any issues arising from the internal audits carried out. In addition, the head of internal audit shall be given the right of direct access to the Principal Member of the Council and to the Presiding Member of the committee.

3.5 External audit

The Committee shall:

- 3.5.1 Consider and make recommendations to the Council, in relation to the appointment, re-appointment and removal of the Council's external auditor. The Committee shall oversee the selection process for new auditors and if an auditor resigns the Committee shall investigate the issues leading to this and decide whether any action is required;
- 3.5.2 Oversee Council's relationship with the external auditor including, but not limited to:
 - 3.5.2.1 Recommending the approval of the external auditor's remuneration, whether fees for audit or non-audit services, and recommending whether the level of fees is appropriate to enable an adequate audit to be conducted;
 - 3.5.2.2 Recommending the approval of the external auditor's terms of engagement, including any engagement letter issued at the commencement of each audit and the scope of the audit;
 - 3.5.2.3 Assessing the external auditor's independence and objectivity taking into account relevant professional and regulatory requirements and the extent of Council's relationship with the auditor, including the provision of any non-audit services;
 - 3.5.2.4 Satisfying itself that there are no relationships (such as family, employment, investment, financial or business) between the external auditor and the Council (other than in the ordinary course of business);
 - 3.5.2.5 Monitoring the external auditor's compliance with legislative requirements on the rotation of audit partners; and
 - 3.5.2.6 Assessing the external auditor's qualifications, expertise and resources and the effectiveness of the audit process (which shall include a report from the external auditor on the audit committee's own internal quality procedures);

- 3.5.3 Meet as needed with the external auditor. The Committee shall meet the external auditor at least once a year, without management being present; to discuss the external auditor's report and any issues arising from the audit;
- 3.5.4 Review and make recommendations on the annual audit plan, and in particular its consistency with the scope of the external audit engagement;
- 3.5.5 Review the findings of the audit with the external auditor. This shall include, but not be limited to, the following;
 - 3.5.5.1 a discussion of any major issues which arose during the external audit;
 - 3.5.5.2 any accounting and audit judgements; and
 - 3.5.5.3 Levels of errors identified during the external audit. The committee shall also review the effectiveness of the external audit.
- 3.5.6 Review any representation letter(s) requested by the external auditor before they are signed by management;
- 3.5.7 Review the management letter and management's response to the external auditor's findings and recommendations.

3.6 Economy and Efficiency Audits

The Committee shall:

- 3.6.1 Propose and review the exercise of powers under Section 130A of the Act; to examine and report on any matter relating to financial management, or the efficiency and economy with which the council manages or uses its resources to achieve its objectives,

4. OTHER MATTERS

The Committee shall:

- 4.1 Have access to reasonable resources in order to carry out its duties, recognising the constraints within Council's Budget;
- 4.2 Be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members;
- 4.3 Give due consideration to laws and regulations of the Act;
- 4.4 Make recommendations on co-ordination of the internal and external auditors;
- 4.5 Oversee any investigation of activities which are within its terms of reference;
- 4.6 Oversee action to follow up on matters raised by the external and internal auditors;

4.7 Invite Council's external auditors and internal auditors to attend meetings of the Committee, as considered appropriate; and

4.8 At least once in its term, review its own performance and terms of reference to ensure it is operating at maximum effectiveness and recommend changes it considers necessary to the Council for approval.

5. MEMBERSHIP

5.1 The Committee will comprise 5 members as follows:

5.1.1 Three (3) Independent Members; and

5.1.2 Two (2) Council Members

5.2 All members of the Committee will be appointed by the Council.

5.3 Independent Member(s) of the Committee shall have recent and relevant skills and experience in professions such as, but not limited to accounting, financial management, risk management, law, compliance, internal audit and governance.

5.4 It is desirable for the Council Members to be appointed to the Committee to have a sound understanding of financial management, risk management and governance.

5.5 In considering appointments to the Committee, Council should give consideration to the diversity of the membership.

5.6 Appointments to the Committee shall be for a period of up to three (3) years.

5.7 Members of the Committee are eligible for reappointment at the expiration of their term of office.

5.8 The terms of appointment of the Independent Members should be arranged to ensure the orderly rotation and continuity of membership despite changes to the composition of the Council.

6. SITTING FEES

6.1 The applicable Remuneration Tribunal (or its successor) Determination outlines the applicable allowance for Council Members on the Committee.

6.2 The Independent Members are to be paid a sitting fee as determined by Council for attendance at meetings and authorised training sessions. Council may determine a higher sitting fee for the presiding member.

7. PRESIDING MEMBER

7.1 The Council will appoint the Presiding Member of the Committee.

7.2 The Council authorises the Committee to determine if there will be a Deputy Presiding Member of the Committee and, if so, authorises the Committee to make the appointment to that position for a term determined by the Committee.

7.3 If the Presiding Member of the Committee is absent from a meeting the Deputy Presiding Member (if such position exists) will preside at that meeting. If there is no position of Deputy Presiding Member, or both the Presiding Member and the Deputy Presiding Member of the Committee are absent from a meeting of the Committee, then a member of the Committee chosen from those present will preside at the meeting until the Presiding Member (or Deputy Presiding Member, if relevant) is present.

7.4 The role of the Presiding Member includes:

7.4.1 overseeing and facilitating the conduct of meetings in accordance with Act and the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations); and

7.4.2 Ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner.

8. REPORTING RESPONSIBILITIES

8.1 For the purposes of Section 41(8) of the Act, the Committee's reporting and accountability requirements are:

8.1.1 The minutes of each Committee meeting will be included in the agenda papers of the next ordinary meeting of the Council;

8.1.2 The Presiding Member will attend a meeting of the Council at least once per annum to present a report on the activities of the Committee;

8.1.3 The Committee shall make whatever recommendations to the Council it deems appropriate on any area within its terms of reference where in its view action or improvement is needed; and

8.1.4 The Presiding Member may attend a Council meeting at any time that the Presiding Member sees fit to discuss any issue or concern relating to the Committee's functions. Depending on the nature of the matter, this may be held in confidence in accordance with Section 90 of the Act and staff may be requested to withdraw from the meeting.

9. MEETING PROCEDURE

9.1 Meeting procedure for the Committee is as set out in the Act, Parts 1, 3 and 4 of the Regulations. Insofar as the Act, the Regulations, or these Terms of Reference do not prescribe the procedure to be observed in relation to the conduct of a meeting of the Committee, the Committee may determine its own procedure.

9.2 In accordance with Section 90(7a), one or more Committee members may participate in the meeting by telephone or other electronic means provided that members of the public can hear the discussion between all Committee members.

9.3 Only members of the Committee are entitled to vote in Committee meetings. Unless otherwise required by the Act not to vote, each member must vote on every matter that is before the Committee for decision.

- 9.4 Council Employees may attend any meeting as observers or be responsible for preparing papers for the committee.

10. SECRETARIAL RESOURCES

- 10.1 The Chief Executive Officer shall provide sufficient administrative resources to the Committee to enable it to adequately carry out its functions.

11. FREQUENCY OF MEETINGS

- 11.1 The Committee shall meet at least four times a year at appropriate times and places as determined by the Committee. A special meeting of the Committee may be called in accordance with the Act.
- 11.2 If after considering advice from the CEO or delegate, the Presiding Member of the Committee is authorised to cancel the respective Committee meeting, if it is clear that there is no business to transact for that designated meeting.

12. NOTICE OF MEETINGS

- 12.1 Notice of the meetings of the Committee will be given in accordance with Sections 87 and 88 of the Act. Accordingly, notice will be given:

12.1.1 To members of the Committee by email or as otherwise agreed by Committee members at least 3 clear days before the date of the meeting; and

12.1.2 To the public as soon as practicable after the time that notice of the meeting is given to members by causing a copy of the notice and agenda to be displayed at the Council's offices and on the Council's website.

12.2 PUBLIC ACCESS TO MEETINGS & DOCUMENTS

- 12.3 Members of the public are able to attend all meetings of the Committee, unless prohibited by resolution of the Committee under the confidentiality provisions of Section 90 of the Act.
- 12.4 Members of the public have access to all documents relating to the Committee unless prohibited by resolution of the Committee under the confidentiality provisions of Section 91 of the Act.

13. MINUTES OF MEETINGS

- 13.1 The Chief Executive Officer shall ensure that the proceedings and resolutions of all meetings of the Committee, including recording the names of those present and in attendance are minuted and that the minutes otherwise comply with the requirements of the Regulations.
- 13.2 Minutes of Committee meetings shall be circulated within five days after a meeting to all members of the Committee and will (in accordance with legislative requirements) be available to the public.

Appendix 2

Draft Audit Committee – Terms of Reference
14 February 2023

ADELAIDE HILLS COUNCIL

Audit Committee



TERMS OF REFERENCE

Adopted 14 February 2023

1. ESTABLISHMENT

- 1.1 The Audit Committee (the Committee) of Council is established under Section 41 of the *Local Government Act 1999* (the Act), for the purposes of Section 126 of the Act and in compliance with regulation 17 of the *Local Government (Financial Management) Regulations 2011*.
- 1.2 The Audit Committee does not have executive powers or authority to implement actions in areas which management has responsibility and does not have any delegated financial responsibility. The Audit Committee does not have any management functions and is therefore independent from management.

2. ROLE

- 2.1 The overall role of the Audit Committee will be to assist Council to accomplish its objectives by monitoring and providing advice on the adequacy and effectiveness of the systems and processes regarding financial management and reporting, internal control and risk management, internal audit and governance functions through the following functions:

3. SPECIFIC FUNCTIONS

- 3.1 Financial Reporting and Prudential Requirements

The Committee shall:

- 3.1.1 Provide comment on the assumptions underpinning Council's Strategic Management Plans (Strategic Plan, Annual Business Plan and Budget and Long Term Financial Plan), the consistency between plans and the adequacy of Council's plans in the context of maintaining financial sustainability;
- 3.1.2 Review and provide advice to Council on the degree to which the annual financial statements present fairly the state of affairs of the Council;
- 3.1.3 Monitor the integrity of the financial statements of the Council, including its annual report, reviewing significant financial reporting issues and judgements which they contain.;
- 3.1.4 Review and challenge where necessary:
 - 3.1.4.1 The consistency of, and/or any changes to, accounting policies;
 - 3.1.4.2 The methods used to account for significant or unusual transactions where different approaches are possible;

- 3.1.4.3 Whether the Council has followed appropriate accounting standards and made appropriate estimates and judgements, taking into account the views of the external auditor;
- 3.1.4.4 The clarity of disclosure in the Council's financial reports and the context in which statements are made; and
- 3.1.4.5 All material information presented with the financial statements, such as the operating and financial review and the corporate governance statement (insofar as it relates to the audit and risk management);

3.1.5 Review prudential reports prepared under Section 48(1) of the Act and provide advice to Council, upon request, on other prudential matters.

3.2 Internal Controls and Risk Management Systems

The Committee shall:

- 3.2.1 Ensure that appropriate policies, practices and procedures of internal control (and other financial and risk management systems) are implemented, reviewed and maintained in order to assist the Council to carry out its activities in an efficient and orderly manner to achieve its objectives;
- 3.2.2 Review Council's risk management framework and monitor the performance of Council's risk management program;
- 3.2.3 Monitor the corporate risk profile and significant risk exposures for the organisation to ensure that there are appropriate management plans to manage and mitigate this business risk; and
- 3.2.4 Ensure an appropriate legislative compliance framework exists to identify risks and controls over compliance with applicable legislation and regulations.

3.3 Public Interest Disclosures

The Committee shall:

- 3.3.1 Review annually the Council's Public Interest Disclosure arrangements and compliance with the requirements of the *Public Interest Disclosure Act 2018*.
- 3.3.2 Provide recommendations to Council regarding Public Interest Disclosure Policy and resourcing required to comply with legislative requirements

3.4 Internal Audit

The Committee shall:

- 3.4.1 Monitor and review the effectiveness of the Council's internal audit function in the context of the Council's overall risk management system;
- 3.4.2 Consider and make recommendation on the program of the internal audit function and the adequacy of its resources and access to information to enable it to perform its function effectively and in accordance with the relevant professional standards.

- 3.4.3 Review all reports on the Council's operations from the internal auditors;
- 3.4.4 Review and monitor management's responsiveness to the findings and recommendations of the internal auditor; and
- 3.4.5 Where appropriate, meet the "head" of internal audit (internal or outsourced) at least once a year, without management being present, to discuss any issues arising from the internal audits carried out. In addition, the head of internal audit shall be given the right of direct access to the Principal Member of the Council and to the Presiding Member of the committee.

3.5 External audit

The Committee shall:

- 3.5.1 Consider and make recommendations to the Council, in relation to the appointment, re-appointment and removal of the Council's external auditor. The Committee shall oversee the selection process for new auditors and if an auditor resigns the Committee shall investigate the issues leading to this and decide whether any action is required;
- 3.5.2 Oversee Council's relationship with the external auditor including, but not limited to:
 - 3.5.2.1 Recommending the approval of the external auditor's remuneration, whether fees for audit or non-audit services, and recommending whether the level of fees is appropriate to enable an adequate audit to be conducted;
 - 3.5.2.2 Recommending the approval of the external auditor's terms of engagement, including any engagement letter issued at the commencement of each audit and the scope of the audit;
 - 3.5.2.3 Assessing the external auditor's independence and objectivity taking into account relevant professional and regulatory requirements and the extent of Council's relationship with the auditor, including the provision of any non-audit services;
 - 3.5.2.4 Satisfying itself that there are no relationships (such as family, employment, investment, financial or business) between the external auditor and the Council (other than in the ordinary course of business);
 - 3.5.2.5 Monitoring the external auditor's compliance with legislative requirements on the rotation of audit partners; and
 - 3.5.2.6 Assessing the external auditor's qualifications, expertise and resources and the effectiveness of the audit process (which shall include a report from the external auditor on the audit committee's own internal quality procedures);

- 3.5.3 Meet as needed with the external auditor. The Committee shall meet the external auditor at least once a year, without management being present; to discuss the external auditor's report and any issues arising from the audit;
- 3.5.4 Review and make recommendations on the annual audit plan, and in particular its consistency with the scope of the external audit engagement;
- 3.5.5 Review the findings of the audit with the external auditor. This shall include, but not be limited to, the following;
 - 3.5.5.1 a discussion of any major issues which arose during the external audit;
 - 3.5.5.2 any accounting and audit judgements; and
 - 3.5.5.3 Levels of errors identified during the external audit. The committee shall also review the effectiveness of the external audit.
- 3.5.6 Review any representation letter(s) requested by the external auditor before they are signed by management;
- 3.5.7 Review the management letter and management's response to the external auditor's findings and recommendations.

3.6 Economy and Efficiency Audits

The Committee shall:

- 3.6.1 Propose and review the exercise of powers under Section 130A of the Act; to examine and report on any matter relating to financial management, or the efficiency and economy with which the council manages or uses its resources to achieve its objectives,

4. OTHER MATTERS

The Committee shall:

- 4.1 Have access to reasonable resources in order to carry out its duties, recognising the constraints within Council's Budget;
- 4.2 Be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members;
- 4.3 Give due consideration to laws and regulations of the Act;
- 4.4 Make recommendations on co-ordination of the internal and external auditors;
- 4.5 Oversee any investigation of activities which are within its terms of reference;
- 4.6 Oversee action to follow up on matters raised by the external and internal auditors;

- 4.7 Invite Council's external auditors and internal auditors to attend meetings of the Committee, as considered appropriate; and
- 4.8 At least once in its term, review its own performance and terms of reference to ensure it is operating at maximum effectiveness and recommend changes it considers necessary to the Council for approval.

5. MEMBERSHIP

- 5.1 The Committee will comprise 5 members as follows:
 - 5.1.1 Three (3) Independent Members; and
 - 5.1.2 Two (2) Council Members
- 5.2 All members of the Committee will be appointed by the Council.
- 5.3 Independent Member(s) of the Committee shall have recent and relevant skills and experience in professions such as, but not limited to accounting, financial management, risk management, law, compliance, internal audit and governance.
- 5.4 It is desirable for the Council Members to be appointed to the Committee to have a sound understanding of financial management, risk management and governance.
- 5.5 In considering appointments to the Committee, Council should give consideration to the diversity of the membership.
- 5.6 Appointments to the Committee shall be for a period of up to three (3) years.
- 5.7 Members of the Committee are eligible for reappointment at the expiration of their term of office, **however a maximum term of eight (8) years applies for Independent Members, along with a minimum two (2) year hiatus prior to being eligible for reappointment.**
- 5.8 The terms of appointment of the Independent Members should be arranged to ensure the orderly rotation and continuity of membership despite changes to the composition of the Council.

6. SITTING FEES

- 6.1 The applicable Remuneration Tribunal (or its successor) Determination outlines the applicable allowance for Council Members on the Committee.
- 6.2 The Independent Members are to be paid a sitting fee as determined by Council for attendance at meetings and authorised training sessions. Council may determine a higher sitting fee for the presiding member.

7. PRESIDING MEMBER

- 7.1 The Council will appoint the Presiding Member of the Committee.

- 7.2 The Council authorises the Committee to determine if there will be a Deputy Presiding Member of the Committee and, if so, authorises the Committee to make the appointment to that position for a term determined by the Committee.
- 7.3 If the Presiding Member of the Committee is absent from a meeting the Deputy Presiding Member (if such position exists) will preside at that meeting. If there is no position of Deputy Presiding Member, or both the Presiding Member and the Deputy Presiding Member of the Committee are absent from a meeting of the Committee, then a member of the Committee chosen from those present will preside at the meeting until the Presiding Member (or Deputy Presiding Member, if relevant) is present.
- 7.4 The role of the Presiding Member includes:
- 7.4.1 overseeing and facilitating the conduct of meetings in accordance with Act and the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations); and
- 7.4.2 Ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner.

8. REPORTING RESPONSIBILITIES

- 8.1 For the purposes of Section 41(8) of the Act, the Committee's reporting and accountability requirements are:
- 8.1.1 The minutes of each Committee meeting will be included in the agenda papers of the next ordinary meeting of the Council;
- 8.1.2 The Presiding Member will attend a meeting of the Council at least once per annum to present a report on the activities of the Committee;
- 8.1.3 The Committee shall make whatever recommendations to the Council it deems appropriate on any area within its terms of reference where in its view action or improvement is needed; and
- 8.1.4 The Presiding Member may attend a Council meeting at any time that the Presiding Member sees fit to discuss any issue or concern relating to the Committee's functions. Depending on the nature of the matter, this may be held in confidence in accordance with Section 90 of the Act and staff may be requested to withdraw from the meeting.

9. MEETING PROCEDURE

- 9.1 Meeting procedure for the Committee is as set out in the Act, Parts 1, 3 and 4 of the Regulations. Insofar as the Act, the Regulations, or these Terms of Reference do not prescribe the procedure to be observed in relation to the conduct of a meeting of the Committee, the Committee may determine its own procedure.
- 9.2 In accordance with Section 90(7a), one or more Committee members may participate in the meeting by telephone or other electronic means provided that members of the public can hear the discussion between all Committee members.

9.3 Only members of the Committee are entitled to vote in Committee meetings. Unless otherwise required by the Act not to vote, each member must vote on every matter that is before the Committee for decision.

9.4 Council Employees may attend any meeting as observers or be responsible for preparing papers for the committee.

10. SECRETARIAL RESOURCES

10.1 The Chief Executive Officer shall provide sufficient administrative resources to the Committee to enable it to adequately carry out its functions.

11. FREQUENCY OF MEETINGS

11.1 The Committee shall meet at least four times a year at appropriate times and places as determined by the Committee. A special meeting of the Committee may be called in accordance with the Act.

11.2 If after considering advice from the CEO or delegate, the Presiding Member of the Committee is authorised to cancel the respective Committee meeting, if it is clear that there is no business to transact for that designated meeting.

12. NOTICE OF MEETINGS

12.1 Notice of the meetings of the Committee will be given in accordance with Sections 87 and 88 of the Act. Accordingly, notice will be given:

12.1.1 To members of the Committee by email or as otherwise agreed by Committee members at least 3 clear days before the date of the meeting; and

12.1.2 To the public as soon as practicable after the time that notice of the meeting is given to members by causing a copy of the notice and agenda to be displayed at the Council's offices and on the Council's website.

12.2 PUBLIC ACCESS TO MEETINGS & DOCUMENTS

12.3 Members of the public are able to attend all meetings of the Committee, unless prohibited by resolution of the Committee under the confidentiality provisions of Section 90 of the Act.

12.4 Members of the public have access to all documents relating to the Committee unless prohibited by resolution of the Committee under the confidentiality provisions of Section 91 of the Act.

13. MINUTES OF MEETINGS

13.1 The Chief Executive Officer shall ensure that the proceedings and resolutions of all meetings of the Committee, including recording the names of those present and in attendance are minuted and that the minutes otherwise comply with the requirements of the Regulations.

13.2 Minutes of Committee meetings shall be circulated within five days after a meeting to all members of the Committee and will (in accordance with legislative requirements) be available to the public.

**ADELAIDE HILLS COUNCIL
COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item:	12.6
Responsible Officer:	Steven Watson Governance and Risk Coordinator Office of the Chief Executive
Subject:	Supplementary Election Metro East Grouping Representatives to GAROC
For:	Decision

SUMMARY

Voting for the casual vacancy on the Greater Adelaide Region Organisation of Councils (GAROC) membership will occur on Friday 3 March 2023 at 9.30am.

On 24 November 2022 the Local Government Association of South Australia (LGA) called for nominations to fill one position allocated to the Metro East Regional Grouping of Members on GAROC as a consequence of a casual vacancy occurring following the November elections.

At the close of nominations on 25 January 2023 the LGA received 2 nominations:

- Mayor Jan-Claire Wisdom (Adelaide Hills Council)
- Cr Don Palmer (City of Unley)

Candidate profiles are at **Appendix 1**.

There is one position available for the East Regional Grouping Representatives to GAROC. As a Member Council of the LGA, Adelaide Hills Council may consider voting up to one candidate or Council may consider not voting for a candidate for East Regional Grouping Representatives to GAROC.

Following Council's consideration the Mayor will mark or not mark the ballot paper and complete the voting process as set out in **Appendix 1**. The completed ballot paper must be received in hardcopy by the Returning Officer no later than 5.00pm, Wednesday 1 March 2023.

RECOMMENDATION

Council resolves:

1. That the report be received and noted
 2. To vote for as the Metro East Grouping Representative to GAROC.
 3. To authorise the Mayor to mark the ballot paper reflecting Council's determination and authorise the CEO (or their delegate) to lodge Council's ballot paper in accordance with the process set out in *Appendix 2*.
-

1. BACKGROUND

The Local Government Association (LGA) governance structures includes its two constituent bodies being the South Australian Regions of Councils (SAROC) representing the regional councils and the Greater Adelaide Region Organisation of Councils (GAROC) representing the metropolitan councils.

The role of GAROC is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the regions.

The GAROC Regional Groupings consists of:

GAROC Regional Grouping	Members	Nominee
Adelaide	Adelaide City Council	Lord Mayor – Standing Member
North	Town of Gawler	2x Positions
	City of Playford	
	City of Salisbury	
	City of Tea Tree Gully	
West	City of Charles Sturt	2x Positions
	City of Holdfast Bay	
	City of Port Adelaide Enfield	
	City of West Torrens	
South	City of Marion	2x Positions
	City of Mitcham	
	City of Onkaparinga	
East	Adelaide Hills Council	2x Positions
	City of Burnside	
	City of Campbelltown	
	City of Norwood Payneham & St Peters	
	City of Prospect	
	City of Unley	
	City of Walkerville	

At a Special Meeting held on 20 September 2022, Council nominated Mayor Jan-Claire Wisdom for GAROC:

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ADELAIDE HILLS COUNCIL
MINUTES OF SPECIAL COUNCIL MEETING
TUESDAY 20 SEPTEMBER 2022
63 MT BARKER ROAD STIRLING

Moved Cr Pauline Gill
S/- Cr Kirrilee Boyd

240/22

1. That the report be received and noted.
2. To cast its vote for Mayor Jan-Claire Wisdom as the East Regional Grouping Representative to GAROC.
3. To authorise the Mayor to mark the ballot paper reflecting the Council's determination and authorise the CEO (or their delegate) to lodge Council's nomination in accordance with the process set out in Appendix 1.

Carried Unanimously

As a Member Council of the LGA, Adelaide Hills Council has an entitlement to complete the Ballot Paper and cast a vote for one of the candidates that it wishes to be elected.

Candidate profiles are at **Appendix 1**. LGA instructions are at **Appendix 2**.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.2	Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region
Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations
Priority O5.2	Make evidence-based decisions and prudently assess the risks and opportunities to our community before taking action.

The nomination of suitable candidate(s) to the Authority is an important element of Council's commitment to open and transparent decision making which facilitates public accountability.

➤ **Legal Implications**

The position, role and function of GAROC are set out in the GAROC Terms of Reference.

➤ **Risk Management Implications**

Notwithstanding that Council is only one of the regional group of councils voting for members to GAROC, given the role of the GAROC, it is in Council's (and the sectors) interest to support the candidates that will assist in mitigating the risk of:

Poor governance practices occur which leads to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Medium (3D)	Low (3E)

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

GAROC does not pay sitting fees, although GAROC funds travel and related expenses for its membership through its GP02 Board and Committee Member Allowances and Expenses Policy.

As such, there is no support provided via the AHC Council Member Allowance & Support Policy.

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

There are no direct end-user customer service implications regarding the nomination of members to GAROC.

➤ **Sustainability Implications**

Not applicable.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Local Government Association

Community: Not Applicable

➤ **Additional Analysis**

Role of GAROC Members

The role of GAROC is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the GAROC Region. As such, members do not represent their individual council in a similar manner to membership of Southern & Hills LGA (noting that S&HLGA is a member of the South Australian Regional Grouping of Councils – SAROC).

Voting

In accordance with Clause 4.4.5(d) of the GAROC Terms of Reference, Council may consider voting for one candidate that they wish to be elected. Alternatively Council may consider not to vote for any candidates for the East Regional Grouping Representatives of GAROC.

Following Council's consideration the Mayor will mark or not mark the ballot paper and complete the voting process as set out in **Appendix 1**. The completed ballot paper must be received in hardcopy by the Returning Officer no later than 5.00pm, Wednesday 1 March 2023.

3. OPTIONS

Council has the following options:

- I. To determine the preferred candidate for Election to the East Regional Grouping Representatives of GAROC and resolve accordingly (Recommended).
- II. To determine not to vote in the Election for GAROC (Not Recommended).

4. APPENDICES


- (1) Candidate Profiles
- (2) LGA Correspondence, Voting Instructions and Voting Papers

Appendix 1

Candidate Profiles for GAROC



Greater Adelaide Regional Organisation of Councils (GAROC) East—2022 Casual Vacancy Nomination Form

Nominee's Council	<i>Adelaide Hills Council</i>
Nominee's Name (full name)	<i>Mayor Jan-Claire Wisdom</i>
Regional Grouping	(Select one) <input type="checkbox"/> North <input type="checkbox"/> West <input type="checkbox"/> South <input checked="" type="checkbox"/> East
Declaration and signature of nominee	I hereby accept such nomination. Signature: 
Signature and name of Nominating Council's CEO	Signature:  David Waters
Dated	<i>25 January 2023</i>

This form is to be sent to the LGA Returning Officer
Close of nominations 5:00pm Wednesday 25 January 2023

Greater Adelaide Regional Organisation of Councils (GAROC) East—2022 Casual Vacancy Candidate Information Sheet

(word limit is strictly 1,000 words)

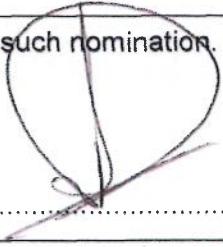

Name:	<i>Mayor Dr Jan-Claire Wisdom</i>
Council:	<i>Adelaide Hills Council (AHC)</i>
Local Government Experience & Knowledge	<ul style="list-style-type: none"> • 2018 – current - Elected Mayor of Adelaide Hills Council • 2010 – 2018 – Elected Member AHC (Deputy Mayor 5 years) • 2018 – 2020 - Board Member LGA SA • 2017 – 2022 - Member of GAROC (and previously MLGG) • 2017 – current - Board Member of Southern & Hills LGA • 2012 – current - Member of AHC CEO Performance Review Panel since 2017 and current Chair CEO Selection Panel • 2012 – 2019 State Libraries Board member (Ministerial appointment) • 2018 – Member Selection Panel for Director of State Library of SA • Member of many AHC Committees and Advisory Groups • Key knowledge/skills: Strategic Planning, Leadership, Collaboration and Partnerships, Advocacy, Public Speaking, Policy Development and Review, Communications, Community Development, Emergency Management
Local Government Policy Views & Interests	<ul style="list-style-type: none"> • Local Government enhanced role in disaster preparedness, recovery and community resilience building • Establishment of State-Local Government Climate Change Partnership for practical action on adaptation and mitigation • Renewing regional Climate Partnership sector agreements • Making standardised and accessible climate-related data for use by Local Government to improve planning • Making 50% of Council's contributions to the Green Industry Fund available to Local Government to aid transition to circular economy • Continued advocacy for improvement of State e-planning system including EV charging faculties, loss of subzones, infill development, parking/resident ratios, State Heritage Protection, increased tree canopy across metropolitan areas including reducing tree clearing on vacant blocks. • LG partnerships to alleviate housing supply and affordable housing crisis • Benchmarking • Performance Review of GAROC's effectiveness – I have proposed this to LGASA. • Increased action by Local Government on climate change initiatives (including cross-Council partnerships) to transition to renewables



Other information	<ul style="list-style-type: none">• <i>Fellow of the Governor's Leadership Foundation (2015)</i>• <i>Excellence in Local Government Leadership Award (2014)</i>• <i>Governor, Glenunga International High School (2009 – 13)</i>• <i>Qualifications:</i>• <i>Doctor of Philosophy (PhD) in Sociolinguistics/Policy Analysis</i>• <i>Masters in Communications</i>• <i>Degree in English Language and Philosophy</i>• <i>Post-graduate degrees in both Library and Information Studies, and also Journalism</i>• <i>Adjunct Research Fellow in Business School of UniSA</i>• <i>Previously: Chartered Librarian, Systems and Business Analyst, Journalist, management Consultant, small business owner/operator, Academic (lecturer and researcher), and served 10 years as Defence Force reservist in Army Intelligence Corps (British and Australian forces)</i>
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This form must accompany the Nomination Form

Greater Adelaide Regional Organisation of Councils (GAROC) East—2022 Casual Vacancy Nomination Form

Nominee's Council	(City of Unley)
Nominee's Name (full name)	(Cr Don Palmer)
Regional Grouping	(Select one) <input type="checkbox"/> North <input type="checkbox"/> West <input type="checkbox"/> South <input checked="" type="checkbox"/> East
Declaration and signature of nominee	I hereby accept such nomination. Signature: 
Signature and name of Nominating Council's CEO	Signature:  (insert name)
Dated	(insert date) 17/01/2023

This form is to be sent to the LGA Returning Officer
Close of nominations 5:00pm Wednesday 25 January 2023



Greater Adelaide Regional Organisation of Councils (GAROC) East—2022 Casual Vacancy Candidate Information Sheet

(word limit is strictly 1,000 words)

Name:	Cr Don Palmer
Council:	(City of Unley
Local Government Experience & Knowledge	<ul style="list-style-type: none">(insert) <p>Refer Attachment</p>
Local Government Policy Views & Interests	<ul style="list-style-type: none">(insert) <p>Refer Attachment</p>
Other information	<ul style="list-style-type: none">(insert details of leadership, board, corporate governance experience etc) <p>Refer Attachment</p>

This form must accompany the Nomination Form

GAROC Nomination Candidate Information Sheet Appendix

Cr Don Palmer

City of Unley

Local Government Experience & Knowledge

I have been a member of the City of Unley since the 2010 periodic elections.

During this time, I have participated in and held the following positions.

Deputy Mayor

- ✓ Deputy Mayor for 12-month terms in 2017 and again in 2022. In that role in 2017, I participated in the Metropolitan Local Government Group and the Eastern Regional Alliance.

Presiding Member

- ✓ Development, Planning & Strategy Committee 2015-16. This committee managed the biggest development plan changes in the history of Unley.
- ✓ Strategic Property Committee since 2018.

Member

- ✓ Development, Planning & Strategy Committee 2013-16.
- ✓ Development Assessment Panel 2011-2014.
- ✓ City Strategy Committee 2017-18.
- ✓ Unley Business & Economic Development Committee 2012-2018.
- ✓ CEO Performance Review Committee 2017-current.
- ✓ CAP independent member selection committee 2014-current.
- ✓ Economic Growth Working Group 2019-2022.
- ✓ Community Grants Working Group 2011-current.

Local Government Policy Views and Interests

Leadership

As I did in my business career, I have always taken an interest in the industry in which I am participating, at this time the local government industry. I am a firm believer that the strength of an association is in the participation of its members.

I am also a firm believer in aiming to be part of the solution rather than the problem. To be seeking answers to issues rather than sitting back and criticising those taking the responsibility to seek the answers. The LGA needs people willing to take on this responsibility. I stand ready to take on this role of leadership on your behalf. As new blood to GAROC, I will also bring a fresh perspective to a fresh executive structure. This at a time when new blood will be positively received by our ratepayers.

Reform

As Unley's representative on the MLGG and ERA previously, I have participated in the debate on the LGA's new structure. I back the new structure and look forward to advancing the reforms that the LGA executive have identified.

The local government industry needs to seek change and reform. We need to be the driver of change. This will require us to recognise where change is needed, and work with the Government to effect purposeful change. We need to be proactive to drive the reform and not be reactive to third parties.

Image

The local government industry needs also to work on changing the image of the industry to our ratepayers. It will not be enough to speak of the need for change. It is another to push the change and be the driver of change. We need mostly to be seen to be driving the change.

To achieve this, we need to be seen as a sector responsive to our ratepayers needs. Once again this requires us being proactive, to undertake to understand what our ratepayers are seeking, and demonstrate that we do understand and that we are responsive.

Membership Participation

If the LGA is to be strong we need the LGA membership to be engaged.

GAROC will certainly need to provide the leadership to achieve the above aims. The general industry membership however needs to step up to the plate as well. As an association is only as strong as its membership, we all need to participate.

We all need work toward bridging the gap that exists between some of us and the LGA.

Other Information

Over years I have held Community/Industry based board and/or committee level membership

In the previous century I held various short term committee positions at The Master Builders Association and the Housing Industry Association. I was a member of Jaycees in my early twenties.

Late last century I held down the role as Area Co-Ordinator of the newly formed Woodcroft Neighbourhood Watch program. I also was secretary of the Southern Cross Caravan Club, a Parish Councillor at St Hillary's Anglican Church at Morphett Vale and briefly held the position of President of the Association of Caravan Clubs.

More recently I have been a member of the Clarence Park Neighbourhood Watch group. I have until recently been a member of the Parish Council, and a Warden at St Augustines Anglican Church at Unley, along with being their Synod Representative for the Synod of the South Australian Diocese of the Anglican Church of Australia. I have also just completed a three-year term as a member of the Diocesan Council of the South Australian Diocese of the Anglican Church of Australia.

I look forward to having the opportunity to provide a positive contribution to the local government industry to the betterment of the South Australian local government community.

Appendix 2

*LGA Correspondence, Voting Instructions
and Voting Papers*

ADELAIDE HILLS COUNCIL
RECEIVED

31 JAN 2023

In reply please quote our reference: ECM 787286 TN/MW

30 January 2023

Mr David Waters
Chief Executive Officer
Adelaide Hills Council
PO Box 44
Woodside SA 5244

Dear Mr Waters

Supplementary Election – Metro East Grouping Representatives to GAROC

On 24 November 2022, I wrote to Member Councils of the Greater Adelaide Regional Organisation of Councils (GAROC) calling for nominations to fill one (1) position allocated to the Metro East Regional Grouping of Members on GAROC as a consequence of a casual vacancy occurring.

I wish to advise that at the close of nominations (5.00pm on 25 January 2023) I received nominations for two (2) eligible candidates. The two (2) candidates for election as the GAROC East Regional Grouping representative are listed below (in the order of the ballot draw):

- Mayor Jan-Claire WISDOM (Adelaide Hills Council)
- Councillor Don PALMER (City of Unley)

As a result of receiving more nominations than available positions, I hereby advise that in accordance with clause 4.4.4 of the GAROC Terms of Reference an election for the one (1) position on the East Regional Grouping of Members of GAROC will take place.

I have attached a copy of each candidate's information together with a Ballot paper and voting envelopes for your council's completion in accordance with the instructions below. **I require the ballot paper to be received by me in hard-copy no later than 5.00pm Wednesday 1 March 2023.**

Voting Instructions

Pursuant to clause 4.4.5 of the GAROC Terms of Reference, the election process must be conducted as follows:

- each Member council shall determine by resolution the one (1) candidate it wishes to elect;
- the chair of the meeting for that Member shall mark the ballot paper with an "X" next to the one (1) candidate that the Member council wishes elected and seal the ballot paper in the envelope marked "Ballot Paper" and then place this envelope inside the envelope marked "Returning Officer". Note: The Member council's name has been marked on the inside flap of the second envelope marked "Returning Officer" to enable confirmation of receipt of all council ballot papers. Ballot Paper envelopes are removed from the Returning Officer envelopes prior to vote counting.



- on receipt of the envelopes the Returning Officer must:
 - open the outer envelope addressed to the “Returning Officer” and record the name of the Member council which appears on the inside flap of the envelope on the roll of Member council’s eligible to vote; and
 - place the envelope marked “Ballot Paper” unopened into the ballot box.
- the Returning Officer shall nominate the date, time and place for the counting of votes and shall invite each candidate and a person nominated as the candidate’s scrutineer to be present;
- at the counting of the votes the Returning Officer shall produce the unopened envelopes marked “Ballot Paper” and if satisfied that all votes are valid, count the number of votes received by each candidate;
- the one (1) candidate with the most votes shall be deemed elected in respect of your Regional Grouping of Members and the Returning Officer shall declare the candidate elected, with immediate effect; and
- in the case of candidates receiving the same number of votes, the Returning Officer shall draw lots at the counting of the votes and the lot drawn will be the candidate elected.

I am the Returning Officer for this election and I may appoint a Deputy Returning Officer to perform any of the powers, functions or duties described above. I have appointed Ms Tami Norman, Program Leader Governance as Deputy Returning Officer for this election.

The counting of votes will take place via Zoom on Friday 3 March 2023 commencing at 9.30am.

The successful candidate will take office from the conclusion of the vote counting for a term ending at the conclusion of the 2024 LGA Annual General Meeting.

If you have any queries please contact me or Program Leader Governance Tami Norman on 8224 2037 or tami.norman@lga.sa.gov.au.

Yours sincerely

Clinton Jury
Chief Executive Officer

Telephone: (08) 8224 2039

Email: cjury@lga.sa.gov.au

Attach: 2022/23 LGA Supplementary Election – GAROC East - Combined Candidate Information
GAROC East Ballot Paper
Ballot Paper envelope
Reply envelope addressed to Returning Officer

Ballot Paper

Supplementary Election for GAROC Regional Grouping Metro East 2022-2024

1 Person Required

Ballot closes: 5:00pm Wednesday 1 March 2023

Important Note: In accordance with Clause 4.4.5(d) of the GAROC Terms of Reference, the chair of the meeting for that Member Council shall mark the ballot paper with an "X" next to the one (1) candidate that the Member Council wishes elected, then seal the ballot paper in the envelope marked "Ballot Paper" and place it inside the envelope marked "Returning Officer". The name of the Member Council must be indicated on the inside flap of the envelope marked "Returning Officer" and the envelope then sealed and delivered to the Returning Officer.



WISDOM, Jan-Claire Mayor Adelaide Hills Council



PALMER, Don Councillor City of Unley



Issuing Officer
Initial

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item: 12.8

Responsible Officer: Lachlan Miller
Executive Manager Governance and Performance
Office of the Chief Executive

Subject: Council Resolutions Update including 2 year update to outstanding resolutions

For: Decision

SUMMARY

The Action List is updated each month by the responsible officer and outlines actions taken on resolutions passed at Council meetings. In some cases actions can take months or years to be completed due to the complexity and/or the level of influence Council has in the matter.

In March 2015, Council resolved that outstanding resolutions passed before 31 March 2013 would be the subject of a report outlining the reasons why the resolutions have not been completed, detailing what actions have been taken and an estimated date of completion.

While the above resolution referred to a date, the duration was two (2) years and the intent of the Council's resolution has been carried forward as a prudent accountability mechanism.

RECOMMENDATION

Council resolves:

1. That the report be received and noted
2. The following completed items be removed from the Action List:

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
23/08/2022	Ordinary Council	209/22	Proposed Road Closure – Unmade Public Road adjacent to 9 Fidlers Hill Road Inglewood	Nil
27/09/2022	Ordinary Council	252/22	Options to reduce traffic congestion Bridgewater Primary School	Nil
27/09/2022	Ordinary Council	253/22	Options to reduce traffic congestion Bridgewater Primary School - traffic study	Nil
20/12/2022	Ordinary Council	293/22	Substantive CEO Recruitment	Nil
20/12/2022	Ordinary Council	294/22	Substantive CEO Recruitment - Members of Recruitment Panel	Nil
20/12/2022	Ordinary Council	306/22	Citizen of the Year Awards 2023	Nil
20/12/2022	Ordinary Council	307/22	Citizen of the Year Awards 2023	Nil
24/01/2023	Ordinary Council	9/23	Adelaide Hills Reconciliation Working Group - appointment	Nil
24/01/2023	Ordinary Council	12/23	Submission to the Expert Panel Planning System Implementation Review	Nil
24/01/2023	Ordinary Council	13/23	Request to Waive Land Management Agreement requirement for building Setback at 9 Woodland Way Teringie	Material - Cr Leith Mudge Material - Cr Nathan Daniell

1. GOVERNANCE

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O5 We are accountable, informed, and make decisions in the best interests of the whole community

Priority O5.3 Demonstrate accountability through robust corporate planning and reporting that enhances performance, is relevant and easily accessible by the community

The timely completion of Council resolutions assists in meeting legislative and good governance responsibilities and obligations.

➤ **Legal Implications**

Not applicable

➤ **Risk Management Implications**

Regular reporting on outstanding action items will assist in mitigating the risk of:

Actions arising from Council resolutions may not be completed in a timely manner

Inherent Risk	Residual Risk	Target Risk
High (4C)	Medium (4E)	Medium (4E)

➤ **Financial and Resource Implications**

Not applicable

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

Not applicable

➤ **Sustainability Implications**

Not applicable

➤ **Engagement/Consultation conducted in the development of the report**

Not applicable

2. BACKGROUND

At its meeting of 24 March 2015 Council resolved:

That the CEO provides a report to the 28 April 2015 Council meeting in relation to outstanding resolutions passed before 31 March 2013 outlining the reasons why the resolutions have not been completed, detailing what actions have been taken and an estimated date of completion.

The contents of this report formed a workshop discussion with Council Members on 3 May 2017.

While the above resolution referred to a date, the duration was two (2) years and the intent of the Council's resolution has been carried forward as a prudent accountability mechanism.

3. ANALYSIS

The Action list has been updated to provide Council with information regarding outstanding actions. Completed resolutions are identified in the recommendation for removal from the Action List.

4. OPTIONS

Council has the following options:

- I. Note the status of the outstanding items and the proposed actions
- II. Resolve that other actions are required.

5. APPENDIX

- (1) Action List

Appendix 1

Action List

Meeting Date	Meeting	Res No.	0	Previously Decl Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
24/01/2017	Ordinary Council 7/17		Cromer Cemetery Revocation of Community Land	Nil		In Progress	<p>DEWNR have requested that the revocation be put on hold whilst they investigate the requirements to alter the trust affecting the land and undertake an assessment of the native vegetation on the land, this is likely to take some months.</p> <p>DEW advised on 4/12/18 that there are some impediments to the progression of the proposed boundary realignment due to the mining operations on the adjacent land, which are being negotiated with the Dept for Mining. Advice is that these negotiations could take considerable time (2yrs).</p> <p>In the interim, consideration will be given to the granting of a right of way to ensure that the cemetery has legal access. DEW staff member dealing with this matter has left DEW so there may be an extended delay whilst it is reallocated and assessed.</p> <p>DEW awaiting finalisation of negotiations with Dept for Mining</p> <p>March 21 - Council staff have requested an update from DEW as to the status of this matter</p> <p>October 21 - Council staff continue to engage with DEW to seek a progression of the matter</p> <p>November 21 - no further update from DEW</p> <p>Jan 22 - contact has been made with DEW who are investigating the situation again prior to further communication with Council</p> <p>March 22 - a new contact has been established with DEW who is working proactively with Council to plan a path forward.</p>	FALSE
28/08/2018	Ordinary Council 200/18		Proposal to enter 11 AHC Reserves into Heritage Agreements 2018	Nil		In Progress	<p>The Heritage Applications were phased over the years in order to be accommodated within available resourcing.</p> <p>All applications have been lodged by June 30 2022 as per 2018 Council resolution.</p> <p>Heritage Agreements have been registered over:</p> <p>Kiley Reserve</p> <p>Shanks Reserve</p> <p>Kyle Road Nature Reserve,</p> <p>Leslie Creek Reserve</p> <p>Aldgate Valley 2 Reserve</p> <p>Doris Coulls Reserve</p> <p>Mylor Parklands</p> <p>Heathfield Waste Facility</p> <p>Heathfield Conservation Reserve</p> <p>Conditionally approved:</p> <p>1. Reserve 26 - "Stock Rd 1". Needs to be allocated CT to progress. Paperwork signed by CE and Mayor and lodged. Delays due to CT Application fee being payable by cheque only and AHC will no longer pay by cheque even by special request, so this has been unable to progress as it has reached an administrative stalemate.</p> <p>2. Carey Gully. Rededication from recreation to conservation purposes required. Paperwork to amend a dedication submitted to Crown Lands. Awaiting outcome.</p>	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
11/09/2018	Special Council	229/18	Road Exchange McBeath Drive, Skye Horsnell Gully	Nil	In accordance with sections 12 and 15 of the Roads (Opening and Closing) Act 1991, as regards the land within the Adelaide Hills Council area, enter into an Agreement for Exchange with Boral Resources (SA) Ltd and issue a Road Process Order to open as road portions of Section 906 Hundred of Adelaide numbered "1", "2" and "3" on Preliminary Plan No. 17/0066 (Appendix 1) and in exchange to close portions of McBeath Drive marked "A", "B", "C" and "D" on Preliminary Plan No. 17/0066, subject to the following: Boral Resources (SA) Ltd agreeing to pay all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs; Boral Resources (SA) Ltd agreeing to pay all costs associated with a Council boundary adjustment between Adelaide Hills Council and the City of Burnside to rectify the resulting Council boundary anomaly from the road exchange process The closed road is excluded as Community Land pursuant to the Local Government Act 1999. Council approves the sale of the differential between the total area of closed road and the total area of opened road of approximately 1,242m2 to Boral Resources (SA) Ltd for the amount of \$6,210 as determined by an independent valuation. Subject to the successful completion of the road exchange process, Council undertakes a process in conjunction with the City of Burnside to realign the local government boundary between the City of Burnside and the City of Adelaide.	Terry Crackett	In Progress	Road exchange documentation has been executed and provided to Boral for lodgement with the Surveyor-General. Submission has been prepared and lodged with the Boundaries Commission jointly on behalf of the City of Burnside and Adelaide Hills Council. The Boundaries Commission has agreed to investigate the proposal and that process is underway. Further feedback has been provided to the Boundaries Commission to progress. Boral are negotiating a Land Management Agreement with the State Government which has delayed the completion of the land division and road exchange Awaiting advice that land division has been completed so that the boundary realignment can occur November 21 - Boral have received final DA and lodgement of land division plan with Land Services SA is expected shortly, once the land division is finalised, the boundary realignment April 22 - awaiting lodgement of land division plans by Boral August 2022 - Have had no update from Boral or lawyers, Karen to follow up. October 2022 - No update as yet Nov 22 - no update Dec 22 - no further update to report Jan 23 - no further update to report Feb 22 - Boral advised in late Jan that all docs have now been forwarded for land division lodgement to their Lawyers	FALSE
11/09/2018	Special Council	232/18	Revocation of Community Land – Bridgewater Retirement Village	Nil	To commence a process to revoke the Community Land classification of the land located on the corner of Mt Barker Road and Second Avenue Bridgewater known as 511 Mt Barker Road Bridgewater contained in Certificate of Title Volume 5488 Folio 788 (Land) on which a portion of the Bridgewater Retirement Village is located by: Preparing a report as required under section 194(2)(a) of the Local Government Act 1999 and making it publicly available. Undertaking consultation in accordance with its Public Consultation Policy as required under section 194(2)(b) of the Local Government Act 1999. To commence a process to vary the charitable trust affecting the Land by investigating land parcels owned by the Adelaide Hills Council, including Carripook Park, Candlebark Reserve and Vincent Playground Reserve, that may be suitable for the development of a landscaped garden for the benefit of the community and for the construction of a memorial to the Ash Wednesday Bushfires of 1983 as contemplated by the charitable trust over the Land and invite community suggestions and feedback in relation to any appropriate land parcels. To approve a budget allocation in the amount of \$10,000 for legal expenses for the preparation of an Application to the Supreme Court to vary the charitable trust. That a further report be presented to Council for consideration after community consultation and further investigations have been completed	Terry Crackett	In Progress	Initial consultation to identify possible locations for the establishment of a garden and memorial concluded on 28 January 2019 with only one submission received being a suggestion from the Retirement Village residents to investigate Carripook Park as their preferred option. Council, at the meeting of 27 August 2019, approved Carripook Park as the location to vary the trust to. The Attorney-General has provided in-principle support to the proposal so a design for the landscaped garden and bushfire memorial at Carripook Park will be prepared for submission to the Supreme Court. November 21 - consultation has been undertaken and draft affidavit has been prepared for lodgement with the Supreme Court Jan 22 - awaiting approval from the Attorney General prior to lodgement with the Supreme Court April 22 - documents nearing finalisation for lodgement with Supreme Court June 22 - all Supreme Court documents have been executed and progressed with the Attorney-General Aug 22 - all documents to remove the Trust have now been approved by the supreme court. Trust now removed from Retirement Village site. Meeting with residents on 22 Sept to finalise any updated feedback on community land revocation. Oct 22 - Meeting held with residents on 22 September to communicate current status. Documents sent to Minister for Community Development on 11/10/2022	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
23/07/2019	Ordinary Council	188/19	LED Street Lighting Upgrade	Nil	That the report be received and noted. To approve an increase of \$365k in Council's 2019/20 capital budget to commence the transition of 900 P – category public streetlights to LED with the funding source to be recommended to Council at its next budget review. That Council engage SAPN to commence the changeover of P-Category lights to LED public lighting on Council roads and that authority is given to the CEO to finalise a contract with SAPN and sign that agreement. That Council enter into a PLC tariff agreement for public lighting with SAPN until 30 June 2020 and subsequently move to the tariff set by the Australian Energy Regulator from July 2020. That Council continues to liaise with SAPN and DPTI on the changeover of Council public lighting on roads under the care and control of the State Government. That a further report be provided to Council on the outcome of the continued discussions with SAPN and DPTI.	Peter Bice	In Progress	Council lights changed to LED at Aldgate, Uraidla and Sumertown Main Street complete. Birdwood Main Street Council lighting under investigation for changeover to LED. The Public Lighting Working Group (including representatives from Local Government, DIT and SAPN) has established a sub-group to work with DIT on the transition of V Category lights on state maintained roads. Timing of any agreements between LG and DIT unknown. Council officers continue to be updated on sub-group progress and have nominated to join main street lighting working group.	FALSE
28/01/2020	Ordinary Council	11/20	Revocation of Community Land - Bridgewater Retirement Village	Nil	That the report be received and noted. Subject to the Supreme Court issuing an order granting approval for a trust variation scheme, a report be prepared and submitted to the Minister for Planning seeking approval to revoke the community land classification of Allotment 220 in Filed Plan No. 8131 known as 511 Mount Barker Road Bridgewater. The Mayor and CEO be authorised to sign all necessary documentation to give effect to this resolution.	Terry Crackett	In Progress	Application to the Minister for Planning will be made once the trust variation scheme has been approved by the Supreme Court. The Attorney-General has provided in-principle support for the proposal. A detailed landscape design has been prepared, community consultation on the design is underway and submission for the Supreme Court is being prepared. November 21 - consultation has been undertaken, draft affidavit has been prepared for lodgement with the Supreme Court Jan 22 - awaiting approval from the Attorney General to lodge with the Supreme Court April 22 - documents nearing finalisation for lodgement with Supreme Court June 22 - all Supreme Court documents have been executed and progressed with the Attorney-General August 2022 - Supreme court document have been approved, Trust now removed from Retirement Village site and have been transferred to Caripook Park. Meeting with residents on 22 September to discuss status and will then finalise report to Minister to revoke community land classification. Oct 22 - Meeting held with residents re current status on 22/10/2022. Community Land revocation application finalised and sent to minister week ending 14/10/2022 Nov 22 - advice received from Minister that community land revocation would be assessed around mid November 2022 Dec 22 - awaiting final decision from Minister regarding	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
15/12/2020	Ordinary Council	300/20	Road Exchange Pomona Road Stirling	Nil	<p>1. That the report be received and noted.</p> <p>2. In accordance with sections 12 and 15 of the Roads Opening and Closing) Act 1991, enter into an Agreement for Exchange with the owner of the land of 21 Pomona Road Stirling and issue a Road Process Order to open as public road the area identified as "Road to be opened 1" on the Preliminary Plan No 20/0038 and in exchange to close a portion of Pomona Road as identified on the Preliminary Plan No 20/0038 as "Public Road A", subject to the owner of the land at 21 Pomona Road Stirling agreeing to pay all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs</p> <p>3. The closed road be excluded as Community Land pursuant to the Local Government Act 1999. The Mayor and Chief Executive Officer be authorised to sign all documents necessary, including affixation of the common seal, to give effect to this resolution</p>	Terry Crackett	In Progress	Final Plans and Road Process Order documents have been executed by all parties. Awaiting on processing with the Surveyor- General and the Lands Titles Office	FALSE
27/01/2021	Ordinary Council	22/21	CWMS Review	Nil	that the report, related attachments and the discussion and considerations of the subject matter be retained in confidence until 30 July 2021.	Peter Bice	In Progress		FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
23/03/2021	Ordinary Counc	52/21	Crown Land Revocation	Nil	1. That the report be received and noted 2. That the consultation report (<i>Appendix 1</i>) be received and noted 3. To apply to the Minister for Planning to revoke the Community Land classification of the following parcels of land:- i. CR 5752/186, Lot 32 Fullgrave Road, Crafers ii. CR 5753/725, Section 1609 Illert Road, Mylor iii. CR 5753/729, Section 1657 Scott Creek Road, Scott Creek iv. CR 5753/741, Sections 53 and 54 Sandy Waterhole Road, Woodside v. CR 5753/742, Section 547 Schuberts Road, Lobethal vi. CR 5753/744, Section 553 Pedare Park Road, Woodside vii. CR 5753/745, Section 556 Tiers Road, Woodside viii. CR 5753/746, Section 565 Old Carey Gully Road, Stirling ix. CR 5753/754, Section 511 North East Road, Inglewood x. CR 5753/758, Section 262 Reserve Road, Forreston xi. CR 5763/631, Section 1591 Silver Road, Bridgewater xii. CR 5763/634, Section 71 Magarey Road, Mount Torrens xiii. CR 5763/635, Section 72 Magarey Road, Mount Torrens	Terry Crackett	In Progress	Being progressed in accordance with resolution. November 21 - awaiting feedback from the Minister for Planning on final application for revocation Jan 22 - final application has been lodged with the Minister for Planning June 22 - awaiting response from new Minister September 2022 - still awaiting response from Minister Oct 22 - Still awaiting response from Minister Nov 22 - Still awaiting response from Minister Dec 22 - received response from Minister that matter has been referred to DEW for land to be resumed from the Crown to alleviate the need for Community Land revocation. Report to be made to Council in January 2023 providing an update on the Ministers correspondence and next steps Jan 23 - report to Jan Council meeting regarding next steps. Feb 23 - matter now referred to crown lands SA - workshop to now be held with Council before Council meeting by end of June 2023	FALSE
27/07/2021	Ordinary Counc	158/21	Revocation of Community Land Classification - Closed Roads R2142AA & R1573AB	Perceived - Cr Linda Green	1. That the report be received and noted 2. To commence a revocation of community land process for the land described as "AA" in Road Plan No. 2142 ("Closed Road"), off Lenger Road, Mount Torrens including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of selling the Closed Road to the adjoining owners. 3. To commence a revocation of community land process for the land described as "A" and "B" in Road Plan No. 1573 ("Closed Road") adjacent to 105 Nicholls Road, Norton Summit including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of selling the Closed Road to the adjoining owners. 4. That a further report be presented to Council at the completion of the consultation.	Terry Crackett	In Progress	Commenced in accordance with the resolution Public Consultation has completed. NO formal responses received - follow up report is prepared and to be presented at June 2022 Council meeting Follow up report presented to Council 26 July 2022. Council have written to the Minister for approval of Community Land Revocation status. Anticipated response due mid September 2022. Oct 22 - No response received from Minister Nov 22 - Response from Minister still to come Dec 22 - Response from Minister still to come Jan 23 - Response from Minister received 10/1/2023 - in favour of Revocation. Next steps are to prepare next report to Council to progress with the sale of the Closed Road Land (March 2023 Meeting).	FALSE

Meeting Date	Meeting	Res No.	0	Previously Dec	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
24/08/2021	Ordinary Counc	170/21	Road Exchange Aldi Development Pomona Road Stirling	Nil	That the report be received and notedIn accordance with sections 12 and 15 of the <i>Roads (Opening and Closing) Act 1991</i> , enter into an Agreement for Exchange with the owner of the land of 3-5 Pomona Road Stirling and issue a Road Process Order to open as public road the area identified as "Road to be opened 1" on the Preliminary Plan No 21/0011 and in exchange to close a portion of Pomona Road as identified on the Preliminary Plan No 21/0011 as "Public Road A", subject to the owner of the land at 3-5 Pomona Road Stirling and Council agreeing to share all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs.The closed road be excluded as Community Land pursuant to the <i>Local Government Act 1999</i> .The Mayor and Chief Executive Officer be authorised to sign all documents necessary, including affixation of the common seal, to give effect to this resolution.	Terry Crackett	In Progress	Commenced in accordance with resolution Road Process Documents have been signed by Council. Currently awaiting process by the Surveyor-Generals and Lands Titles Office. Road plan has been examined, however this is awaiting the deposit of a prior amalgamation and easement plan with the Lands Titles Office. Oct 22 - No further update to report Nov 22 - No further updates Dec 22 - No further updates Jan 23- No further updates 6 Feb 23- No further updates	FALSE
24/08/2021	Ordinary Counc	178/21	Operational Workplace Review	Nil	<ol style="list-style-type: none"> That the report be received and noted That Council take up commercial lease space in Stirling at 85 Mount Barker Road Stirling, and the associated costs for the leasehold premises detailed in <i>Appendix 1</i> be adjusted in the 2021-22 financial year at Budget Review 1 Further detailed scoping be undertaken on the proposed renewal and energy efficiency upgrades to the Stirling Office, Heathfield Depot, Gumeracha Depot and Woodside Offices (current Development and Building Team offices) and presented to Council for consideration where appropriate within the 2021-22 Budget Review 1 and the next review of the Long Term Financial Plan Subject to endorsement of the detailed scoping identified in 3 above, the Development and Building Team be relocated from Woodside to Stirling To include budget provision in the draft Annual Business Plan for the 2022-23 financial year to undertake a feasibility study on the medium to long term needs for community and operational sites and where greater efficiencies may be obtained through consolidation of sites. 	Terry Crackett	In Progress	Commenced in accordance with resolution Fitout of Garrod Office and progression of preliminary work for Stirling transportable underway. Scoping of other components to be is nearing completion and will be presented back to Council for review. Sept 22 - refit of transportable building at Stiling underway to allow for Ranges and EHO's to move in. Fitout at Garrod now complete with some staff having moved in. Meeting at Heathfield in early Sept to continue discussions on extension/renovations at that site. Oct 22 - Transportable building renovations well progressed. Meeting at Heathfield postponed pending further discussion with CEO on process for moving forward given scope of new building proposed for Heathfield has now changed. Nov 22 - Transportable renovations going to plan with completion estimated prior to Christmas. Discussion held with Ceo/exec team re scope/process moving forward Dec 22 - Transportable on track to be completed prior to Christmas. Scoping for planning and building team to be relocated to Stirling underway Jan 23 - discussions underway regarding options for woodside staff to be relocated to Stirling together with costings for changes to West Wing (Council chamber). Report to be submitted to Council prior to any changes being made. Feb 23 - update report coming to council in March/April	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
26/10/2021	Ordinary Counc	220/21	Charleston Cemetery Compulsory Acquisition	Nil	1. That the report be received and noted. 2. To revoke the resolution of Council of 22 May 2001, B129. 3. To commence a process to compulsorily acquire, under the <i>Land Acquisition Act 1969</i> , the Charleston Cemetery being the land contained in Certificate of Title Volume 5066 Folio 740 located at 36 Newman Road Charleston from The Charleston Cemetery Trust Inc. To continue to manage the Charleston Cemetery on behalf of The Charleston Cemetery Trust Inc in the interim from the date of this resolution until the completion of the land acquisition process. To authorise the Mayor and Chief Executive Officer to undertake all necessary actions, including execution of documents, including under the common seal of Council, to give effect to this resolution.	Terry Crackett	In Progress	Commenced in accordance with the resolution. November 21 - letter seeking consent to undertake the compulsory acquisition has been sent to the Minister Jan 22 - Minister has advised they are considering their position and will advise further in due course March 22 - Minister advised that has been deferred until after the election April 22 - new Minister has confirmed receipt and will review in due course Aug 22 - received advice from Minister for Local Government (via Normans) on 9/08/2022 that they were still waiting to hear back from Crown Solicitors Office on this matter. Oct 22 - No update received from Minister Nov 22 - No update received from Minister Dec 22 - No update received from Minister Jan 23 - no update received from Minister. Feb 23 - no update received from Minister	FALSE
26/10/2021	Ordinary Counc	235/21	Ashton Landfill - Confidential Item	Nil	As per Confidential minute	Peter Bice	In Progress	Matter continues to be progressed. Further updates will be provided when a material change occurs.	TRUE
26/10/2021	Ordinary Counc	238/21	Electricity Procurement Legal Matter - Confidential Item	Nil	As per confidential minute	Peter Bice	In Progress		TRUE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
14/12/2021	Ordinary Council	274/21	Woodside Recreation Ground Reuse further information	Perceived - Cr Stratford	1. The report be received and noted. 2. That a report be prepared for Council's information on the costs associated with bore water saving initiatives that could be implemented in respect to Council-owned recreational assets that are currently irrigated by bore water.	Peter Bice	In Progress	An audit of the site was undertaken on Wednesday 4th January 2023, along with other key areas. Report from the audit is due by end of February 2023.	FALSE
22/03/2022	Ordinary Council	52/22	Response to MON Bore Use	Nil	1. That the report be received and noted 2. To negotiate an agreement with the Summertown Village Water Company for access to the Council bore located on Anya Crescent Reserve at Summertown for a defined period, being not more than 3 years, on terms and conditions to be agreed whereby by the end of the agreement term, the Summertown Village Water Company has established an independent water supply for its shareholders and current use of the Council bore ceases 3. To negotiate an in principle agreement with the Summertown Community Centre Inc. for a land exchange at Tregarthen Reserve Summertown that would see the public infrastructure located on land owned by the Council and the sport and recreation infrastructure on land owned by the Summertown Community Centre Inc. with the Council being responsible for the provision of water to Tregarthen Reserve 4. To negotiate an agreement with the owner of 30 Stonehenge Avenue Stirling, for access to and use of the bore located on Council land at 28 Stonehenge Avenue Stirling, for a defined reasonable period of time, say 18 – 24 months, on terms and conditions to be agreed whereby by the end of the agreement, the landowner has established an independent water supply for its land and use of the Council bore ceases 5. To undertake further investigations in relation to the Mylor bore and tanks and to which properties it	Terry Crackett	In Progress	Commenced in accordance with resolution. Sept 22 - commenced as per resolution Oct 22 - commenced as per resolution Nov 22 - commenced as per resolution Dec 22 - commenced as per resolution with an update report to be submitted to Council in early 2023 Jan 23 - update to be reported to Council in March 2023 Feb 23 - report still on track for March 2023 meeting	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
22/03/2022	Ordinary Council	53/22	Removal of Remoteness Sculpture, Stirling	Nil	<p>1. That the report be received and noted.</p> <p>2. That the sculpture known as <i>The Remoteness</i>, be removed from the area in front of the Coventry Library, Stirling.</p> <p>3. That best endeavours should be made to retain suitable elements of the sculpture for placement in the surrounding landscape in a manner appropriate to the setting, such as for informal seating.</p> <p>4. That the Council works with the Stirling Business Association and stakeholders from the former Adelaide Hills International Sculpture Symposium Inc to identify and implement appropriate means of recognising the sculpture and ensuring its legacy is not lost to the precinct in which it is presently situated and the overall Hills Sculpture Trail.</p>	Terry Crackett	In Progress	<p>In mid-June, the former artistic director for Adelaide Hills International Sculpture Symposium Inc approached Council staff advising of a product he believes may provide a potential 'fix' for the sculpture. He was unavailable to progress the matter through June/July, however staff have recently met with him to progress the matter.</p> <p>Staff have sought advice on the suggested fix from ArtLab and at the time of update, are awaiting an outcome of their work. It will be important to evaluate whether or not the risk profile associated with the matter would change with the proposed fix. As there is a Council resolution to remove the sculpture, the matter may need to come back to Council for consideration if the fix is deemed viable.</p> <p>Response from Artlab has indicated that, given the load bearing of the design and the weakened nature of the stone it is unlikely that any treatment options will resolve the issues, however they suggested that we further consult with an engineer regarding proposed fix. An engineer has been approached and provided with all information to date and we await his response.</p> <p>The engineer has met with the artist who proposed the potential fix and we are in discussions with him regarding options.</p>	FALSE
26/04/2022	Ordinary Council	86/22	MON Property Lobethal Road Lenswood	Nil	<p>1. Council notes the long history of compliance action taken by the Council under both the <i>Development Act 1993</i>, and the <i>Local Nuisance and Litter Control Act 2016</i>, in relation to: continuing unauthorised use of the land as a junkyard/scrap storage facility/builder's storage facility; the continuing unsightly condition of the land when viewed from the public realm; and ongoing nuisance caused by wandering livestock and animals which issues continue to bring about adverse impacts within the locality. The Council instructs the Chief Executive Officer to take such further action/s as he may be advised to take under (including but not limited to) the <i>Local Nuisance and Litter Control Act 2016</i>, and/or the <i>Planning, Development and Infrastructure Act 2016</i>, (which action/s may involve the commencement legal proceedings and/or the exercise of step-in rights) to address the above issues on an ongoing basis. Wherever possible, such action should seek to recover the Council's costs associated with the relevant action/s.</p>	Natalie Armstrong	In Progress	<p>Continued monitoring is being undertaken by Council staff and action if appropriate.</p>	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
26/04/2022	Ordinary Council	87/22	Property Lobethal Road Lenswood - Duration of Confidentiality	Nil	Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report Two year term Related Attachments Two year term Minutes NIL Other (presentation, documents, or similar) NIL	Natalie Armstrong	In Progress		FALSE
26/04/2022	Ordinary Council	93/22	Options for Randell's Workmen's Cottages Gumeracha	Nil	1. That the report be received and noted. 2. To rescind parts 3 to 6 of resolution numbered 77/19 of 26 March 2019 thereby removing the requirement to pursue a land division application and Expression of Interest process for the reuse of the Randell's Workmen's Cottages for tourist accommodation or some other use. 3. That the Chief Executive Officer undertakes further scoping and costing for option 4, as outlined in the 26 April 2022 report, for undertaking minor works on the cottages to prevent further deterioration. 4. That the results of the scoping and costing exercise be considered as part of the 2023/24 budget preparation process.	Terry Crackett	In Progress	Commenced in accordance with resolution. Sept 22 - Team Leader property projects is currently seeking costings for the works as per the resolution. Oct - Waiting on costings Nov 22 - collating costings with report to be submitted to Council with options at the February 2023 meeting. Dec 22 - report being prepared for February 2023 Council meeting Jan 23 - report being prepared for February 2023 Council meeting Feb 23 - report to be considered by Council at 14 Feb 2023 meeting	FALSE
24/05/2022	Ordinary Council	122/22	Purchase of Land 8 St John Road Norton Summit	Perceived - Cr Leith Mudge	I move that the matter of the purchase of land at 8 St John Road Norton Summit be brought to a workshop to ensure all members are fully aware of the situation which includes issues that have to be resolved, e.g. Council's encroachment onto Church land of the septic system and part of the CFS shed.	Terry Crackett	In Progress	Workshop scheduled for 9 August 2022. Workshop held on 16 August 2022. Investigations ongoing during September/October 2022 Nov 22 - internal investigations ongoing with report planned for Council meeting in early 2023. Dec 22 - on site meeting held to discuss possible options for new septic tank including land requirement Jan 23 - property team is seeking quotes for upgrade of septic system, Feb 23 - have given engineer go ahead for quote and design of new septic system	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
28/06/2022	Ordinary Council	157/22	Revocation of Community Land Classification - Closed Roads Mt Torrens & Norton Summit	Perceived - Cr Linda Green	That the report be received and noted A report be prepared and submitted to the Minister for Planning seeking approval for the revocation of the community land classification of the land identified as: a. Closed Road AA in Road Plan No. 2142 contained in Certificate of Title Volume 6261 Folio 496 located at Mount Torrens (Appendix 1) b. Closed Road AB in Road Plan No. 1573 contained in Certificate of Title Volume 6261 Folio 497 located at Norton Summit (Appendix 1)	Terry Crackett	In Progress	Commenced in accordance with resolution. Council staff have written to the Minister for Local Government (Hon. Geoff Brock) seeking the Revocation of Community Land Classification. Oct 22 - Waiting on response from Minister Nov 22 - Awaiting response from Minister Dec 22 - Awaiting response from Minister Jan 23 - Response from Minister received 10/1/2023 - in favour of Revocation. Next steps are to prepare next report to Council to progress with the sale of the Closed Road Land (March 2023 Meeting).	FALSE
28/06/2022	Ordinary Council	166/22	Warren Road Birdwood Blackspot - Confidential Item	Nil	See Confidential Minute	Peter Bice	In Progress	In Progress	TRUE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
28/06/2022	Ordinary Council 167/22		Warren Road Birdwood Blackspot - Duration of Confidentiality	Nil	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 18.1 in confidence under sections 90(2) and 90(3)(d) of the <i>Local Government Act 1999</i> , resolves that an order be made under the provisions of sections 91(7) and (9) of the <i>Local Government Act 1999</i> to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReportUntil all resolutions are executed, but not longer than 28 June 2023Related AttachmentsUntil all resolutions are executed, but not longer than 28 June 2023MinutesUntil all resolutions are executed, but not longer than 28 June 2023	Peter Bice	In Progress	In Progress	FALSE
28/06/2022	Ordinary Council 172/22		Ashton Landfill - Confidential	Nil	See Confidential Minute	Peter Bice	In Progress	Matter continues to be progressed. Further updates will be provided when a material change occurs.	TRUE
28/06/2022	Ordinary Council 173/22		Ashton Landfill - Duration of Confidentiality	Nil	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 18.3 in confidence under sections 90(2) and 90(3)(i) of the <i>Local Government Act 1999</i> , resolves that an order be made under the provisions of sections 91(7) and (9) of the <i>Local Government Act 1999</i> to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReport28 June 2024Related Attachments28 June 2024Minutes28 June 2024OtherNIL	Peter Bice	In Progress	Matter continues to be progressed.	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
28/06/2022	Ordinary Council	175/22	Fabrik Tender & Contract - Confidential Item	Nil	See Confidential Item	Terry Crackett	In Progress	Oct 2022 - Building 21 Contract has now been finalised. Contracts for remainder of buildings in process of being finalised. Nov 22 - remaining contracts in process of being finalised. Dec 22 - External works contract in process of being finalised which will be the last of the four contracts to be executed. Jan 23 - External works contract to be signed early 2023 Feb 23 - awaiting signing of external works contract	TRUE
26/07/2022	Ordinary Council	182/22	Policy Review - Festivals and Events	Nil	That the report be received and noted. To undertake public consultation on the Draft July 2022 <i>Festivals and Events Policy</i> and the CEO prepares a report for Council.	Rebecca Shepherd	In Progress	We have commenced phase 1 of consultation on the Festival & Events Policy with a general invitation to our community and event attendees to provide feedback on events until the end of March. Phase 2 will commence in February and include more direct engagement around the Policy. https://engage.ahc.sa.gov.au/festivals-and-events-in-the-adelaide-hills	FALSE
23/08/2022	Ordinary Council	206/22	MON Undergrounding of Power Lines Lobethal, Mt Torrens & Woodside	Nil	That the CEO investigates the potential for undergrounding of power lines in: Main Street and portion of Lobethal Road, Lobethal; Onkaparinga Valley Road (Main Street) Woodside; and Townsend Street, Mount Torrens and, after consultation with the Power Lines Environment Committee, provides a report to Council by 28 February 2023.	Peter Bice	In Progress	Preliminary investigations have commenced, ahead of more detailed investigations to occur closer to the report deadline. It has been determined that this item will be included in the March report relating to Main Street upgrades.	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
23/08/2022	Ordinary Council	209/22	Proposed Road Closure – Unmade Public Road adjacent to 9 Fidlers Hill Road Inglewood	Nil	That the report be received and noted;The land marked "A" in Preliminary Plan No. 22/0025 (known as the Road Land) be declared surplus to Council's requirements;That the Chief Executive, or his delegate, are authorised to negotiate with the owners of 9 Fidlers Hill Road, Inglewood for the sale and transfer of the piece marked "A" in Preliminary Plan No. 22/0025 for the sum of \$27,250 plus GST, together with all fees and charges associated with the road closure process;Subject to agreement from the owner of 9 Fidlers Hill Road, Inglewood to purchase the Road Land for the sum of \$27,250.00 plus GST, to make a Road Process Order pursuant to the <i>Roads (Opening & Closing) Act 1991</i> to close and merge the pieces of land identified as "A" in the Preliminary Plan No. 22/0025 attached to this report with Section 171 Hundred of Para Wirra comprised in Certificate of Title Volume 5426 Folio 204;That upon the deposit of the Road Closure, the land will be excluded from the classification of Community Land and not be included in Council's Community Land Register;Council staff to provide advice to the new landowner on how to best manage the biodiversity values of the site. If Agreement is not reached with the owner of 9 Fidlers Hill Road to transfer the land, then the land will continue to be held by Council;That the Chief Executive Officer is authorised to finalise and sign all necessary documentation to close and sell the above portion of closed road pursuant to this resolution.	Terry Crackett	Completed	<p>Sept 22 - Roads Officer liaising with property owner re transfer and road closure finalisation.</p> <p>Oct 22 - Roads officer continuing to liaise with all parties to finalise the matter</p> <p>November 22 - Plans and documents have been lodged with the Surveyor-General. Applicants have made payment for the land purchase. Awaiting deposit of plans and gazettal of Road Closure</p> <p>December 22 - Awaiting deposit of plans and gazettal of Road Closure</p> <p>Government Gazette Notice issued 15 December 2022. Road now formally closed</p>	FALSE
23/08/2022	Ordinary Council	230/22	East Waste Recycling Contract – Duration of Confidentiality	Nil	<p>to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item</p> <p>Duration of Confidentiality</p> <p>NB: Item to be reviewed every 12 months if not releasedReport23 August 2024Related Attachments23 August 2024Minutes23 August 2024Other23 August 2024</p> <p>Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i>, the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.</p>	Peter Bice	In Progress	Confidential material remains sensitive and could reasonably be expected to prejudice the commercial position of the person who supplied the information.	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
23/08/2022	Ordinary Council	234/22	Revised East Waste 2022-23 Annual Plan & Budget – Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReportNil Related Attachments Appendix 1 Appendix 2 23 August 2024 NilMinutesNilOtherNil Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.	Peter Bice	In Progress	Confidential material remains sensitive and could reasonably be expected to prejudice the commercial position of the business who supplied the information.	FALSE
23/08/2022	Ordinary Council	236/22	Ministerial Exemption – Confidential Item	Nil	Refer to Confidential Minute	Peter Bice	In Progress		TRUE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
23/08/2022	Ordinary Council	237/22	Ministerial Exemption - Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 23 August 2024 Related Attachments 23 August 2024 Minutes 23 August 2024 Other 23 August 2024 Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.	Peter Bice	In Progress		FALSE
27/09/2022	Ordinary Council	252/22	Options to reduce traffic congestion Bridgewater Primary School	Nil	1 Council explores the options to reduce traffic congestion and improve child safety in the vicinity of Bridgewater Primary School and provides a report to Council on the outcomes of: i. Contacting the owners of 23 Morella Grove Bridgewater (CT 5473/109) to discuss the possibility of purchasing a section of their property along the southern end of Lezayre Avenue or Morella Grove as shown in Appendix 1. ii. Writing to the Department of Education and Bridgewater Primary School to determine the possibility of transferring a section of Department of Education land to become an extension of Morella Grove as shown in Appendix 2.	Peter Bice	Completed	Verbal and written contact has been made with the owner of 23 Morella Grove, who has advised that they are not willing to sell any portion of their land to Council. Written contact has been made with the Department for Education, and a follow up meeting has occurred, highlighting issues with the practicality of the proposal.	FALSE
27/09/2022	Ordinary Council	253/22	Options to reduce traffic congestion Bridgewater Primary School - traffic study	Nil	Formal Motion from 27/9/22 - That item 11.1.1, Options to reduce traffic congestion Bridgewater Primary School – Traffic Study, be deferred until the January 2023 meeting of Council.	Peter Bice	Completed	No further action required until January meeting.	FALSE
27/09/2022	Ordinary Council	254/22	MON Coach Parking	Nil	That the CEO prepares a report into the viability of a Coach Parking space in Stirling and adjacent environs by 31 January 2023.	Peter Bice	In Progress	Council staff have met with a representative of the SBA to garner their views. Council staff have engaged a suitably qualified traffic engineer to provide specialist advice about options to accommodate coaches in Stirling, however due to Christmas shutdown, their advice will not be ready by the January meeting. Accordingly, and in discussion with the mover, the report will be provided to Council in February.	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
25/10/2022	Ordinary Council	273/22	MON Parking & Road Safety Wattle Tree Road Bridgewater	Nil	I move that a report be presented back to Council by January 2023 covering the following: The current safety of Wattle Tree Road for motorists, and what could be done to improve safety in the long term. Possible solutions for on-street parking in Wattle Tree Road.	Peter Bice	In Progress	Council have ordered Crest warning signs for installation at this location. Council have engaged a consulting traffic engineer for further advice about what could be achieved at this location, however due to Christmas shutdown, their advice will not be ready by the January meeting. Accordingly, and in discussion with the mover, the report will be provided to Council in February.	FALSE
29/11/2022	Ordinary Council	295/22	Time and Place of Meetings	Nil	1. The report be received and noted. 2. Commencing 2022 until 28 February 2024, Ordinary Council Meetings will be held at 63 Mt Barker Road, Stirling and are scheduled to commence at 6.30pm on the second and fourth Tuesday of the month, except for: December 2022 (Tuesday 20 December 2022) January 2023 (Tuesday 24 January 2023) December 2023 (Tuesday 19 December 2023) January 2024 (Tuesday 23 January 2024) 3. The Chief Executive Officer be authorised to adjust the Ordinary Council Meeting schedule, including time and place of the meeting, where matters necessitate a change such as a meeting date occurring on a public holiday, catastrophic fire danger day or other valid reason. 4. Commencing 2022 until 28 February 2024, times and venues for Special Council Meetings, requested in accordance with the legislative provisions, are to be determined by the Chief Executive Officer. 5. Commencing 2022 until 28 February 2024, Information or Briefing Sessions are scheduled as follows: a. Workshops scheduled ordinarily at 6.30pm on the first Monday of each month, held at 36 Nairne Road, Woodside, except for January. b. Professional Development Sessions scheduled ordinarily at 6.30pm on the third Tuesday of each month, held at 63 Mt Barker Road, Stirling, except for December and January. 6. The Chief Executive Officer be authorised to schedule	David Waters	In Progress	All meetings as per the schedule have been booked. No policy changed required. This item will remain open until the evaluation has been completed.	FALSE
20/12/2022	Ordinary Council	291/22	Mt Barker Adelaide Hills Transport Study	Nil	1. That the report be received and noted. 2. That Council acknowledges and provides its support for conduct of a transport study for the Adelaide Hills community. 3. That the letter contained in Appendix 4 be endorsed as the Council's submission into the current stage of the Mount Barker/ Adelaide Hills Transport Study. 4. That the Mayor and Chief Executive Officer be authorised to make any minor or non-substantive changes in finalising the letter, including the inclusion of any matters arising from the debate on this item. 5. That the Mayor and Chief Executive Officer be authorised to represent the Council's position in direct engagement with relevant government representatives.	Peter Bice	In Progress		FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
20/12/2022	Ordinary Council	293/22	Substantive CEO Recruitment	Nil	<ol style="list-style-type: none"> 1. That the report be received and noted. 2. To manage the Substantive CEO recruitment process with a Recruitment Consultant, to be procured by the Administration. 3. To undertake a CEO remuneration benchmarking exercise utilising the Recruitment Consultant. 4. To adopt a Bespoke Selection Panel model for the Substantive CEO Selection Panel. 5. To satisfy the provisions of Section 98(4a) of the <i>Local Government Act 1999</i> by determining a Qualified Independent Person prior to considering recommendations for appointment to the Substantive CEO position. 6. That the Substantive CEO Selection Panel: Will have the following functions: in collaboration with the Recruitment Consultant: to review and finalise the CEO Position Description (consistent with the provisions of s99 of the Act); determine the market approach (mix of media) and candidate assessment tools; and division of recruitment actions and responsibilities to shortlist and assess candidates in order to determine a preferred candidate(s); and make a recommendation to Council for appointment of a preferred candidate and the terms and conditions of appointment. Will consist of five (5) members as follows: Mayor; Deputy Mayor; Presiding Member of the CEO Performance Review Panel; and two (2) Ordinary Members. The Presiding and Deputy Presiding Member of the Substantive CEO Selection Panel will be the Mayor and Deputy Mayor. 	David Waters	Completed	Remuneration benchmarking exercise is complete. Selection Panel has met on 19 and 31 January. Recruitment Consultant (McArthur) has been engaged.	FALSE
20/12/2022	Ordinary Council	294/22	Substantive CEO Recruitment - Members of Recruitment Panel	Nil	Council resolves to appoint Cr Mark Osterstock and Cr Kirsty Parkin as Ordinary Members of the Substantive CEO Selection Panel.	David Waters	Completed	Selection Panel has been formed and met on 19 and 31 January 2023.	FALSE
20/12/2022	Ordinary Council	295/22	Cemetery Operating Policy	Nil	<ol style="list-style-type: none"> 1. That the report be received and noted. 2. With an effective date of 3 January 2023, to revoke the 24 August 2021 <i>Cemetery Operating Policy</i> and to adopt the 20 December 2022 <i>Cemetery Operating Policy</i> as per Appendix 1. 3. That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the 20 December 2022 <i>Cemetery Operating Policy</i> as per Appendix 1 prior to the date of effect. 	Terry Crackett	In Progress	Jan 23 - final changes being made to Cemeteries operating policy Feb 23 - final changes being made to Cemeteries operating policy	FALSE
20/12/2022	Ordinary Council	296/22	GAROC Membership	Material - Mayor Jan-Claire Wisdom	To endorse the nomination of Mayor Jan-Claire Wisdom for the Greater Adelaide Regional Organisation of Councils and authorise the Chief Executive Officer to lodge the completed nomination form to the Local Government Association. That the Chief Executive Officer, on behalf of Council, writes to all Elected Members who represent the Eastern Region of Councils for GAROC seeking their support on behalf of the community of the Adelaide Hills for Mayor Jan-Claire Wisdom to fill the vacancy.	David Waters	In Progress	Nomination forms were lodged by required timeframe. Lobbying of other councils will occur when the voting papers are delivered to councils	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
20/12/2022	Ordinary Council	303/22	Surplus Government Land Notification	Nil	See Confidential Minute	Terry Crackett	In Progress		FALSE
20/12/2022	Ordinary Council	304/22	Surplus Government Land Notification	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first. Related Attachments Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first. Minutes Until the land has been placed on the open market by the State Government or until the State Government authorises release of the information, whichever event occurs first. Other (presentation, documents, or similar) NIL	Terry Crackett	In Progress		FALSE
20/12/2022	Ordinary Council	306/22	Citizen of the Year Awards 2023	Nil	See Confidential Minute	Rebecca Shepherd	Completed	The item is no longer in confidence.	FALSE
20/12/2022	Ordinary Council	307/22	Citizen of the Year Awards 2023	Nil	retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 26 January 2023 Related Attachments 26 January 2023 Minutes 26 January 2023 Other Nil	Rebecca Shepherd	Completed	The item is no longer in confidence	FALSE
20/12/2022	Ordinary Council	309/22	Appointment of External Auditor	Nil	See Confidential Minute	David Waters	In Progress	Contract with preferred provider is in the process of being executed by both parties.	FALSE
20/12/2022	Ordinary Council	310/22	Appointment of External Auditor - Duration of Confidentiality	Nil	retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 31 December 2024 Related Attachments 31 December 2024 Minutes Until Council has appointed an External Auditor for the 30 June 2023 financial year. Other (presentation, documents, or similar) NIL	David Waters	In Progress	Contract for the preferred provider is in the process of being executed by both parties.	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
24/01/2023	Ordinary Council 3/23		Questions adjourned - Options to reduce traffic congestion and improve child safety adjacent to Bridgewater Primary School	Nil	<ol style="list-style-type: none"> 1. That the report be received and noted. 2. That following the completion of the Child Care development, and in liaison with the Department for Education, Council Staff undertake a Traffic Monitoring Study of the local road network in the vicinity of Bridgewater Primary School including Lezayre Avenue, Morella Grove, Trenouth Street and Shannon Road. 3. That a report be brought back to Council within 6 months of the opening of the Childcare Centre. 	Peter Bice	In Progress		FALSE
24/01/2023	Ordinary Council 5/23		MON First Nations use of Surplus Land	Material - Cr Adrian Cheater	<p>That the CEO investigates the feasibility, including yet not limited to the implications for Council, of providing preference to traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills, to purchase, lease or use vacant land, at no cost to Council, that is:</p> <ol style="list-style-type: none"> a. owned by Council; or b. crown land under the care and control of Council, that is surplus to Council's needs. <ol style="list-style-type: none"> 1. The Adelaide Hills Reconciliation Working Group (AHRWG), traditional custodians and other Aboriginal and Torres Strait Islander stakeholders who live, work or have a strong connection to the Adelaide Hills be consulted as part of this investigation. 2. The outcomes of the investigation be discussed at a workshop and a report including recommended changes to relevant policy be presented to Council for consideration not later than 30 June 2023. 	Terry Crackett	Not Started	Feb 23 - not yet commenced	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
24/01/2023	Ordinary Council 7/23		First Nations and Australia Day	Nil	That Council 1. Reaffirms its commitment to being an inclusive council that respects First Nations culture and values 2. Acknowledges the 26th of January is a day of mourning for many First Nations people 3. Requests the Chief Executive Officer prepares a report for Council's consideration on the proposal to move citizenship ceremonies, award ceremonies and related events to a date other than 26 January from 2024 onwards.	Rebecca Shepherd	In Progress	Initial discussions regarding stakeholder engagement have occurred.	FALSE
24/01/2023	Ordinary Council 9/23		Adelaide Hills Reconciliation Working Group - appointment	Nil	1. That Cr Adrian Cheater be appointed to the Reconciliation Working Group for the term 28 February 2023 to 28 February 2025. 2. That Cr Kirrilee Boyd be appointed as Proxy to the Reconciliation Working Group for the term 28 February 2023 to 28 February 2025.	Rebecca Shepherd	Completed	Meeting dates for the 2023 term of the AHRWG have now been set and the members informed of the Council representatives for both Adelaide Hills Council and Mount Barker District Council	FALSE
24/01/2023	Ordinary Council 10/23		Nomination for Premier's Climate change Council - appointment	General - Cr Melanie Selway	Council resolves to nominate Cr Adrian Cheater & Cr Leith Mudge for the Premier's Climate Change Council and authorises the Chief Executive Officer to lodge the completed nomination form to the Local Government Association by COB Friday 10 February 2023.	David Waters	In Progress	Nomination forms have been provided to both candidates.	FALSE
24/01/2023	Ordinary Council 12/23		Submission to the Expert Panel Planning System Implementation Review	Nil	1. That the report be received and noted. 2. To approve the Adelaide Hills Council submission on the Expert Panel Planning Implementation Review as contained in Appendices 1 & 2. 3. That the Acting Chief Executive Officer be authorised to make any additional non-substantive technical additions and minor editorial amendments to the submission prior to lodgement with the State Planning Commission no later than 30 January 2023.	Natalie Armstrong	Completed	Submission finalised and lodged with the State Planning Commission	FALSE
24/01/2023	Ordinary Council 13/23		Request to Waive Land Management Agreement requirement for building Setback at 9 Woodland Way Teringie	Material - Cr Leith Mudge Material - Cr Nathan Daniell	1. That the report be received and noted. 2. That pursuant to clause 9.2 of the Land Management Agreement registered on Certificate of Title Volume 5391 Folio 572, known as 9 Woodland Way Teringie, Council does not agree to the waiver of the land owner's obligations in relation to clause 2 for building setbacks, subject to the Council Assessment Panel granting Planning Consent to Development Application 22022313 for the two storey dwelling addition. 3. The Acting Chief Executive Officer be authorised to provide written communication of Council's refusal of the waiver of Land Management Agreement obligations above to the land owner.	Natalie Armstrong	Completed	Letter signed by the CEO sent to the land owner advising the decision of Council	FALSE

Meeting Date	Meeting	Res No.	0	Previously Decl	Action Required (Council Resolution)	Responsible Direct	Status	Status (for Council reporting)	Confidential
24/01/2023	Ordinary Council 14/23		37 Yanagin Road Greenhill Revocation of Community Land Classification and Land Swap with Yanagin Reserve	Nil	1. That the report be received and noted. 2. That Council commences a revocation of community land process for the land identified in Appendix 2 including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of undertaking a land swap with the owners of 37 Yanagin Road, Greenhill, together with varying the existing Heritage Agreement over Yanagin Reserve. 3. That a report be brought back to Council following completion of the Community Consultation process.	Terry Crackett	In Progress	Feb 23 - materials for public consultation in process of being prepared	FALSE
24/01/2023	Ordinary Council 20/23		18.1.1 Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority	Nil	See Confidential Minute	David Waters	Not Started		TRUE
24/01/2023	Ordinary Council 21/23		18.1.1 Appointment of Audit & Risk Committee Independent Members to the Adelaide Hills Region Waste Management Authority	Nil	retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not released Report 30 June 2023 Related Attachments Nil Minutes 30 June 2023 Other (presentation, documents, or similar) Nil	David Waters	Not Started		TRUE

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
AGENDA BUSINESS ITEM**

Item: 13.1

Responsible Officer: Kira-marie Laverty
Corporate Planning & Performance Coordinator
Office of the Chief Executive

Subject: Quarterly Council Performance Report – Q2 2022-23

For: Information

SUMMARY

As a local government entity, Council has a number of legislative obligations regarding the preparation and distribution of corporate planning and reporting information to the elected body and the community. In addition to these mandated requirements, Council has over time created a number of additional elements to improve the integration, transparency and accountability of its activities. The Quarterly Council Performance Report is just one of these elements.

A revised suite of corporate performance indicators and targets were developed in consultation with Council Members, the Strategic Leadership Team and relevant officers as part of the *2020-21 Annual Business Plan* process and have continued to be incorporated into the *Annual Business Plan 2022-23*. These were aligned to the new *Strategic Plan 2020-24 – A brighter future* adopted in April 2020.

The Quarterly Council Performance Report for Q2 (**Appendix 1**) covers the period 1 October 2022 to 31 December 2022, and shows the performance against the corporate performance indicators as well as discussing key highlights aligned with the Strategic plan.

The purpose of this report is to provide information on Council's performance against the *Annual Business Plan 2022-23* targets and aspirations.

RECOMMENDATION

Council resolves that the report be received and noted.

1. BACKGROUND

At its 19 June 2018 meeting, Council adopted (Res 128/18) the *Corporate Planning & Performance Framework*, of which a key element was the establishment of a suite of Corporate Business Performance Indicators which are aligned with Adelaide Hills Council's Strategic Plan goals and will enable the tracking of performance over time.

Over the 2019-20 financial year, Quarterly Council Performance Reports were drafted showing the performance against the Corporate Performance indicators, strategic initiatives and key activities of the *2019-20 Annual Business Plan*.

A revised suite of corporate performance indicators and targets were developed in consultation with Council Members, the Strategic Leadership Team and relevant officers as part of the 2020-21 Annual Business Plan process. These were aligned to the new *Strategic Plan 2020-24 – A brighter future* adopted in April 2020. These indicators have continued to be used in the *Annual Business Plan 2022-23*.

A change was made to the timing of reports during the 2021-22 financial year and will continue into the 2022-23 financial year. Reports are provided to Council and the Audit Committee at the next meeting directly following the end of the quarter. This may mean that some quarterly reports go to the Council meeting prior to the Audit Committee.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal A progressive Organisation

Objective O5 We are accountable, informed, and make decisions in the best interests of the whole community

Priority O5.3 Demonstrate accountability through robust corporate planning and reporting that enhances performance, is relevant and easily accessible by the community

The Quarterly Council Performance Report is part of the performance reporting suite contained in the *Corporate Planning & Performance Framework*.

➤ Legal Implications

Chapter 8 - Administrative and financial accountability of the *Local Government Act 1999* sets out the key legislative obligations regarding corporate planning and reporting obligations, as follows:

- S122 – Strategic management plans – development, content requirements, consultation, review and availability of strategic plan, asset management plan and long-term financial plan
- S123 – Annual business plans and budgets - development, content requirements, consultation, review and availability of annual business plan and budget
- S127 – Financial statements – preparation, content, auditing and availability of the financial statements
- S131 – Annual reports – preparation, content, distribution and availability of the annual report

Additional requirements are contained in the *Local Government (General) Regulations 2013* and the *Local Government (Financial Management) Regulations 2011*.

➤ **Risk Management Implications**

Quarterly Council Performance Reporting will assist in mitigating the risk of:

Ineffective performance management and reporting processes leading to poor performance and/or loss of stakeholder confidence

Inherent Risk	Residual Risk	Target Risk
Extreme (4B)	Low (3E)	Low (3E)

Note that there are many other controls that assist in mitigating this risk. The quarterly performance reports are part of the current control suite and therefore there is no additional mitigating impact of this report.

➤ **Financial and Resource Implications**

The Corporate Planning & Performance Coordinator role, which coordinates the performance reporting function, is funded in the Governance & Performance Department budget.

Quarterly Council Performance Reporting assists in showing the financial and resource performance to plan as per the targets, initiatives and activities outlined in the *Annual Business Plan 2022-23*.

As part of the development of the budget outlined in the *Annual Business Plan 2022-23*, a series of Savings Strategies were developed to help address emerging cost pressures and to improve Council's Operating Surplus over the period of the Long Term Financial Plan. The adopted strategies totalled \$650k in savings, and a page dedicated to reporting on the progress of these strategies has now been included in the quarterly report.

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

Providing integrated, consultative corporate planning and effective and transparent performance reporting to the Council and community has the potential to increase the level of trust and confidence in Council.

➤ **Sustainability Implications**

Quarterly Council Performance Reporting assists in demonstrating the outcomes related to Council's economic, social and environmental initiative.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

<i>Council Committees:</i>	Not applicable
<i>Council Workshops:</i>	Not applicable
<i>Advisory Groups:</i>	Not applicable
<i>External Agencies:</i>	Not applicable
<i>Community:</i>	Not applicable

3. OPTIONS

As this is an information report, Council is limited to receiving and noting the report, however additional feedback can be provided to the Governance and Performance team for consideration of future enhancements within the ongoing reports.

4. APPENDIX

(1) *Quarterly Council Performance Report – Q2 2022-23*

Appendix 1

Quarterly Council Performance Report – Q2 2022-23

Quarterly Council Performance Report

Quarter 2 – 1 October – 31 December 2022



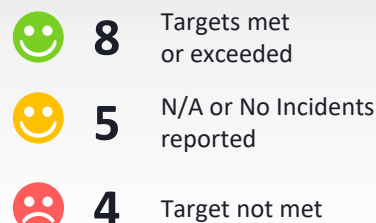
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1. Executive Summary



Customer Service Standards



Capital Performance

\$2.6m of infrastructure delivered

\$5.7m of infrastructure ordered

The primary focus of this quarter has been on scoping new projects, as well as commencing construction on projects that were designed in 2021-22 Financial Year.

Highlights

- On-boarding of newly elected Council commenced following the elections, with an undertaking ceremony, induction day, the first Council Meeting and additional workshop sessions.
- David Waters commenced as Acting Chief Executive Officer from 30 September until the substantive CEO recruitment process is completed.
- A Feasibility Study commenced for the Adelaide Hills (War Memorial) Swimming Centre (AHWMSC) at Woodside to determine the remaining asset life of all facilities at the pool site.
- The new externally funded Community Resilience Team are now on board and are implementing a range of strategies which include working closely with communities in developing area specific emergency response plans alongside Red Cross and with expert advice from CFS.
- Mobile library van fit-out was completed with the refreshed service launched on 1 November 2022.
- The Kurna place names proposed for Hamilton Hill Reserve have been endorsed by Kurna Warra Karpanthi
- A recognition strategy for volunteers was implemented which provides them with length of service badges for every 5 years
- A consultant has been engaged to undertake the Service Review for Development Services which will commence in February 2023.
- Bird In Hand Road Woodside received 626 m² of asphalt patching as part of the LRCIP funding program, consuming 165 tonnes of asphalt.
- Council activated emergency management arrangements to support the Renmark-Paringa Council, Berri-Barmera and Mid-Murray councils with flood related responses. Council's Incident Operations Manual, which provides operational guidance and direction to relevant Council staff when responding to emergency events was utilised.

Risk and Challenges

- Financial pressures resulting from escalating costs continue to grow. Strategies to mitigate extraordinary rate rises are being developed for consideration in the review of the Long Term Financial Plan
- Late spring & early summer rains hampered land owners slashing or clearing their land prior to the start of the bushfire season. Additional time was permitted for land owners to undertake these works
- Storm Event in November created significant damage and required resourcing to respond

2. Adelaide Hills Council Major Projects

Implementation of the Community and Recreation Facilities Framework

The Community & Recreation Facilities Framework was developed to support the management of Council and Community owned facilities.

This framework will be progressively implemented over a three year period.

Latest News

Discussions have commenced with tenants and occupiers of Council facilities in relation to the roll out of the Framework, as well as a question and answer document distributed to all occupiers in Dec 2022.

The drafting of leases/management agreements have commenced with Council’s lawyers. These drafts are anticipated to be ready for discussion with tenants in late Jan/Feb 2023.

Rather than conducting community meetings, one on one meetings are being facilitated with interested Clubs.



FABRIK Development

The FABRIK Development Project involves upgrading and enhancing the former Onkaparinga Woollen Mills site at Lobethal to create an arts and heritage hub in the central Adelaide Hills.

Latest News

Upgrade works to Building 21 are 75% complete which includes the toilets, kitchenette, store rooms, electrical, fire safety and sewer connections.

The Slab and footings have been poured for the new Pavilion building.

The internal demolition works occurring in Building 20 are now 75% complete.



Gumeracha Library improvements

The upgrade to the Gumeracha Library and Service Centre is aimed at making the space more welcoming and user-friendly. This includes updating the furniture, shelving, service counter and general layout.

Latest News

Feedback received through the community engagement process was reviewed and taken into account in finalising the concept plans.

Further work was also undertaken to finalise the upgrade plans, including referral to an engineer for input on structural modifications to the service desk and to a Disability Access Consultant for input on desk heights. Detailed drawings were completed for the service desk, computer desks and children's area.

An inventory of items for retention and disposal was collated and procurement documentation was prepared. Quotes for construction and furniture/fittings will be sought in Quarter 3.



Heathfield School Courts including Canteen and Storage upgrades

This project is a unique collaboration between Council, local clubs, the High School, the Education Department and the Office for Recreation and Sport.

The four court facility will provide improved sporting amenity for the local community, the High School and facilitates great connections between the High School and the adjacent Heathfield Oval..

Latest News

New courts, lighting, toilets and access paths have been completed, and construction is due to commence on a canteen and storage amenity for club use in Quarter 2 of the financial year



Towards Community Led Emergency Resilience Program (TCLERP)

Following on from the Community Resilience and Readiness pilot, the program has evolved to focus on community led emergency preparedness. The name of the program also changed to be Toward Community Led Emergency Resilience Program (TCLERP).

The program has several areas of focus including:

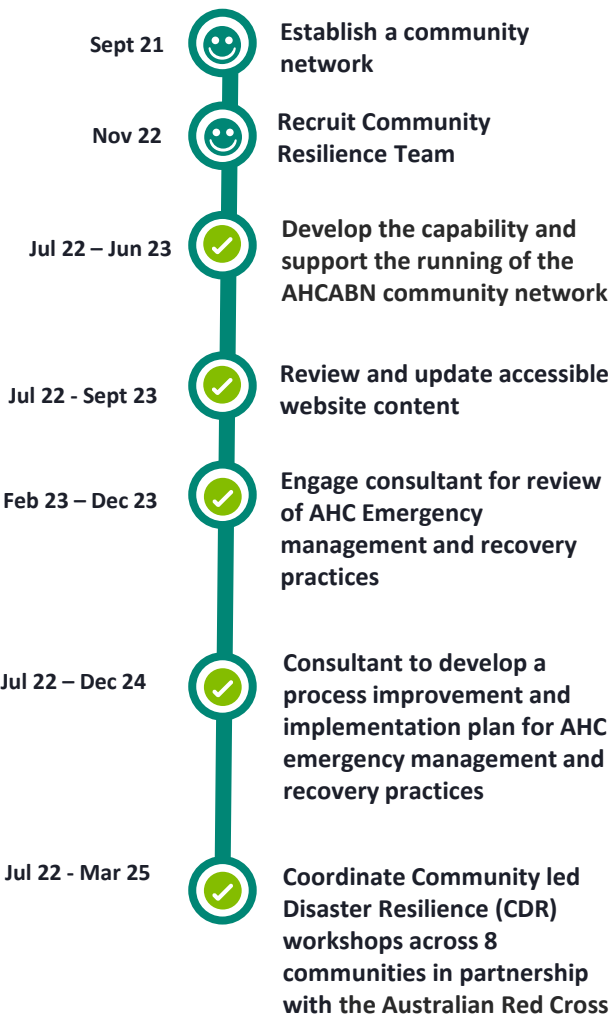
- Community Engagement
- Psychological and emotional emergency preparedness community education
- Recovery ready halls project – emergency preparedness for select community facilities
- Vegetation management project – ensuring practices are based on best fire science and within shared land owners existing capacity

Latest News

Recruitment of the new Community Resilience team members is complete.

Activities over the quarter have included:

- Support provided to Adelaide Hills Community Action Bushfire Network (AHCABN) through administration and facilitation of workshops.
- Two new webpages created on preparedness and recovery topics
- Community engagement undertaken to coordinate Community Led Disaster Resilience workshops in Houghton, Scott Creek, Bradbury, Longwood, Ironbank, Summertown and Uraidla.
- Completed training with “Emerging Minds” to enable delivery of workshops about psychological preparedness for children. Exploration into a collaboration with Department of Human Services for a workshop series addressing coping skills and resilience in children.
- Internal consultation underway on the draft guidelines for the Recovery Ready Halls project
- Internal consultation completed on processes relating to fire mitigation and vegetation management.



3. Performance by Strategic Goal

A functional Built Environment

Highlights

- ✓ **New Bus Station Installation Program**
 - An order has been placed for new bus shelters at:
 - Mount Barker Rd, Bridgewater,
 - Longwood Rd, Heathfield,
 - Upper Sturt Rd, Upper Sturt,
 - Main Street, Crafers,
 - Cooper Rd, Mylor
 - Previous manufacturer has advised they will no longer make bus shelters, so Council has negotiated the purchase of their remaining stock.
- ✓ **New and Upgraded Footpaths**
 - New footpath works were undertaken at Glen Stuart Rd, Rostrevor; Atkinson Rd, Crafers; and Victoria St, Gumeracha.
- ✓ **Building Upgrades (Minor)**
 - Two broken BBQs at Steamroller Park have been replaced and fitted with a monitoring system that informs staff when they have been used enabling timely cleaning and more efficient maintenance.
- ✓ **Community and Recreation Facilities Framework Implementation**
 - Meetings with clubs have commenced to discuss Framework obligations and impacts. These meetings will continue into 2023.
 - Leases and management agreements are in the process of being drafted and should be ready for discussion with occupiers of premises by the end of Feb 2023
- ✓ **Operational worksite review including forward planning**
 - Stirling Transportable upgrade completed prior to Christmas with Rangers moving in in late 2022.
 - Plans are being developed for moving staff from Woodside Office to Stirling.
- ✓ **Feasibility Studies for future projects**
 - A feasibility study is currently being undertaken for the Adelaide Hills (War Memorial) Swimming Centre (AHWMSC) at Woodside. The study will provide recommendations for future considering aspects such as asset life and condition, site usage and trends, as well as linkages with wider woodside assets and activities.
- ✓ **Federation Park and Oval masterplan implementation**
 - Design and construction of a new path has been released for tender, which will be constructed as part of the toilet upgrade.
- ✓ **Investigate and Implement central irrigation control system**
 - Despite the slight delay due to contractor availability, there are nine sites which have new control systems installed.
 - Awaiting audit results relating to irrigation system renewals and upgrades to look at potential future sites
- **Cemeteries Upgrades**
 - A revised *Cemeteries Operating Policy* was adopted in Dec 2022.
 - Enfield Memorial Park visit undertaken to assist in scoping any upgrades required as a result of Natural Burials at Kersbrook.
 - Continued weather events delayed upgrades to paths at Summertown Cemetery. Work is expected to commence in Quarter 3.
- ✓ **Mt Torrens Coach House Reserve Facilities**
 - Plans for the toilet block have now been finalised and a meeting held with Mt Torrens Historical society in late Dec 2022 to seek feedback on the location/siting of the facilities.
- ✓ **Sustainability**
 - All solar PV systems are now integrated onto one data management system - Solar Analytics.
 - Council contributed to a partnership established between regional and metropolitan councils on carbon offsetting for local government. This will include investigation into the feasibility of metropolitan councils being able to offset their carbon on regional council lands.
- ✓ **Strategic Planning**
 - Analysis of the 2021 census data is underway to understand the demographic changes across the district and what housing trends and challenges this presents. This will form a component of the upcoming Regional Planning process (30 year plan update).

Risks & Challenges

✗ Carbon Management Plan - Energy Upgrades, Battery & Efficiency Actions

- The property and sustainability audit is still ongoing and will identify priorities for improving energy efficiency. A key action to achieve the target of 100% renewable energy use has been challenging due to the recent Local Government Association procurement tender which did not provide an option for the purchase of 100% renewable energy. This along with increases in the cost of electricity will result in AHC not achieving its target.

✓ Civil Services

- Council's civil planned maintenance program was placed on hold this quarter as priority shifted to a risk-based and reactive approach to addressing an increased number of defects on the road network arising from the continued high rainfall.

✗ Road Safety Program

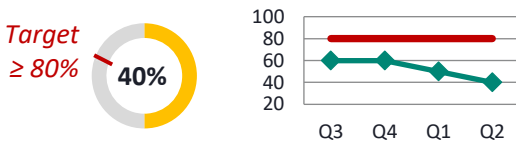
- Detailed design for Warren Rd, Woods Hill Rd and Montacute Rd black spot projects was completed and tendered ready for construction, however due to market prices, tender has been unsuccessful in securing a contractor so far.
- Delays due to continuing negotiations with Department of Infrastructure & Transport and affected landowners.

✓ Community Wastewater Management System (CWMS)

- The prolonged rain into spring created challenges in storage at our wastewater treatment facilities with a small overflow reported to the EPA during the quarter.

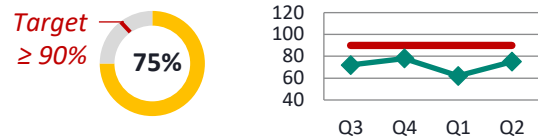
Performance Indicators

Operational tasks completed within the Civil Zone Maintenance Program



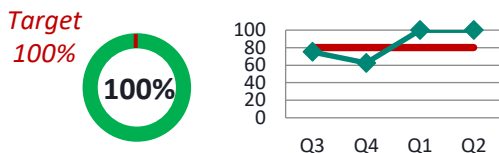
Heavy rains continued in Q2, with the impact being on the road network, with saturated pavements failing across the network. During this period, work was prioritised by risk, rather than by zone.

Delivery of capital works program



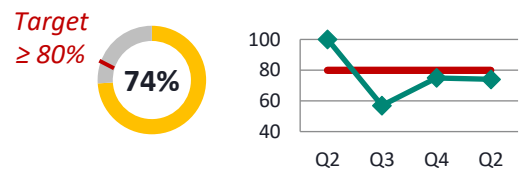
Actual expenditure is now approaching budget, but still reflects delayed projects start times in Q1, especially with regards to road projects.

Compliance inspections completed within 10 business days of development completion notification



During Quarter 2 there were 98 inspections undertaken by the building team. Seventeen (17) inspections were as a result of notifications for completion of works. Of these seventeen inspections 100% were carried out within 10 business days.

Compliance inspections completed within 5 business days of notification of alleged unlawful development



*Measure changed to Bi-annual in 2022-23 ABP.

23 compliance inspections related to unlawful development were undertaken from 1 July to December 31. 17 of the 23 cases were inspected within 5 business days or 74%.

Legend: ✓ = Target Met ✗ = Target not met \geq Greater than or equal to

Progress on Strategic Initiatives from the Annual Business Plan

Project ID	Strategic Initiatives	Status
B1001	Recreation Trails & Cycling Route Upgrades	✓
B1003	New Bus Shelter Installation Program	✓
B1004	New and upgraded footpaths	✓
B1007	Recreation Trails & Cycling Routes Framework Implementation	✓
B1009	DDA Upgrades Minor access upgrades region wide (compliance)	✓
B2001	Federation Park and Oval masterplan implementation	✓
B3002	Implement irrigation systems (renewal / upgrades)	✓
B3003	Investigate and Implement central irrigation control system (region wide)	✓
B3004	Prepare turf and irrigation design/management plans for key bore water use areas	✓
B3005	Carbon Management Plan - Energy Upgrades, Battery & Efficiency Actions	✗
B4006	Asset management - Confirm Web and Connect Licences and Field Devices	✓
B4009	Building Upgrades - minor	✓
B4010	Cemeteries Upgrades	—
B4011	CWMS Capacity Upgrades (Birdwood & Woodside gravity mains)	✓
B4014	Road Safety Program including co-contribution to Road Blackspot	✗
B4015	Installation of further Electric Vehicle charging stations	✓
B4016	Purchase of Electric Vehicles cars for fleet	✓
B4041	Community and Recreation Facilities Framework Implementation	✓
B4042	Operational worksite review including forward planning	✓
B4043	Hamilton Hill - Dunfield Estate & Crest Maintenance	✓
B4044	Feasibility Studies for future projects	✓
B4045	Stormwater projects	✓
B4046	Mt Torrens Coach House Reserve Facilities	✓
B4047	Woodside School Crossing (LRCIP)	✓
B4048	Heathfield School Courts – Canteen and Storage	✓
B4049	Adelaide Hills War Memorial Swimming Pool - Splash Park Contribution (LRCIP)	—

Highlights

- ✓ **Actions from adoption of Aboriginal Place naming**
 - ✓ **Action plan**
 - Submission lodged with Kurna Warra Karpanthi (KWK) seeking endorsement of Kurna place names in Hamilton Hill reserve based on consultation with Elder Ivan Copley. This has been approved by KWK and signage under development.
 - The Crafers Gateway sign includes the words "Kurna Country"
- ✓ **Grants & Partnerships**
 - The Annual Community Grants program has been undertaken and over \$37,000 worth of community grants awarded.
- ✓ **Libraries**
 - New Mobile Library van fit-out was completed with the refreshed service launched on 1 Nov 2022.
 - *New What's On Guide* created to better communicate and promote library events and programs.
- ✓ **Volunteering**
 - End of Year Thank You event was held for AHC volunteers with 103 in attendance.
- ✓ **Public Health**
 - 12 new food businesses have opened in the area while 11 existing food businesses closed, resulting in a net increase of one new food premises this quarter.
 - There are over 3,250 aerobic wastewater systems operating in the area with approximately 97 listed as non-compliant and a further 313 not currently receiving any required maintenance. Council have sent 98 letters to owners not having any maintenance on their system as well issued five expiations and served two Compliance Notices.
- ✓ **Tour Down Under**
 - Final planning completed for the upcoming January event including entertainment, public transport, seating, refreshments, and shade.
- ✓ **Public Art**
 - Various pieces have been created and are ready for installation in Lobethal Bushland Park. This includes the "Reflections of Home" sculpture, a bespoke bench and other community content.
- ✓ **Positive Ageing**
 - Over 2,000 hours of in-home support (help in and around the home) delivered
 - Over 4,000 hours of group social support provided, including groups who attended new festive evening events aimed at reducing the feelings of loneliness at night that some have reported.
- ✓ **Youth Development**
 - Life Skills workshops and courses have included a Market Stall Ready workshop for young artists and crafters, an Introduction workshop on Entrepreneurship, and a Young Drivers Awareness Course.
 - An end-of-school-year celebration "SummerTunes" featured young musical talent from the region, including the participants of our monthly Woodside Jams program.
 - BMX riding challenge and rider education events such as "GetSToked!" and track maintenance workshops were held in Woodside.

Risks & Challenges

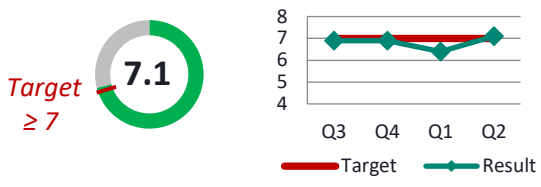
- ✗ **Support for high profile regional event**
 - The best use of this funding is currently being considered
- ➡ **Activation Arts & Heritage Hub**
 - Project listed as "Deferred" as the site is currently closed for the redevelopment
- ✗ **Play Space Framework Implementation**
 - Due to resourcing issues and competing projects, implementation of the Playspace Framework is behind schedule. This will be picked up again in early 2023 with an update provided in the next quarter
- ⊖ **Climate Change Adaption Plan Projects-All hazards emergency management**
 - Stage 1 of the project is planned to commence in March 2023 and be completed before 30 June 2023.

Performance Indicators



Positive ageing wellbeing score

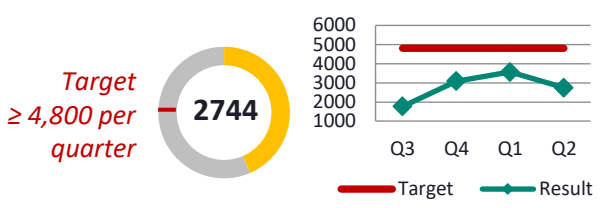
Average level of self-determined wellbeing of program participants reviewed in the quarter.



The wellbeing score has increased slightly this quarter with many clients commenting that they are coping well and have good connections with their families and friends. Clients describing a lower level of wellbeing / wellness often mentioned health concerns. The negative impact of COVID seems to be diminishing with only 1 client mentioning COVID as an issue.



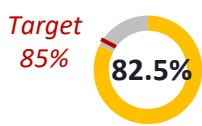
Number of volunteer hours contributed to AHC programs each year



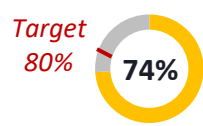
Volunteer hours have reduced due the continuing impact of COVID-19 on many of our Programs and the level of volunteering input.



Feedback from Community Centre Participants



Feel better connected to other in the community



Will use the knowledge/skills gained in the future

Many surveys undertaken at Uraidla show where participants many not have connected. Not all workshops are about gaining knowledge/skills – participants at Uraidla show weren't necessarily participating to gain knowledge in a particular area, it was more for fun/enjoyment

Legend: = Target Met = Target not met ≥ Greater than or equal to

Progress on Strategic Initiatives from the Annual Business Plan

Project ID	Strategic Initiatives	Status
C1004	Gumeracha Library upgrades (LRCIP)	✓
C1005	Stirling Region Skate Park	✓
C4006	Play Space Framework Implementation	✗
C4012	Climate Change Adaption Plan Projects-All hazards emergency management	—
C4022	Community Resilience Program	✓
C4023	Adelaide 100 Walking Route (LRCIP)	✓
C5002	Aboriginal Cultural Development	✓
C5003	Actions from adoption of Aboriginal Place naming Action plan	✓
C6001	Fabrik Activation Capital	✓
C6003	Capital Divestment - Capital Cost	✓
C6004	Activation Arts & Heritage Hub - Operating (Income)	➡
C6005	Activation Arts & Heritage Hub - Operating (Expenditure)	➡
C6006	Tour Down Under	✓
C6008	Support for high profile regional event	✗
C6009	Public Art (including acquisition)	✓

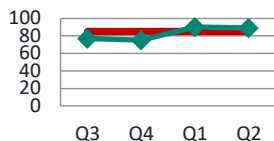
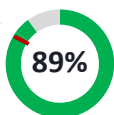
Highlights

- 
Review and upgrade Council signage and branding
 - New signage has been installed in Stirling with positive feedback received. New signage is being assessed for other Council service centres.
- 
Economic Development
 - Attended Minister Zoe Bettison's Tourism industry round table
 - Advised the Office for Small and Family Business on their engagement with small businesses within the region to help shape their new Small Business Strategy. Subsequently attended Hon Andrea Michaels MP, Minister for Small and Family Business small business roundtable.
 - Hosted Home-Based Business networking breakfast in Uraidla for around 25 attendees.
 - Prepared the November e-newsletter which was opened by 2,555 recipients.
- 
Free Camping Initiative
 - Council applied for and received an RV Dump Point from the Campervan and Motorhome Club of Australia's Camp and Dump Point program. Council has commenced the installation.
 - The Mt Torrens Hotel has submitted a Development Application to allow Camping. This is currently being assessed with a result known early in 2023.

Performance Indicators

Percentage of planning consents completed within statutory timeframes

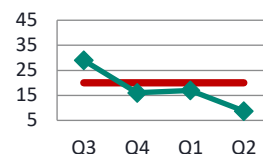
Target
≥ 85%



There were a total of 206 Planning Consents issued by Council in this quarter with 88.83% of the decisions made within statutory timeframes. There was an average assessment timeframe of 19 days during this quarter.

Average number of days for building consents

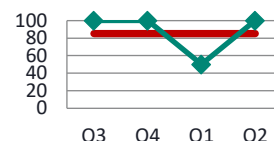
Target ≤
20 Business
Days



There were a total of 67 Building Consents issued by Council in Quarter 2 with the average assessment timeframe of these decisions being nine days. This substantial decrease in timeframes is partially attributed to a reduction in the number of Building Consents considered.

Percentage of new development application decisions upheld in Council/CAPs favour under appeal

Target
≥ 85%










During this quarter there were no new appeals lodged against Council/CAP Decisions. The deemed consent appeal was determined in this Quarter with the consent overturned and the matter remitted back to Council.

Legend: = Target Met or N/A = Target not met = N/A – cant be assessed ≥ Greater than or equal ≤ Less than or equal




Progress on Strategic Initiatives from the Annual Business Plan

Project ID	Strategic Initiatives	Status
E1003	Free Camping Initiative	
E2001	Review and upgrade Council signage and branding	
E4001	Additional Tree safety work required to support the Tour Down under	

Highlights

-  **Fire scars proactive tree management (LRCIP)**
 - All works under this program have been completed
-  **Post prescribed burn weed management**
 - 10 prescribed burn sites have been completed which are managed by various contractors.
-  **Animal Management**
 - Council's Regulatory Services team have administered over 8500 dog registrations and over 1350 cat registrations. The Regulatory Services team have dealt with over 200 dog related CRM requests and 100 cat related CRM requests to date this financial year. These requests include such as wandering animals, barking dog and contained animals for pick up etc.
-  **Emergency Management**
 - In response to a request for support received via the Local Government Functional Support Group, Council activated our emergency management arrangements to support the Renmark-Paringa Council, Berri-Barmera and Mid-Murray Councils with Flood related responses. Council's Incident Operations Manual, which provides operational guidance and direction to relevant Council staff when responding to emergency events was utilised.
-  **Native Vegetation Marker Site (NVMS) Program to protect and manage roadside vegetation**
 - Secured a \$100,000 Local Economic Recovery Grant from Landscapes Hills & Fleurieu for weed management on fire affected roadsides within the Cudlee Creek fire scar
-  **Review Unformed Public Roads to ascertain connectivity potential & habitat value**
 - Engaged consultant who has commenced an environmental desktop review
-  **Biodiversity**
 - The Woorabinda Bushland Reserves pest plant control and Riparian Biodiversity and Habitat enhancement of the Woorabinda Bushland Reserves project improved habitat quality and reduced fuel loads through Heritage Agreement and Grassroots Grants, supporting woodland birds and bandicoots while protecting adjacent residents by decreasing bushfire risk.

Risks and Challenges

-  **Resilient community facilities and open space including water fountains**
 - Awaiting information from relevant stakeholders about meter and access to Balhannah Dog Park before installation of a drinking fountain can be actioned
-  **Undertake Kerbside Waste Audits**
 - The focus in the waste and recycling management area has been on completing the high level study into Council's kerbside bin system. Now that the study has been completed kerbside waste audits will be undertaken and completed by 30 June 2023.
-  **Develop and review Council Management Plans for high value reserves**
 - Woorabinda Bushland Reserves Vegetation Management Plan will be reviewed & updated pending consultant quote outcomes.
 - Consultant quotes for the management plan review is expected to exceed budget given current financial climate and size of job.

Performance Indicators



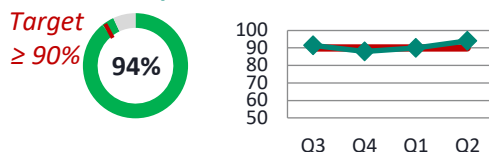
Tonnes of green organics collected on Green organics days



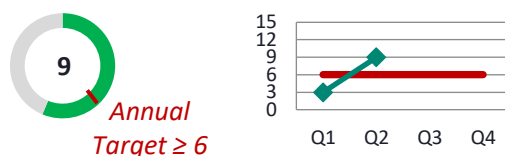
Tonnages dropped off is dependant on the season and on rate payers utilising the service.



Percentage of nuisance and litter queries resolved



Number of community education actions delivered – actioned vs planned



Legend: = Target Met = Target not met ≥ Greater than or equal to

Progress on Strategic Initiatives from the Annual Business Plan

Project ID	Strategic Initiatives	Status
N1003	Long Term Strategic Tree Planting Program	
N2003	Native Vegetation Marker Program to protect and manage roadside vegetation	
N2004	Review Unformed Public Roads to ascertain connectivity potential & habitat value	
N2005	Develop Council Encroachment Policy	
N2006	Develop and review Council Management Plans for high value reserves	
N2008	Develop informative and attractive signage in Council reserves/playgrounds	
N2010	Post prescribed burn weed management	
N2012	Fire scars proactive tree management (LRCIP)	
N3001	Local Climate Adaptations for landscape conservation	
N3002	Resilient community facilities and open space including water fountains	
N4001	Explore feasibility and benefits of a user pays kerbside bin service	
N5001	Undertake Kerbside Waste Audits	



Highlights

- ✓ **Ongoing Skytrust (WHS system) implementation**
 - The system is now being used to progress online training elements to ensure organisational compliance. The most recent training was in relation to Disability Awareness.
- ✓ **Cyber & Systems Security - Program Management**
 - The Information Security Manual and End User Security Procedures have been completed and is progressing through formal review and endorsement by the organisation.
- ✓ **Community perception survey**
 - Options for the roll out of the survey are being considered along with potential opportunities to target other aligned consultations such as subjective wellbeing and strategic planning.
- 😊 **Local Government Election Support**
 - Voting and count process was conducted by the Electoral Commission SA in November 2022.
 - After some irregularities in the count process which required a recount for the Ranges Ward, the new Council was formally declared on 17 November 2022.
- ✓ **Council Member Induction Training**
 - Council Induction Day was conducted on 26 November 2022. Mandatory and discretionary training was provided on the day and continues to be progressively booked into future workshops to align with Council business.

Risks & Challenges

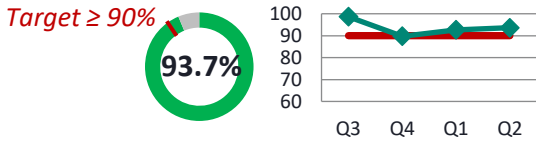
- ✗ **Update of Business Continuity Plan and implementation**
 - Critical Function Plans have now been finalised with a workshop and training provided to key personnel in the Business Continuity Team in late November 2022.
 - Resource commitments for key personnel between the Incident Management Team (EMP), Organisational Response (WHS) and Business Continuity Team (BCP) need to be reconciled and prioritised to enable BCP finalisation.
- ✓ **Information Systems - ERP Systems (Payroll, HR, Finance)**
 - Due to the resignation of two key staff members delays have been incurred while recruitment is undertaken.



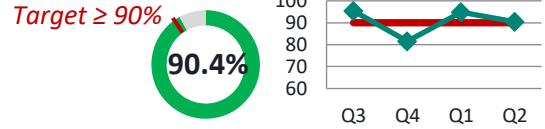
Performance Indicators



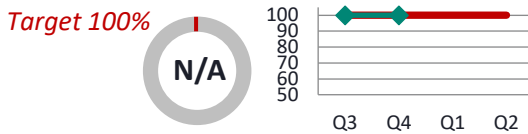
Decisions (Council resolutions) considered in open Ordinary and Special Council meetings during the period



Council member attendance at ordinary and special meetings for the period



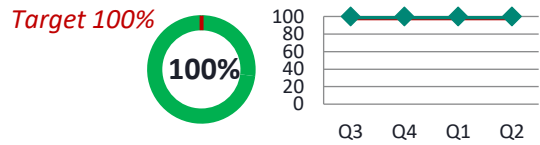
Freedom of Information (FOI) External reviews upholding Council's decisions



No Freedom of information external reviews received or completed during the quarter.



Freedom of Information (FOI) requests received, in progress and completed within the legislated timeframe



Four Freedom of information requests received. One was completed and four are still active (including one from the previous quarter). All are within legislative timeframes.



Number of lost time injuries

Annual Target **0** Actual **4**



Employee Turnover

Annual Target **7-15%** Actual **5.47%**

The assessment against the target figure will only be realised at the end of financial year. Across the year a rolling update is provided.



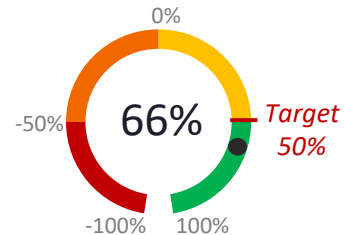
Over Customer Satisfaction



From 108 survey responses over the period



Customer Net Ease Score



From 108 survey responses over the period



Progress on Strategic Initiatives from the Annual Business Plan

Project ID	Strategic Initiatives	Status
O1001	Resource to manage ongoing Skytrust (WHS system) implementation	✓
O1002	Update of Business Continuity Plan and implementation	✗
O2001	New council website and e-services	✓
O2002	Annual Council website license subscription	✓
O4001	Local Government Election Support	😊
O4002	Council Member Induction Training	✓
O5004	Maintenance of LG performance benchmarking program (Councils in Focus)	✓
O5005	Resource to manage building & swimming pool compliance inspections	✓
O6002	Cyber & Systems Security - Program Management	✓
O6005	Records Management software	✓
O6007	Community perception survey	—
O6008	Information Systems - ERP Systems (Payroll, HR, Finance)	✓

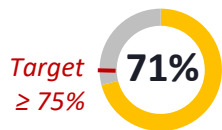
4. Customer service standards

5.1 General Customer Standards

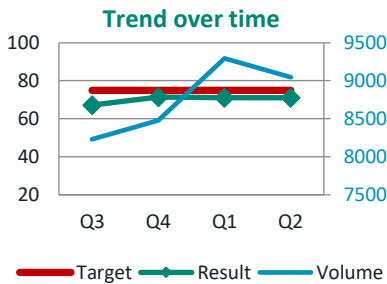
Answering Incoming Phone Calls

Volume of calls = 9,045

Contact centre calls answered within 30 sec



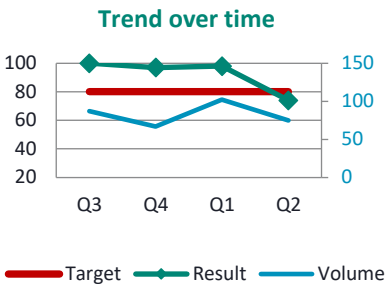
Although target not met, 75.5% of calls were answered within 45 seconds



Updating Customer Details

Volume of updates = 75

Details updated within 5 days

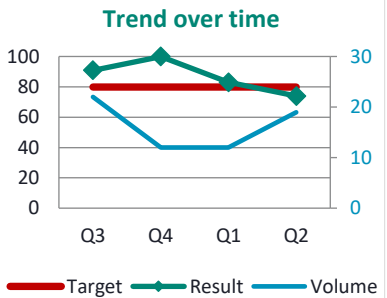


5.2 Service Specific Standards – Time Based Indicators

New Event Applications

Volume of applications = 19

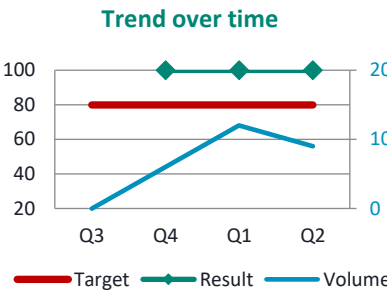
Acknowledgement of receipt within 5 days



Illegal Burning Complaints

Volume of complaints = 9

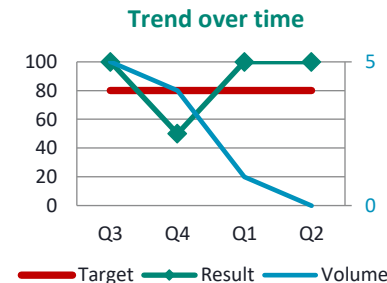
Investigated within 24 hours



Health Complaints

Volume of complaints = 0

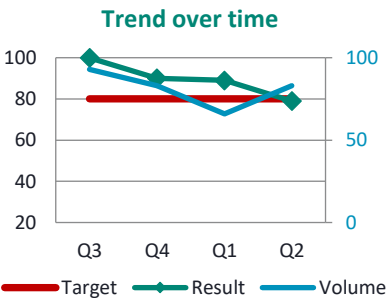
Investigated within 24 hours



Illegally Dumped Rubbish

Volume of reports = 83

Rubbish removed within 3 days



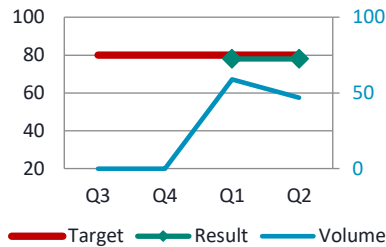
Library Services

Volume of requests = 47

Response to requests to purchase materials within 10 days



Trend over time



Responses to requests are not accurately able to be determined, however of 47 requests were made and 37 materials were purchased during the period.

Dog Attacks

Volume of attack reports = 9

Response within 24 hours



Trend over time



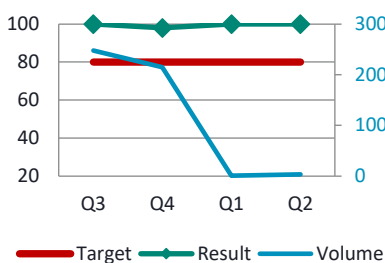
Wasps

Volume of reports = 3

Investigate and action within 7 days



Trend over time



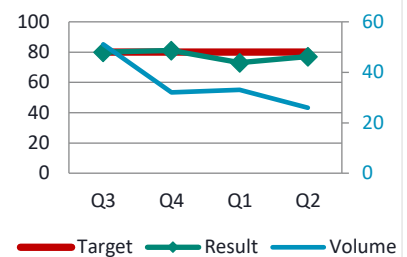
Development Applications

Volume of applications = 26

Approval of fast track development applications within 28 days



Trend over time



Allowing for the request for further information, 100% of decisions were made within the timeframe.

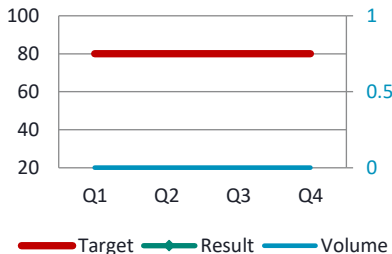
Missed Bins

Volume of requests = 0

Missed bins collected within 2 days



Trend over time



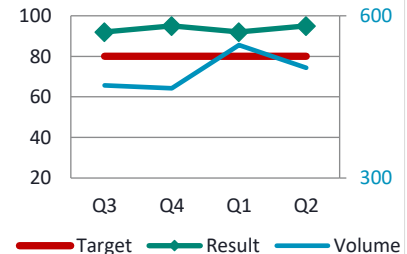
Request for Bin Repair or Replacement

Volume of requests = 504

Requests actioned within 7 days



Trend over time



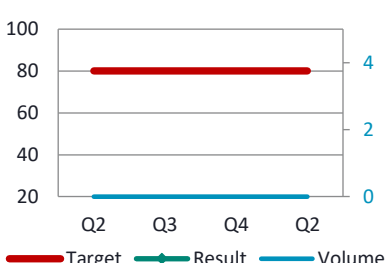
Footpath Repairs - Hazardous

Volume of repairs = 0

Responded and made safe within 24 hours



Trend over time



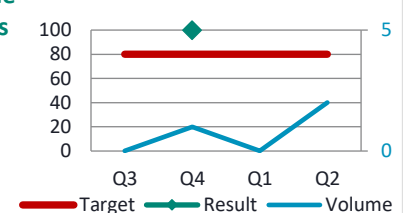
Road Repairs - Hazardous

Volume of repairs = 2

Responded and made safe within 24 hours



Trend over time

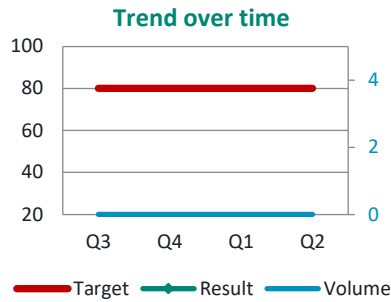


On investigation, the repairs were assessed as non-hazardous and moved to the zone maintenance program

Stormwater Repairs - Hazardous

Volume of reports = 0

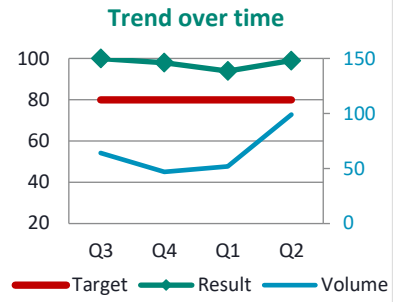
Responded and made safe within 24 hours



Trees - Hazardous

Volume of reports = 99

Responded and made safe within 24 hours



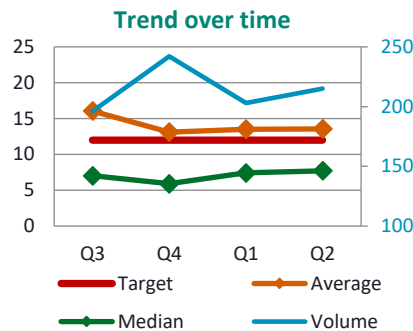
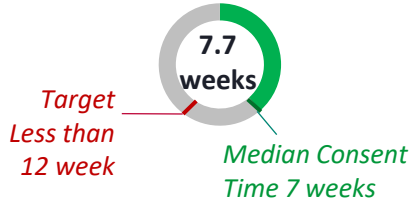
5.3 Service Specific Standards – Other Indicators

\geq Greater than or equal to

Development Applications

Volume of planning consents = 215

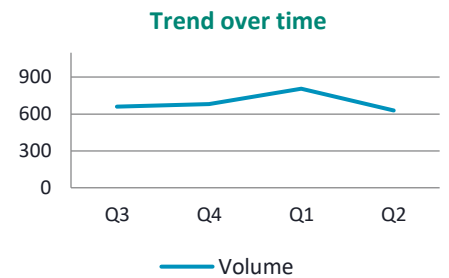
Average consent time from date of receipt



Results are using applications in the state-wide portal

Low Risk Infrastructure Requests – Number of New Requests

Volume of new requests = 630



Low Risk Infrastructure Requests – Average Time to Resolve

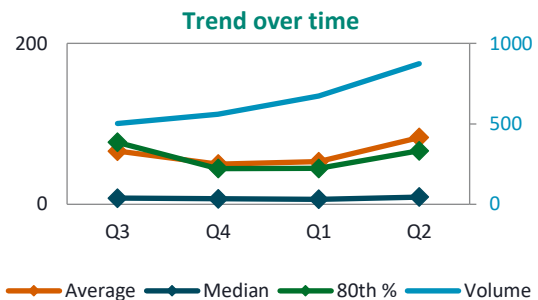
Volume of Requests = 874

Resolution time of requests

Average = 83 days

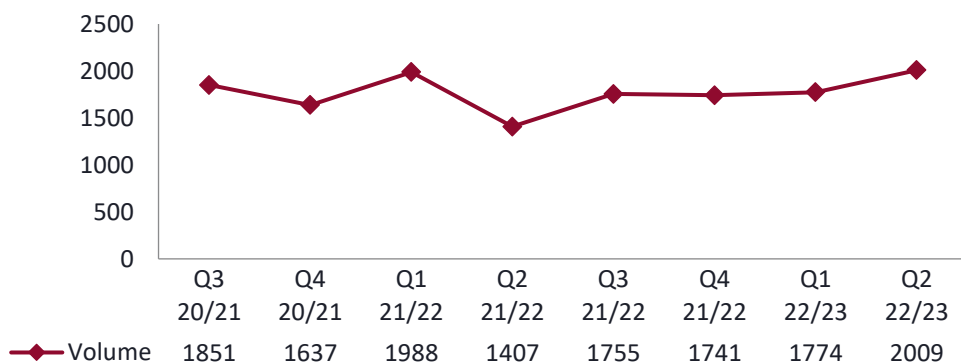
Median = 9.0 days

80th Percentile = 66.44 days



Overall Volume of Requests

Trend in volume of requests/customer cases for which there is an adopted service standard, excluding the volume of phone calls



5. Capital Works Program

Quarter 2 of 2022-23 FY represents the continuation of the 2022-23 Capital Works Program, with approximately \$2.6M of infrastructure delivered, and an additional \$5.7M ordered during this period.

The primary focus of this quarter has been on scoping new projects, as well and commencing construction on projects that were designed in 2021-22 Financial Year.

Highlights

- Bridgewater Oval foot bridge renewal was completed, moving the bridge above the Cox Creek flood level,
- Extensive heavy patch works were undertaken on roads across Forest Range, including Collins Hill Rd, Plummers Rd, and Stentiford Rd,
- A new footpath was constructed along Victoria St in Gumeracha, and the main street of Gumeracha was resealed by DIT after lobbying from Council.

What's Next

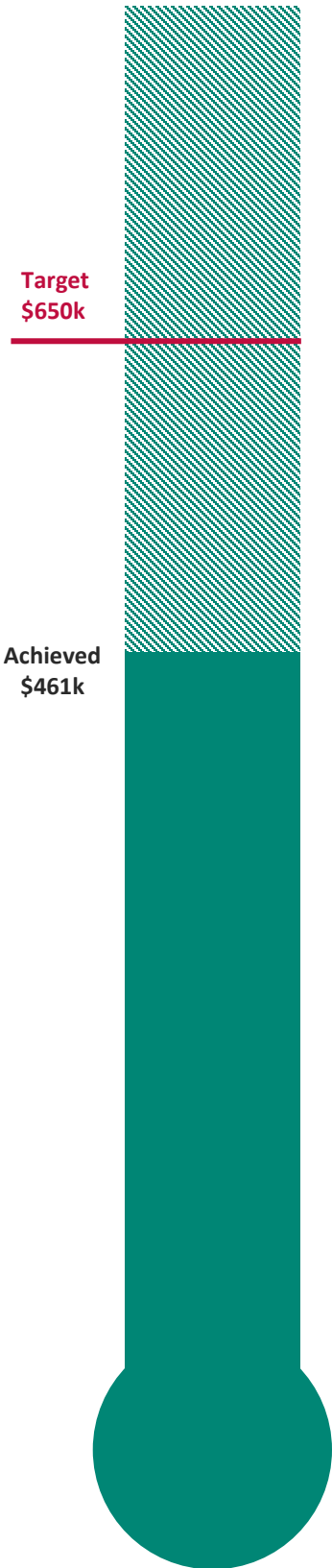
- Tiers Road, Woodside, will be reconstructed from Vickers Rd to Kumnick Rd,
- Council's significant road reseal program will continue,
- Works will commence on the Heathfield Highschool playing courts' canteen and storage shed.

Financial Performance by Asset Category (preliminary numbers)

Asset Category	YTD Actuals \$'000s	YTD Budget \$'000s	YTD Var fav / (unfav) \$'000s	Revised Budget \$'000s
Bridges	66	56	(10)	164
Buildings	1,364	1,730	366	9,004
Cemeteries	37	52	15	150
CWMS	119	129	10	581
Footpaths	256	227	(30)	1,008
Guardrails	-	26	26	112
Kerbing	6	20	15	87
Local Roads & Community Infrastructure Program	54	209	154	887
Other - Ret Walls, Str Furniture & Bus Stops	43	105	62	565
Roads	1,132	1,637	505	8,256
Sport & Recreation	169	362	193	1,944
Stormwater	22	36	15	311
Fleet	1,448	1,529	81	3,279
ICT	149	149	(0)	856
Plant & Equipment	18	21	4	164
	4,883	6,288	1,405	27,368

6. Savings Strategies

Savings Achieved (\$)



Savings Strategies

	PLANNED	ACHIEVED
Strategy 1: Remove CPI on Contract & Other Costs	\$231,000	\$231,000
<i>Reduce the automatic budget increases on costs where the savings increase can be handled within the existing budgets</i>		
Update: This initiative has been achieved by budget adjustments to remove the CPI factor as part of the 2022-23 budget build in Q1.		
Strategy 2: Electronic Rate Notices	\$4,500	\$2,147
<i>Transition to greater use of electronic issue of rate notices to reduce printing and mail cost</i>		
Update: 2,827 rate payers registered for electronic notices an increase of 130 since Q1. Rates Team continues to encourage sign up on phone.		
Strategy 3: Change Payment Options	\$40,000	\$6,572
<i>Transition from higher cost payment options to lower cost options for our customer payments</i>		
Update: Savings made in payment portal merchant upgrade and BPAY transaction fee savings. Technical issues identified between the key payment channels and Open Office may impact the ability to implement a viable and economical solution relating to Credit Card Surcharging.		
Strategy 4: Insourcing of tree management	\$25,000	\$12,500
<i>Reduce expenses on outsourced work by finding ways to complete using existing internal resources.</i>		
Update: This is a saving that was realised by removing the budget allocation from the area and will be realized across the financial year. Savings listed equates to 50%.		
Strategy 5: Vacancy Management	\$150,000	\$150,000
<i>Retain the current vacancy management strategy to ensure positions are only filled when necessary and unused budget is returned</i>		
Update: Budget review 1 processed \$150k from across the organisation to fulfill savings target.		
Strategy 6: Leave management	\$100,000	TBD
<i>Reducing operating costs by focusing on reducing the unused annual and long service leave balances.</i>		
Update: Detailed analysis not available until Q3 due to limited information available from new payroll system. People leaders are actively managing staff leave amounts to reduce balances. The associated savings are difficult to quantify until end of year.		
Strategy 7: Other Savings	\$100,000	\$64,600
<i>All other savings strategies that the Executive are considering as a means of removing upward pressure on rates</i>		
Update: A number of savings have been achieved related to the areas of Review of the Hut contribution \$15,000, Information Services \$11,500, Civil Services \$2,000, Strategic Assets \$1,100 and Asbestos inspection program \$35,000		
TOTALS	\$650,500	\$460,569

7. Financial Performance

Overall Funding Statement as at 31 December 2022

Note: These figures are preliminary only. The fully reconciled figures will be presented to Council as part of the Budget Review report.

	YTD Actual	YTD Budget	YTD Variance	Revised Budget
	\$'000	\$'000	\$'000	\$'000
Total Operating Income	48,153	47,815	337	53,285
Total Operating Expenditure	20,537	20,835	296	52,464
Funding surplus before Capital	27,615	26,981	634	821
Capital Expenditure	3,902	5,072	1,170	27,368
Capital Income	3,010	2,936	74	7,751
Net expenditure - Capital projects	892	2,136	1,244	19,616
Net Lending / (Borrowing) Result for Year	26,723	24,845	1,879	(8,350)

Adelaide Hills Council Operating Summary By Directorate as at December 2022				
	YTD Actuals \$'000s	YTD Budget \$'000s	YTD Var fav / (unfav) \$'000s	Revised Budget \$'000s
Income				
Community Capacity	1,731	1,683	47	2,590
Corporate Services	43,067	42,993	74	44,519
Development & Regulatory Services	934	887	47	1,369
Infrastructure & Operations	2,422	2,252	169	4,807
Income Total	48,153	47,815	337	53,285
Expenditure				
Community Capacity	3,586	3,742	156	8,579
Corporate Services	6,630	6,725	96	10,798
Development & Regulatory Services	1,883	1,903	19	3,984
Infrastructure & Operations	8,439	8,465	26	29,102
Expenditure Total	20,537	20,835	296	52,464
Operating Surplus (Deficit)	27,615	26,981	634	821

*Council's income shown under Corporate Services includes the full amount of rates which is accounted for when generated in July. This results in a higher Operating Surplus early in the year with a reduction in Council's Surplus to align to the Revised Budget as expenditure is incurred over the year.



Adelaide Hills
COUNCIL

MORE INFORMATION



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Stirling SA 5152**



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**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 14 February 2023
CONFIDENTIAL AGENDA BUSINESS ITEM**

Item: 18.1

Responsible Officer: Lachlan Miller
Executive Manager Governance & Performance
Office of the CEO

Subject: Substantive CEO Recruitment – Remuneration and Independent Advice

For: Decision

1. Substantive CEO Recruitment - Remuneration and Independent Advice – Exclusion of the Public

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

- 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 18.1: (Substantive CEO Recruitment – remuneration and independent advice) 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 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 in relation to the negotiation of a remuneration package for the CEO role and would, on balance, be contrary to the public interest.
- Section 90(3)(a) 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 would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead) in respect of the qualification and experience of the CEO Recruitment Consultant.

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.

3. Substantive CEO Recruitment – Remuneration and Independent Advice – Duration of Confidentiality

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 18.1 in confidence under sections 90(2) and 90(3)(a) and (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* to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:

Item	Duration of Confidentiality NB: Item to be reviewed every 12 months if not released
Report	Until the contract execution of the Substantive Chief Executive Officer
Related Attachments	Until the contract execution of the Substantive Chief Executive Officer
Minutes	Until the contract execution of the Substantive Chief Executive Officer
Other (presentation, documents, or similar)	NIL

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