



## ORDINARY COUNCIL MEETING

### NOTICE OF MEETING

To: Mayor Jan-Claire Wisdom

<b>Ranges Ward</b>
Councillor Ian Bailey
Councillor Kirrilee Boyd
Councillor Nathan Daniell
Councillor John Kemp
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
<b>Valleys Ward</b>
Councillor Pauline Gill
Councillor Chris Grant
Councillor Linda Green
Councillor Malcolm Herrmann
Councillor Andrew Stratford

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 27 November 2018**  
**6.30pm**  
**63 Mt Barker Road Stirling**

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

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

**Andrew Aitken**  
**Chief Executive Officer**



## ORDINARY COUNCIL MEETING

**AGENDA FOR MEETING**  
**Tuesday 27 November 2018**  
**6.30pm**  
**63 Mt Barker Road Stirling**

### ORDER OF BUSINESS

*Council Vision*

*Nurturing our unique place and people*

*Council Mission*

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

**1. COMMENCEMENT**

**2. OPENING STATEMENT**

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

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

**3. APOLOGIES/LEAVE OF ABSENCE**

- 3.1. Apology  
Apologies were received from .....
- 3.2. Leave of Absence
- 3.3. Absent

**4. MINUTES OF PREVIOUS MEETINGS**

Council Meeting – 23 October 2018

*That the minutes of the ordinary meeting held on 23 October 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.*

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

**6. PRESIDING MEMBER'S OPENING REMARKS**

**7. QUESTIONS ADJOURNED/LYING ON THE TABLE**

- 7.1. Questions Adjourned
- 7.2. Questions Lying on the Table

**8. PETITIONS / DEPUTATIONS / PUBLIC FORUM**

- 8.1. Petitions
  - 8.1.1. Stirling Rotunda

*Council resolves that the petition signed by 27 signatories, requesting that the Stirling Rotunda be rebuilt, be received and noted.*

- 8.2. Deputations
  - Joe Frank – Council decision making
- 8.3. Public Forum

**9. PRESENTATIONS (by exception)**

Nil

**10. QUESTIONS ON NOTICE**

Nil

**11. MOTIONS ON NOTICE**

Nil

**12. OFFICER REPORTS – DECISION ITEMS**

- 12.1. Draft Annual Report

- 1. *That the report be received and noted.*
- 2. *The 2017-18 Annual Report, as contained in Appendix 1, be adopted.*
- 3. *That the Chief Executive Officer be authorised to make minor content, formatting or design changes necessary for publication purposes.*
- 4. *That copies of the Annual Report be provided to:*
  - a. *each member of the Council*
  - b. *the Presiding Members of both Houses of Parliament*
  - c. *the South Australian Local Government Grants Commission*

12.2. Election of Deputy Mayor

1. *That the report be received and noted*
2. *To create the position of Deputy Mayor for a term of .....months*
3. *To determine that the method of selecting the Deputy Mayor be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.*
4. *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 Deputy Mayor's role and for the meeting to resume once the results of the indicative vote have been declared.*
5. *To appoint Cr..... to the position of Deputy Mayor for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX.*

12.3. Time and Place of Council Meetings, Workshops PD and Community Forums

1. *The report be received and noted.*
2. *The Ordinary Council meeting schedule, with meetings commencing at 6.30pm, to be held at 63 Mt Barker Road, Stirling be adopted, as follows:*

Meeting Date
Tuesday, 18 December 2018
Tuesday, 22 January 2019
Tuesday, 26 February 2019
Tuesday, 26 March 2019
Tuesday, 23 April 2019
Tuesday, 28 May 2019
Tuesday, 25 June 2019
Tuesday, 23 July 2019
Tuesday, 27 August 2019
Tuesday, 24 September 2019
Tuesday, 22 October 2019
Tuesday 26 November 2019
Tuesday, 17 December 2019

3. *Special Council meeting times and venues are to be determined by the Chief Executive Officer.*
4. *That regarding the Workshop and Professional Development Informal Gatherings:*
  - a. *Workshop Sessions be scheduled ordinarily at 6.30pm on the 1<sup>st</sup> Tuesday of each month, to be held at 36 Nairne Road, Woodside.*
  - b. *Professional Development Sessions be scheduled ordinarily at 6.30pm on the 3rd Tuesday of each month, to be held at 63 Mt Barker Road, Stirling.*
  - c. *The Chief Executive Officer be delegated to make changes to the informal gathering schedule, timings and locations.*



12.4. Council Member Allowances and Benefits Policy

1. *That the report be received and noted*
2. *That the allowances payable under s76 of the Local Government Act 1999 will be paid monthly in arrears*
3. *With an effective date of 27 November 2018, to adopt the Council Member Allowances and Support Policy, as contained in Appendix 1.*
4. *That the Chief Executive Officer be authorised to make minor content, formatting or design changes necessary to publish the Policy.*

12.5. Membership CEO Performance Review Panel

1. *That the report be received and noted*
2. *To retain the Chief Executive Officer Performance Review Panel for the term of the Council with the Terms of Reference in Appendix 1.*
3. *To determine that the method of selecting the Chief Executive Officer Performance Review Panel Members to be by an indicative vote to determine the preferred persons for the two Council Member positions utilising the process set out in this Agenda report.*
4. *To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred persons for the Chief Executive Officer Performance Review Panel Member roles and for the meeting to resume once the results of the indicative vote have been declared.*
5. *To appoint Councillors..... as members of the Chief Executive Officer Performance Review Panel for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).*
6. *To determine that the method of selecting the Chief Executive Officer Performance Review Panel Presiding Member to be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.*
7. *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 Chief Executive Officer Performance Review Panel Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.*
8. *To appoint ..... to the position of Chief Executive Officer Performance Review Panel Presiding Member for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).*

12.6. Membership SPDPC

1. *That the report be received and noted*
2. *To retain the Strategic Planning & Development Policy Committee for the term of the Council with the Terms of Reference as contained in Appendix 1.*
3. *To determine that the number of Council Members to be appointed to the Strategic Planning & Development Policy Committee to be ... members.*

4. *To determine that the method of selecting the Strategic Planning & Development Policy Committee Members to be by an indicative vote to determine the preferred persons for the Committee Member positions 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 persons for the Audit Committee Member roles and for the meeting to resume once the results of the indicative vote have been declared.*
6. *To appoint ..... as members of the Strategic Planning & Development Policy Committee for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).*
7. *To determine that the method of selecting the SPDPC Presiding Member to be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.*
8. *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 SPDPC Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.*
9. *To appoint ..... to the position SPDPC Presiding Member for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).*

12.7. Membership Audit Committee

1. *That the report be received and noted*
2. *To retain the Audit Committee for the term of the Council with the Terms of Reference in Appendix 1.*
3. *To determine that the method of selecting the Audit Committee Members to be by an indicative vote to determine the preferred persons for the two Council Member positions utilising the process set out in this Agenda report.*
4. *To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred persons for the Audit Committee Member roles and for the meeting to resume once the results of the indicative vote have been declared.*
5. *To appoint ..... as members of the Audit Committee for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).*
6. *To determine that the method of selecting the Audit Committee Presiding Member to be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.*
7. *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 Audit Committee Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.*
8. *To appoint ..... to the position of Audit Committee Presiding Member for a .....month term to commence 1 December 2018 and conclude on 26 November 20XX (inclusive).*

12.8. Section 43 Regional Subsidiary Membership

1. *That the report be received and noted.*
2. *To determine that the method of selecting the respective Regional Subsidiary Board Members to be by an indicative vote to determine the preferred persons for the relevant positions 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 persons for the respective Regional Subsidiary Board Member roles and for the meeting to resume once the results of the indicative voting for all of the Board Member roles have been declared.*
4. *That in relation to the Eastern Waste Management Authority Board:*
  - a. *To appoint ..... to the Board Member position for a two year term to commence from 27 November 2018 and conclude on 26 November 2020 (inclusive)*
  - b. *To appoint ..... to the Deputy Board Member position for a two year term to commence from 27 November 2018 and conclude on 26 November 2020 (inclusive)*
5. *That in relation to the Adelaide Hills Region Waste Management Authority Board:*
  - a. *To appoint ..... to the Board Member (Council Member) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
  - b. *To appoint ..... to the Board Member (Council Officer) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
  - c. *To appoint ..... to the Deputy Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
6. *That in relation to the Gawler River Floodplain Management Authority Board:*
  - a. *To note that the Chief Executive Officer has nominated ..... to the Board Member (Chief Executive Officer) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
  - b. *To appoint ..... to the Board Member (Council Member) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
  - c. *To appoint ..... to the Deputy Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
7. *That in relation to the Southern & Hills Local Government Association Board:*
  - a. *To appoint ..... to the Board Member (Council Member) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*

- b. *To appoint ..... to the Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*
- c. *To appoint ..... to the Deputy Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)*

12.9. Review of Confidential Items

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

*SPDPC Meeting 22 April 2014  
Adelaide Hills Regional Waste Management Authority*

*Section 90(3)(b) 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; and would, on balance, be contrary to the public interest; and*

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

*To remain confidential until legal proceedings and deliberations have concluded.*

12.10. Magarey Road Emergency Services Access

1. *The report be received and noted*
2. *The administration undertake the process to rename Magarey Road Mount Torrens in accordance with Council's Public Place and Road Naming Policy.*
3. *Subject to the Public Place and Road Naming Policy requirements being met and there being no objections following public consultation, that the two sections of Magarey Road Mount Torrens (as shown in Appendix 1) be renamed Magarey Road North and Magarey Road South.*

- 12.11. Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018 – feedback for Local Government Association

1. *That the report be received and noted*
2. *To approve the submission in Appendix 2 to the Local Government Association regarding the Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018.*
3. *To delegate to the Chief Executive Officer to make any minor content changes to reflect discussion on the item and formatting changes for the purpose of finalising the submission to the Local Government Association.*

- 12.12. Milan Terrace Pedestrian Crossing Investigation

1. *That the report be received and noted.*
2. *That funding of \$ 25,000 is allocated in the 2018/19 Capital Budget to complete detailed design and detailed cost estimates of the Wombat crossing.*
3. *That the construction of the project be considered as part of the 2019/20 annual business planning process.*
4. *That it is acknowledged that a 30km/h speed limit is not supported by the Department of Planning, Transport and Infrastructure*

- 12.13. Status Report – Council Resolutions Update  
*Refer to Agenda*

### **13. OFFICER REPORTS – INFORMATION ITEMS**

- 13.1. Audit Committee Presiding Member's Report  
*Council resolves that the report be received and noted.*
- 13.2. Customer Service Standards Report – Quarter 1, 2018-19  
*Council resolves that the report be received and noted.*
- 13.3. Designated Administrative Contacts for Council Members

1. *That the report be received and noted*
2. *To note, that under Section 61(2) of the Local Government Act 1999 and clauses 2.12 and 2.13 of the Code of Conduct for Council Members, the Chief Executive Officer has nominated the following Council Officers (or the Council Officers acting in these positions) as the Designated Administration Contacts for Council Members (refer to full agenda for details):*
3. *To note that the Chief Executive Officer will provide contact and portfolio details of the Designated Administration Contacts for Council Members following the Council meeting.*
4. *To note that the Chief Executive Officer may revise the Designated Administration Contacts, during the course of the Council term, with notification provided to Council Members.*
5. *To note the provisions of the Council Member Conduct Policy and the One Team – Communication Protocols for Council Members and the Administration.*

**14. MISCELLANEOUS ITEMS**

Nil

**15. QUESTIONS WITHOUT NOTICE**

**16. MOTIONS WITHOUT NOTICE**

**17. REPORTS**

17.1. Council Member Reports

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

17.3. CEO Report

**18. REPORTS OF COMMITTEES**

18.1. Council Assessment Panel – 14 November 2018

*That the minutes of the CAP meeting held on 14 November 2018 as supplied, be received and noted.*

18.2. Strategic Planning & Development Policy Committee

*Nil*

18.3. Audit Committee – 11 November 2018

*That the minutes of the Audit Committee meeting held on 11 November 2018 as supplied, be received and noted*

18.4. CEO Performance Review Panel

*Nil*

**19. CONFIDENTIAL ITEMS**

Nil

**20. NEXT MEETING**

To be advised.

**21. CLOSE MEETING**

# Conflict of Interest Disclosure Form

**CONFLICTS MUST BE DECLARED VERBALLY DURING MEETINGS**

Councillor:

Date:

Meeting name:

Agenda item no:

**1. I have identified a conflict of interest as:**

MATERIAL       ACTUAL       PERCEIVED

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

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

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

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

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

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

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

**OR**

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

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

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

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

**CONFLICTS MUST ALSO BE DECLARED VERBALLY DURING MEETINGS**

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





### Ordinary Business Matters

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

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

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

### Engagement and membership with groups and organisations exemption

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

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

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

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



## 8. DEPUTATIONS

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*For full details, see Code of Practice for Meeting Procedures on [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au)*

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

### 8.3 PUBLIC FORUM

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*For full details, see Code of Practice for Meeting Procedures on [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au)*

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

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## **Item 4 Minutes of Council**

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**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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In Attendance

**Presiding Member:** Mayor Bill Spragg

**Members:**

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

In Attendance:

Andrew Aitken	Chief Executive Officer
Terry Crackett	Director Corporate Services
Peter Bice	Director Infrastructure & Operations
Marc Salver	Director Development & Regulatory Services
David Waters	Director Community Capacity
Lachlan Miller	Executive Manager Governance & Performance
Steven Watson	Governance & Risk Coordinator
Melinda Rankin	Arts & Heritage Hub Director
Mike Carey	Manager Financial Services
Pam Williams	Minute Secretary

**1. COMMENCEMENT**

The meeting commenced at 6.32pm.

**2. OPENING STATEMENT**

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

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

**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**3. APOLOGIES/LEAVE OF ABSENCE**

**3.1 Apology**

Cr Jan Loveday

**3.2 Leave of Absence**

Nil

**3.3 Absent**

Nil

**4. MINUTES OF PREVIOUS MEETINGS**

**4.1 Council Meeting – 25 September 2018**

Moved Cr Malcolm Herrmann

S/- Cr Ron Nelson

259/18

That the minutes of the Ordinary Council meeting held on 25 September 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

<b>Carried Unanimously</b>
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**4.2 Special Council Meeting – 10 October 2018**

Moved Cr Malcolm Herrmann

S/- Cr Ian Bailey

260/18

That the minutes of the Ordinary Council meeting held on 10 October 2018 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

<b>Carried Unanimously</b>
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**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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

Nil

**6. PRESIDING MEMBER'S OPENING REMARKS**

**Mayor Bill Spragg**

- 26 August, KESAB breakfast with Minister Speir, Hindmarsh
- 7 September, Stirling RSL 98th Annual Dinner, Stirling
- 8 September, Sir Samuel Way Lodge cheque presentation to Stirling Hospital
- 17 September, Stirling RSL memorial dedication, Stirling
- 17 September, Stormwater funding, Unley
- 20 October, Torrens Valley Lions 50th Anniversary, Gumeracha

Mayor Spragg reflected on his 18 years on Council, including 8 years as Mayor, working with 23 Council Members over five Council terms. During that time Council saw a lot of changes, including budget processes, Long Term Financial Plans, Asset Management Plans, 4 year Council terms, Mandatory Code of Conduct and establishment of a Council Assessment Panel. Mayor Spragg expressed his appreciation for the support and friendships he enjoyed during his time on Council.

**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**

Mr Joe Frank re Council decision making

6.51pm Cr Lynton Vonow left the Chamber

6.54pm Cr Lynton Vonow returned to the Chamber

**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**8.3 Public Forum**

John Hill – expressing his thanks to retiring Council Members and Council for their work over this term.

**9. PRESENTATIONS**

Nil

**10. QUESTIONS ON NOTICE**

Nil

**11. MOTIONS ON NOTICE****11.1 Lobethal Primary School Safety Concerns**

Moved Cr Malcolm Herrmann  
S/- Cr Lynton Vonow

261/18

That the CEO, in consultation with the Governing Council and the Principal of the Lobethal Primary School, provides a report to the February 2019 Council meeting, on opportunities to improve safety for students and parents on streets within the vicinity of the School.

<b>Carried Unanimously</b>
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**12. OFFICER REPORTS – DECISION ITEMS****12.1 Consideration of Matter during Caretaker Period**

Moved Cr Linda Green  
S/- Cr Andrew Stratford

262/18

Council resolves:

1. That the report be received and noted.
2. That having considered whether or not the matter should be considered pursuant to the Caretaker Policy, that the Council determines to consider Item 12.2 on the agenda, and make a decision on the matter.

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**12.2 Naming the Arts & Heritage Hub**

Melinda Rankin, Arts & Heritage Hub Director, addressed Council.

**Moved Cr Kirrilee Boyd**

**S/- Cr Linda Green**

**263/18**

1. That the report be received and noted.
2. That the Council's arts and heritage hub in the former Lobethal Woollen Mill be called Fabrik.
3. That further development of Fabrik incorporate the naming of specific elements of, or programs run at, the complex. This should include consideration of other suggested names made by the community as part of the current process, including Interwoven and Yarn Space.

<b>Carried Unanimously</b>
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**12.3 2017-18 General Purpose Financial Statements**

**Moved Cr Malcolm Herrmann**

**S/- Cr John Kemp**

**264/18**

1. That the report be received and noted.
2. To endorse the early adoption of Australian Accounting Standards AASB15 and AASB1058 for the 2017-18 financial year and pursuant to AASB1058 elect not to recognise Volunteer Services in its financial statements.
3. That, in accordance with Section 127 of the *Local Government Act 1999* and the *Local Government (Financial Management) Regulations 1999*, Council adopts the General Purpose Financial Statements for the financial year ended 30 June 2018.
4. To authorise the Mayor and CEO to sign the General Purpose Financial Statements for the financial year ended 30 June 2018.

<b>Carried Unanimously</b>
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**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**12.4 Building Better Regions Fund**

Moved Cr Ian Bailey  
S/- Cr Andrew Stratford

265/18

**Council resolves:**

1. That the report be received and noted.
2. That an application be made to the Building Better Regions Fund and/or other funds where applicable, for the establishment of the Arts & Heritage Hub at Lobethal with Council's contribution of up to \$1,306,000 as included in the Long Term Financial Plan.
3. That the Chief Executive Officer, or delegate, be authorised to finalise the Council's funding submission(s).
4. That funding offers arising from the applications be referred back to the Council for consideration.

<b>Carried Unanimously</b>
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**12.5 Review of Advisory Groups**

Moved Cr John Kemp  
S/- Cr Malcolm Herrmann

1. That the report be received and noted.
2. To recommend the Terms of Reference to the incoming Council for the following Advisory Groups:
  - a. Bushfire Advisory Group (with revisions to nomenclature and strategic plan references)
  - b. Biodiversity Advisory Group (with revisions to nomenclature and strategic plan references)
  - c. Cemetery Advisory Group (with revisions to nomenclature and strategic plan references)
  - d. Property Advisory Group (with revisions to nomenclature and strategic plan references, removal of the function related to formulating asset management plans and the addition of functions related to road reserve management and management of Crown Land under Council's care and control)
  - e. Rural Land Management Advisory Group (with revisions to nomenclature and strategic plan references and addition of membership from a representative of the strawberry/berry industry)



**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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- f. Sustainability Advisory Group (with revisions to nomenclature and strategic plan references and the refinement of the role and functions to include resilient communities and resource recovery and the removal of conservation and biodiversity)
- 3. To cease the following Advisory Groups:
  - a. Adelaide Hills Business & Tourism Centre Advisory Group
  - b. Australia Day Awards Panel
  - c. Social Planning Advisory Group
  - d. Sport & Recreation Advisory Group
  - e. Youth Advisory Committee

**AMENDMENT**

**Moved Cr Linda Green  
S/- Cr Jan-Claire Wisdom**

**266/18**

**Council resolves:**

- 3. **To recommend to the incoming Council that the following Advisory Groups be discontinued, and the members thanked for their service.**
  - a. **Adelaide Hills Business & Tourism Centre Advisory Group**
  - b. **Australia Day Awards Panel**
  - c. **Social Planning Advisory Group**
  - d. **Sport & Recreation Advisory Group**
  - e. **Youth Advisory Committee**

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

---

**Motion as Amended**

**Moved Cr John Kemp**

**S/- Cr Malcolm Herrmann**

**267/18**

- 1. That the report be received and noted.**
- 2. To recommend the Terms of Reference to the incoming Council for the following Advisory Groups:**
  - a. Bushfire Advisory Group (with revisions to nomenclature and strategic plan references)**
  - b. Biodiversity Advisory Group (with revisions to nomenclature and strategic plan references)**
  - c. Cemetery Advisory Group (with revisions to nomenclature and strategic plan references)**
  - d. Property Advisory Group (with revisions to nomenclature and strategic plan references, removal of the function related to formulating asset management plans and the addition of functions related to road reserve management and management of Crown Land under Council's care and control)**
  - e. Rural Land Management Advisory Group (with revisions to nomenclature and strategic plan references and addition of membership from a representative of the strawberry/berry industry)**
  - f. Sustainability Advisory Group (with revisions to nomenclature and strategic plan references and the refinement of the role and functions to include resilient communities and resource recovery and the removal of conservation and biodiversity)**
- 3. To recommend to the incoming Council that the following Advisory Groups be discontinued, and the members thanked for their service.**
  - a. Adelaide Hills Business & Tourism Centre Advisory Group**
  - b. Australia Day Awards Panel**
  - c. Social Planning Advisory Group**
  - d. Sport & Recreation Advisory Group**
  - e. Youth Advisory Committee**

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**12.6 Status Report – Council Resolutions Update**

**Moved Cr Lynton Vonow  
S/- Cr Malcolm Herrmann**

**268/18**

**Council resolves:**

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

<b>Meeting Date</b>	<b>Meeting</b>	<b>Res No.</b>	<b>Item Name</b>
26/07/2016	Ordinary Council	133/16	Future of Harms Avenue Birdwood
27/02/2018	Ordinary Council	49/18	Naming of Council Owned Premises in Lobethal - AHBTC
17/07/2018	Special Council	153/18	Bott Adelaide Hills Rally - Road Closure Consent
24/07/2018	Ordinary Council	164/18	By-Laws
9/08/2018	CEO Performance Review Panel	PRP15/18	2018 CEO Performance Review - Confidential Item
9/08/2018	CEO Performance Review Panel	PRP16/18	2018 CEO Performance Review - Period of Confidentiality
9/08/2018	CEO Performance Review Panel	PRP20/18	2018 CEO Remuneration Review - Confidential Item
9/08/2018	CEO Performance Review Panel	PRP21/18	2018 CEO Remuneration Review - Period of Confidentiality
28/08/2018	Ordinary Council	191/18	MON Footpath Assessment and Renewal
28/08/2018	Ordinary Council	201/18	Community & Recreation Facility Grants
28/08/2018	Ordinary Council	209/18	OmbudsmanSA Final Investigation Report Cr Herrmann
25/09/2018	Ordinary Council	244/18	Development Application Fee Refund Policy Review
25/9/2018	Ordinary Council	246/18	Delegation Review September 2018
25/09/2018	Ordinary Council	255/18	Election of LGA President
25/09/2018	Ordinary Council	257/18	Election for GAROC 2018 - 2020
9/10/2018	Special Council	258/18	Voting for LGFA Board Members

**Carried Unanimously**

**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**13. OFFICER REPORTS - INFORMATION ITEMS**

**13.1 Regional Public Health Plan Progress Report**

Moved Cr John Kemp

S/- Cr Linda Green

**269/18**

**Council resolves that the report be received and noted.**

<b>Carried Unanimously</b>
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**13.2 Risk Management Update**

Moved Cr Malcolm Herrmann

S/- Cr John Kemp

**270/18**

**Council resolves that the report be received and noted.**

<b>Carried Unanimously</b>
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**14. MISCELLANEOUS ITEMS**

Nil

**15. QUESTIONS WITHOUT NOTICE**

Cr Kirrilee Boyd – Mt Barker Road, Stirling, footpath & bikepath

Cr Andrew Stratford – road safety, Tiers Road junction

Cr Nathan Daniell – Region Public Health Plan online consultation

Cr Malcolm Herrmann – Fabrik business development plan

Cr John Kemp – process for lowering speed limit on Mt Barker Road, Stirling

Cr Ian Bailey – Lobethal guttering

Cr Malcolm Herrmann – Frick Street, Lobethal

**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**16. MOTIONS WITHOUT NOTICE**

Nil

**17. REPORTS**

**17.1 Council Member Activities**

**Cr Malcolm Herrmann**

- 30 September, National Motor Museum Bay to Birdwood Run
- 20 October, Torrens Valley Lions Club 50th Anniversary Gumeracha
- 22 October, RSL Gumeracha Sub Branch

**Cr Ron Nelson**

Cr Nelson reflected on his 25 years on Council and expressed his appreciation and thanks to Council Members and Staff.

- 11 October, Annual Meeting of Scott Creek Progress Association
- 18 October, Longwood Agriculture Bureau
- 20 October, Scott Creek Primary School 125th celebrations

**Cr Jan-Claire Wisdom**

Cr Wisdom thanked Council Members for their help over this term of Council. She acknowledged the passing of Cr Val Hall earlier this year, and extended her best wishes to the retiring Council Members, Mayor Bill Spragg, Cr Jan Loveday, Cr Ron Nelson and Cr Lynton Vonow and to the current Council Members contesting the current election.

- 19 September, Stirling Business Association AGM, Stirling
- 7 October, RSL Annual Lunch, Stirling
- 17 October, RSL new memorial dedication, Stirling
- 19 October, SHLGA Board meeting, Yankalilla
- 20 October, Torrens Valley Lions Club 50th Anniversary dinner, Gumeracha
- 23 October, Meals on Wheels AGM, Heathfield

**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**Cr Linda Green**

Cr Green acknowledged and thanked the retiring Council Members, Mayor Bill Spragg, Cr Jan Loveday, Cr Ron Nelson and Cr Lynton Vonow and wished her colleagues all the best for the current election.

- 27 September, Gumeracha Hall Committee, Gumeracha
- 2 October, Medieval Fair Committee, Gumeracha Park
- 5 October, AHBTC Advisory Group meeting
- 11 October, Kersbrook Residents Association, Kersbrook
- 20 October, Torrens Valley Lions 50th year, Gumeracha

**Cr Lynton Vonow**

Cr Vonow expressed his thanks to Mayor Spragg, Council Members and staff for their help and dedication over his 8 years on Council.

- 3 October, WCCC (Bird-in-Hand gold mine) meeting, Woodside
- 17 September, Love Woodside meeting
- 20 September, Restvale AGM Lobethal

**Cr Ian Bailey**

- 7 September, Stirling RSL 98th Annual Dinner, Stirling
- 17 September, Stirling RSL memorial dedication, Stirling

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

**Cr Jan-Claire Wisdom**

- 15 October, Libraries Board meeting, Adelaide

**17.3 CEO Report**

Andrew Aitken, CEO, provided Council with a verbal Corporate Update.

- Remembrance Day dedication service at Stirling
- Service Women's Memorial Pomona Road & Mylor War Memorial upgrade
- Mt Torrens Heritage Reserve stormwater
- Ashton Oval tank
- SHLGA joint submission to LG Grants Commission
- DPTI Upgrade of NE & South Para Roads Chain of Ponds
- Thanked Council Members for their service to our community over last 4 years, especially the retiring members Cr Nelson, Cr Loveday, Cr Vonow & Mayor Spragg. The CEO also acknowledged the late Cr Val Hall's contribution to Council this term.

**ADELAIDE HILLS COUNCIL  
MINUTES OF ORDINARY COUNCIL MEETING  
TUESDAY 23 OCTOBER 2018  
63 MT BARKER ROAD STIRLING**

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**18. REPORTS OF COMMITTEES****18.1 Council Assessment Panel – 10 October 2018**

Moved Cr Linda Green  
S/- Cr Ian Bailey

**271/18**

That the minutes of the Council Assessment Panel meeting of 10 October 2018 as distributed, be received and noted.

<b>Carried Unanimously</b>
----------------------------

**18.2 Strategic Planning & Development Policy Committee**

Nil

**18.3 Audit Committee – 8 October 2018**

Moved Cr Malcolm Herrmann  
S/- Cr Nathan Daniell

**272/18**

That the minutes of Audit Committee meeting of 8 October 2018 as distributed, be received and noted.

<b>Carried Unanimously</b>
----------------------------

**18.4 CEO Performance Review Panel**

Nil

**19. CONFIDENTIAL ITEMS**

Nil

**20. NEXT MEETING**

The next ordinary meeting of the Adelaide Hills Council will be held on Tuesday 27 November 2018 from 6.30pm at 63 Mt Barker Road, Stirling.

**21. CLOSE MEETING**

The meeting closed at 8.35pm.

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 8.1.1

**Originating Officer:** Natalie Westover, Manager Property Services

**Responsible Director:** Terry Crackett, Director Corporate Services

**Subject:** Petition – Rebuilding of Stirling Rotunda

**For:** Decision

---

**SUMMARY**

A petition has been received with 27 signatures requesting the rebuilding of the Stirling Rotunda (pavilion) on the Stirling lawns.

**RECOMMENDATION**

**Council resolves that the petition signed by 27 signatories, requesting that the Stirling Rotunda be rebuilt, be received and noted.**

---

Council has received a petition organised by Sophia Potter and signed by 27 signatories.

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

The petition states:

“Over many years Crafers Primary School and other schools in the Hills have loved coming to the Stirling Library. We kids have enjoyed gathering outside on the lawns and under the pavilion in front of this library.

It’s been fun playing in and around the Pavilion, playing chasey, having picnics and staying dry under the roof.

There have been many performances, markets, community festivals and cultural events on the lawn with the Pavilion being a feature in those special events. Soon we will have the Christmas pageant and we won’t have a pavilion and that is upsetting.



We are very upset to have lost the Pavilion recently in the car accident which caused the pavilion to be removed. We really hope that a similar pavilion can be built for all of the community and especially us kids.

Please see that many of us in the Hills feel the same way about this problem and are hoping you can build us another pavilion soon. See the petition with all our signatures attached.”

**Background / Context – Natalie Westover, Manager Property Services**

The rotunda located on the Stirling Library lawns was damaged in a vehicular accident on 6 August 2018. Due to the significance of the damage it was required to be demolished. The rotunda is insured however the insurance claim process is not yet finalised.

The rotunda was built by the Apex Club in 2001 to commemorate those who served in the various conflicts in which Australia has been involved and was known as the Stirling District Soldiers War Memorial Rotunda.

Staff are looking for community input into what is rebuilt on the lawns, its purpose and location. Community consultation is scheduled to commence in late November following the end of the caretaker period of Council. Due to the timing of consultation, an additional period of time will be allowed for community input over the Christmas and holidays period.

Following the end of the consultation period, a report will be presented to Council for consideration.

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.1

**Originating Officer:** Bernadette Walsh, Corporate Planning & Performance Coordinator

**Responsible Director:** Terry Crackett, Director Corporate Services

**Subject:** 2017-18 Annual Report Adoption

**For:** Decision

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**SUMMARY**

The purpose of this report is to provide the draft 2017-18 Annual Report for the Council's consideration and adoption.

The preparation and adoption of an Annual Report is a legislative requirement under s131 of the *Local Government Act 1999*. Notwithstanding its compliance roots, the Annual Report provides a good opportunity to demonstrate to the community, in a transparent and accountable manner, the level of achievement against the Council's Strategic Plan and the 2017-18 Annual Business Plan and Budget.

**RECOMMENDATION**

**Council resolves:**

1. That the report be received and noted.
  2. The 2017-18 Annual Report, as contained in Appendix 1, be adopted.
  3. That the Chief Executive Officer be authorised to make minor content, formatting or design changes necessary for publication purposes.
  4. That copies of the Annual Report be provided to:
    - a. each member of the Council
    - b. the Presiding Members of both Houses of Parliament
    - c. the South Australian Local Government Grants Commission
- 

**1. GOVERNANCE**

➤ **Strategic Management Plan/Council Policy**

Goal	Organisational Sustainability
Strategy	Governance
Strategy	Financial Sustainability
Strategy	Risk and responsibility

The production of an Annual Report is fundamental to demonstrating the transparency and accountability of local government.

The Annual Report is the primary mechanism for reporting achievements against the Council's Strategic Plan, Corporate Plan and Annual Business Plan and Budget.

➤ **Legal Implications**

Section 131 of the *Local Government Act 1999* requires Councils to produce Annual Reports. It must be prepared and adopted by the Council by 30 November.

Various sections of the Act and associated Regulations set out the particulars of what must be contained in the Report.

➤ **Risk Management Implications**

The review of the draft Annual Report will assist in mitigating the risk of:

*Non-compliance with statutory requirements leading to a loss of confidence in the Council.*

Inherent Risk	Residual Risk	Target Risk
High (4C)	Medium (3C)	Medium

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

➤ **Financial and Resource Implications**

There are no financial implications arising from considering the draft Annual Report.

Production of the annual report has involved mainly existing staff resources. A creative design consultant was engaged to produce the final document and a small number of hard copies will be printed.

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

The Annual Report provides an overview of performance against targets including for Council's Customer Service Standards. It highlights potential areas for improvement in addition to those performing well.

➤ **Environmental Implications**

Not applicable.

➤ **Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community**

*Council Committees:* At its meeting held on 5 November 2018, the Audit Committee considered a draft of the Annual Report.

*Advisory Groups:* Not applicable.

*Administration:* Council's Executive Leadership Team and relevant Managers and Officers were consulted during preparation of the Annual Report.

*Community:* Engagement with the community is not applicable for the development of the Annual Report. However, the Annual Report itself, once finalised, is one way of communicating key achievements and Council performance to the community.

## 2. BACKGROUND

The draft Annual Report has been prepared with an emphasis on reporting achievements against the Council's Strategic Plan, Corporate Plan and the 2017-18 Annual Business Plan and Budget. The financial statements are also incorporated in the Annual Report.

It should be noted that the Audit Committee considered the draft financial statements at its meeting held on 8 October 2018. The financial statements were subsequently considered and adopted by the Council at its meeting held on 23 October 2018.

The draft Annual Report was considered by the Audit Committee at its meeting held on 5 November 2018. The Audit Committee endorsed the draft Annual Report as presented and some members provided informal/editorial advice on aspects of the documents.

The resolution of the Audit Committee was as follows:

### 6.3. Draft Annual Report

Moved Peter Brass  
S/- Geoff Purdie

AC24/18

The Audit Committee resolves that the:

1. Report be received and noted.
2. Draft 2017-18 Annual Report, as contained in Appendix 1, be endorsed – recognising the need for inclusion of the General Purpose Financial Statements and Council's Regional Subsidiaries Annual Reports.

Carried
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## 3. ANALYSIS

The draft Annual Report, contained in **Appendix 1**, provides an overview of Council's achievements and activities during the reporting year.

The Report provides a summary of achievements against commitments made in the *2017-18 Annual Business Plan and Budget*. It also contains highlights of other activities of note.

Much of the content in the Annual Report addresses statutory requirements, particularly those set out in Section 131 and Schedule 4 of the *Local Government Act 1999* and Regulation 35 of the *Local Government (General) Regulations 2013*.

Should the Annual Report be adopted, staff will forward copies to the respective people and bodies mentioned earlier in this report.

#### 4. OPTIONS

Council has the following options:

- I. Resolve to adopt the 2017-18 Annual Report as presented (***Recommended***)
- II. Resolve to adopt the 2017-18 Annual Report with amendments (***Not Recommended***).  
Given the requirement to finalise the Annual Report by 30 November, significant amendment may result in the Council not meeting its legislative obligations.

#### 5. APPENDIX

- (1) Draft 2017-18 Annual Report

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# **Appendix 1**

*Draft 2017-18 Annual Report*

*Due to size, please see separate attachment*

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**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

<b>Item:</b>	<b>12.2</b>
<b>Originating Officer:</b>	<b>Lachlan Miller, Executive Manager Governance &amp; Performance</b>
<b>Responsible Director:</b>	<b>Andrew Aitken, Chief Executive Officer</b>
<b>Subject:</b>	<b>Election of Deputy Mayor</b>
<b>For:</b>	<b>Decision</b>

---

**SUMMARY**

The *Local Government Act 1999* provides that a council may, if it so resolves, create the position of Deputy Mayor.

The purpose of this report is to seek Council's determination regarding the creation of the position of Deputy Mayor and, if so created, to undertake the process for the election of the Deputy Mayor for a specified term.

**RECOMMENDATION**

**That Council resolves:**

- 1. That the report be received and noted**
  - 2. To create the position of Deputy Mayor for a term of .....months**
  - 3. To determine that the method of selecting the Deputy Mayor be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.**
  - 4. 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 Deputy Mayor's role and for the meeting to resume once the results of the indicative vote have been declared.**
  - 5. To appoint Cr..... to the position of Deputy Mayor for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX.**
- 

- 1. GOVERNANCE**

➤ **Strategic Management Plan/Council Policy**

Goal	Organisational Sustainability
Strategy	Governance

➤ **Legal Implications**

Section 51(3) of the *Local Government Act 1999* (the Act) provides that a council may, if it so resolves, create the position of Deputy Mayor.

Section 51(4) states that if there is to be a Deputy Mayor, he or she will be chosen by the members of the council from amongst their own number and will hold office for a term determined by the council. The term is not to exceed 4 years.

Section 51(5) states that on expiration of a term of office, the Deputy Mayor is eligible to be chosen for a further term.

Section 51(6) states that in the absence of the Mayor, a Deputy Mayor will act in the office of the Mayor. In doing so, the Deputy Mayor assumes the key duties of presiding over Council meetings and being the principal spokesperson of the Council.

Sections 73 and 74 set out the provisions regarding Material Conflicts of Interest. As the Deputy Mayor position earns an additional allowance, this likely constitutes a personal and/or pecuniary benefit under s73 and therefore Council Members seeking to be appointed to the office of Deputy Mayor could have a Material Conflict of Interest and would need to consider declaring the interest and leave the Chamber prior to the discussion of the matter under s74(1).

Council's *Informal Council and Council Committee Gatherings and Discussions Policy* created under s90(8a) sets out the provisions for the conduct of a Designated Informal Gathering.

➤ **Risk Management Implications**

The Council's consideration of the requirement for a Deputy Mayor 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

An Independent Remuneration Tribunal has jurisdiction under section 76 of the Act to determine the allowances payable to council members. The Tribunal determines the annual allowance for councillors, principal members, deputy mayor, prescribed and non-prescribed committee presiding members and travel time allowances with the applicable determination of this term of council being *Determination 6 of 2018 – Allowances for Members of Local Government Councils*.



The Determination sets the annual allowance for a councillor who is a deputy mayor at 1.25 times the annual councillor allowance. This amount will be adjusted in accordance with the consumer price index at the next anniversary of the 2018 Local Government election in accordance with statutory requirements.

As a Group 2 Council for the purposes of the Determination, the Deputy Mayor's allowance in Year 1 will be \$21,587.50.

Council's current budget has provision for the costs associated with the Deputy Mayor role.

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

A Deputy Mayor's role is to act in the office of Mayor when the Mayor which allows a continuance of mayoral activities within the Council Chamber and the community. The Deputy Mayor may also represent the office of the Mayor at community events when the Mayor is unable to attend.

➤ **Environmental Implications**

Not applicable.

➤ **Community Engagement/Consultation**

There is no requirement for community consultation in relation to the appointment of a Deputy Mayor as Section 51(4) of the Act is clear that the Deputy Mayor is chosen by resolution of the Council.

**2. BACKGROUND**

**Role of Deputy Mayor**

The Adelaide Hills Council has resolved during each term to create the role of Deputy Mayor.

During the 2014-2018 Council term, the respective Deputy Mayors deputised for the Mayor on many occasions and acted in the Office of the Mayor during periods of absence (i.e. illness and leave).

**3. ANALYSIS**

The Deputy Mayor position provides certainty and clarity regarding arrangements when the Mayor is unavailable to undertake official duties. Further, Council Members whom undertake the Deputy Mayor role gain and develop skills in order to for fill the Presiding Members role as required.

In considering the Deputy Mayor position, Council may wish to consider suitability factors including (but not limited to):

- understanding or the ability to acquire the same in the role, function and strategic intent of the Council.

- understanding or the ability to acquire the same in meeting procedure generally and the meeting procedure set out in the *Local Government (Procedures at Meetings) Regulations 2013* and Council's *Code of Practice for Code of Practice for Council Meeting Procedures* more specifically.
- expertise in chairing meetings of Council (if past experience exists), or other boards/committees in other organisations, public and private
- ability to preside efficiently, firmly, impartially and fairly over Council meetings;
- ability to manage conflict and differing opinions;
- ability and availability to represent and have an affinity with the community as a whole;
- ability and availability to represent the Council in the presence of members of Parliament, dignitaries and peers;
- ability and availability to act in the Office of the Mayor during periods of absence.
- ability to deal with matters delegated under Council Policies to the Deputy Mayor (i.e. training and development, Council Member conduct)
- leadership, social and communication skills;
- relationship with the CEO, directors/departmental managers and staff of the Council.
- the opportunity to provide professional development in presiding member skills
- the opportunity to consider diversity in the role
- current and future time commitments (i.e. there are a number of Council Committees, Regional Subsidiaries and Advisory Groups that will also require Council Member representation).

### **Indicative Voting Process for Determining Council Appointed Positions**

Due to the implications of the Material Conflict of Interest provisions under s74 (see Legal Implications above), it is proposed that the Council 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 position of Deputy Mayor.

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 or Council Committee, it is a Designated Informal Gathering for the purposes of s90 and the *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy). As a Designated Informal Gathering, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and informal gatherings provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the position of Deputy Mayor.
- b) 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.

- c) The CEO (or another Council staff member) will be appointed as the Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.
- d) The method of voting will be by secret ballot utilising the preferential counting system
- e) Each Council Member (including the Mayor) shall have one vote.
- f) Ballot papers will be provided to each Member
- g) The nominees' names will be drawn to determine the order on the ballot paper.
- h) Each nominee will have two (2) minutes to speak to the Gathering in support of their candidacy. The speaking order will be as listed on the ballot paper.
- i) 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 staff member) present.
- j) 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.
- k) After all votes have been counted, the Returning Officer shall publicly announce the final votes cast for each candidate and formally declare the result of the election (i.e. the preferred person).
- l) The ballot papers will be shredded.

### **Proposed Chronology of Events**

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and informal gatherings, as such the following chronology is suggested:

- I. Council consider whether to create the position of Deputy Mayor and the term of office (this may be for the entire Council term or a shorter period). Council would give effect to this by dealing with Recommendations 1 and 2 (or variants) at this time.
- II. If having resolved to have a Deputy Mayor, Council will then consider the process that it will use to choose the preferred person. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.
- III. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 4 (or a variant) at this time.
- IV. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption the Council Members who nominated for the Deputy Mayor role would be advised to make declarations in accordance with *s74 – Dealing with material conflicts of interest* and leave the Chamber.

Council can then resolve for the preferred person to be appointed as the Deputy Mayor for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 5 (or a variant) at this time.

**4. OPTIONS**

The Council has the following options:

- I. To resolve to create the position of Deputy Mayor for a period and to undertake the processes as outlined in the report (***Recommended***)
- II. To determine not to create the position of Deputy Mayor (***Not Recommended***). Doing so would require a member chosen by the Council to act in the office of Mayor or Chairperson during periods of the Mayor's absence.

**5. APPENDIX**

Nil

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.3

**Originating Officer:** Lachlan Miller, Executive Manager Governance & Performance

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Determination of Time and Place of Council Meetings, Workshop Sessions and Professional Development Sessions

**For:** Decision

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**SUMMARY**

One of the fundamental principles of Council is to provide open, responsive and accountable government. An important mechanism to facilitate this principle is that, whenever possible, council and committee meetings should be open to the public and documents made available.

The setting and publication of the meeting times and locations of Ordinary Council (Council) and Committee meetings is required to enable public notices to be given under the *Local Government Act 1999*.

Council's *Informal Council and Council Committee Gatherings and Discussions Policy* provides that Council sets the schedule of specific informal gatherings, which are workshops and professional development sessions.

The purpose of this report is to seek Council's resolution regarding the meeting schedule timings and locations for the Council, Informal Workshop sessions and Professional Development sessions for the balance of the 2018 calendar year and full 2019 calendar year.

## RECOMMENDATION

### Council resolves that:

1. The report be received and noted.
2. The Ordinary Council meeting schedule, with meetings commencing at 6.30pm, to be held at 63 Mt Barker Road, Stirling be adopted, as follows:

Meeting Date
Tuesday, 18 December 2018
Tuesday, 22 January 2019
Tuesday, 26 February 2019
Tuesday, 26 March 2019
Tuesday, 23 April 2019
Tuesday, 28 May 2019
Tuesday, 25 June 2019
Tuesday, 23 July 2019
Tuesday, 27 August 2019
Tuesday, 24 September 2019
Tuesday, 22 October 2019
Tuesday 26 November 2019
Tuesday, 17 December 2019

3. Special Council meeting times and venues are to be determined by the Chief Executive Officer.
4. That regarding the Workshop and Professional Development Informal Gatherings:
  - a. Workshop Sessions be scheduled ordinarily at 6.30pm on the 1<sup>st</sup> Tuesday of each month, to be held at 36 Nairne Road, Woodside.
  - b. Professional Development Sessions be scheduled ordinarily at 6.30pm on the 3<sup>rd</sup> Tuesday of each month, to be held at 63 Mt Barker Road, Stirling.
  - c. The Chief Executive Officer be delegated to make changes to the informal gathering schedule, timings and locations.

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## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal                      Organisational Sustainability  
Strategy                 Governance

Determining, and publicising, the schedule of council/committee and informal gathering sessions is an important element of Council's commitment to open and transparent decision making which facilitates public accountability.

Council's *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy) requires Council to set the schedule for Workshop and Professional Development Sessions.

Council's three s41 Council Committees have, via their Council-approved Terms of reference, been delegated the power to set their own meeting schedules.

Similarly, the Council Assessment Panel (CAP), through its Operating and Meeting Procedures, has been delegated to set its own meeting schedule.

➤ **Legal Implications**

In relation to council meetings, section 81 of the *Local Government Act 1999* (the Act) provides that:

- the ordinary meetings of a council will be held at times and places appointed by a resolution of the council.
- there must be at least one ordinary meeting in each month.
- if a time and place has not been appointed for the ordinary meeting, the chief executive must appoint the time and date.
- ordinary meetings may not be held on Sundays or on public holidays.

In relation to informal gatherings, Regulation 8AB(2) of the *Local Government (General) Regulations 2013* (the Regulations) defines a 'designated informal gathering or discussion' to mean an event organised and conducted by or on behalf of the council or chief executive officer to which members of the council or council committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the council or council committee.

On the basis of the above definition and as encapsulated in the Policy, workshops are likely to be 'designated informal gatherings or discussions' while professional development sessions generally are not.

➤ **Risk Management Implications**

The setting of a schedule for Ordinary Council Meetings, Workshops, Professional Development Sessions and Community Forums 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

The resources involved in the notification for and conduct of Council, Workshops and Professional Development Sessions are provided for in the adopted annual budget.

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

The timing and location of Council Meetings and informal gatherings should be considerate of the desire for community members to attend and participate in the meetings (where appropriate). A consistent scheduling approach, where possible, supports accessibility and, anecdotally, is a factor in the setting of other community meetings (where Council Members are to be attending).

➤ **Environmental Implications**

Not applicable.

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

The setting of the timing and location of Council meetings and informal gatherings is the responsibility of Council and is not a matter stipulated for consultation, however, once determined this information is advertised in local media and on the Council's social media channels to ensure community members are given opportunity to attend the meetings.

*Council Committees:* Not Applicable

*Council Workshops:* Not Applicable

*Advisory Groups:* Not Applicable

*Administration:* The Executive Leadership Team and the Governance Team were consulted on and supported the proposals contained in this report.

*Community:* Not Applicable

**2. BACKGROUND**

**Council Meetings**

At its meeting on 12 December 2017, Council resolved to adopt the following schedule for 2018.



**12.4. Determination of Time and Place of Council Meetings, Workshop Sessions, Professional Development Sessions and Community Forums in 2018**



Moved Cr Kirrilee Boyd  
S/- Cr Ian Bailey

301/17



**Council resolves that:**

- 1. The report be received and noted.**
- 2. The Ordinary Council meeting schedule, commencing at 6.30pm, to be held at 63 Mt Barker Road, Stirling be adopted, as follows:**
  - **Tuesday, 23 January 2018**
  - **Tuesday, 27 February 2018**
  - **Tuesday, 27 March 2018**
  - **Tuesday, 24 April 2018**
  - **Tuesday, 22 May 2018**
  - **Tuesday, 26 June 2018**
  - **Tuesday, 24 July 2018**
  - **Tuesday, 28 August 2018**
  - **Tuesday, 25 September 2018**
  - **Tuesday, 23 October 2018**
- 3. Note that Special Council meeting times and venues are determined by the Chief Executive Officer.**

Council's *Code of Practice for Meeting Procedures* identifies that Council meetings are to conclude at or before 10.00pm unless the meeting formally resolves on each specific occasion to continue beyond that time. Council will have the opportunity to review the Code in the coming months and may wish to revise this requirement at that opportunity.

### **Council and Council Committee Meetings**

At its 25 July 2017 meeting Council adopted revised Terms of Reference for each of its Council Committee (Audit, SPDPC and CEOPRP) which came into effect on 1 September 2017. One of the revisions was to delegate to the respective Committee the power to set its own meeting schedule, locations and timing.

As such, the timing of Council Committee meetings is not the subject of this report.

### **Informal Gatherings (Workshops and Professional Development)**

Council makes use of informal gatherings to assist in preparing Council Members for upcoming agenda items in terms of providing contextual information, seeking views and perspectives, and to provide professional development in areas related to the Council Member's role and responsibilities.

Informal gatherings are strictly prohibited from being an opportunity for Council Members to make, or to effectively make, decisions that should be made by resolution in a Council meeting.

In relation to the two most common forms of informal gatherings attended by Council Members (excluding Advisory groups which will be the subject of a separate report at

Council's December 2018 meeting), Council at its meeting on 12 December 2017, resolved to adopt the following indicative schedule for 2018.:

**12.4. Determination of Time and Place of Council Meetings, Workshop Sessions, Professional Development Sessions and Community Forums in 2018**

Moved Cr Kirrilee Boyd  
S/- Cr Ian Bailey

301/17

Council resolves that:

4. That regarding Workshop Sessions and Professional Development Sessions:
  - a. Workshop Sessions be scheduled ordinarily at 6.30pm on the 2nd Tuesday of each month, to be held at 36 Nairne Road, Woodside.
  - b. Professional Development Sessions be scheduled ordinarily at 6.30pm on the 3rd Tuesday of each month, to be held at 63 Mt Barker Road, Stirling.
  - c. The Chief Executive Officer be delegated to make changes to the informal gathering schedule and locations.

**3. ANALYSIS**

**Meeting Timings**

While there are no legislative impediments to meetings being held during the day, Council Meetings and Informal Gatherings have generally commenced at 6.30pm. This timing is considered to be reasonable balance to enable Council Members and members of the public sufficient time to travel to meetings following their work day while providing adequate time for Council to do its business and conclude prior to the aforementioned 10.00pm conclusion.

The Administration is not aware of any concern within the community of the 6.30pm commencement time.

**Meeting Locations**

With the aforementioned resolution to change the Terms of Reference of the SPDPC and the predicted resultant reduction in meetings being held at Nairne Road (this was the usual SPDPC meeting venue), it was agreed that Council Workshops (2<sup>nd</sup> week of the month) would be held at Nairne Road and that the first ten (10) minutes of each workshop would be a public forum. Thus it would provide residents from the northern and western areas of the Council area a more geographically-convenient forum to speak to the Council Members (albeit outside a formally constituted Council meeting).

The location of the workshop at Woodside, while having some logistical implications for the Administration, appears to be well regarded by both Council Members and the community. While attendance at the public forums during 2018 has been low, attendees for workshop items (which are published on Council's website in accordance with the *Informal Council and Committee Gatherings and Discussions Policy*) has been high for items of particular community interest.

## Meeting Schedule

For 2018, the meeting schedule was aligned to the Tuesday nights within the month as follows:

1 <sup>st</sup> Tuesday	No meeting (but available for Special Council if required)
2 <sup>nd</sup> Tuesday	Workshop
3 <sup>rd</sup> Tuesday	Professional Development/Workshop
4 <sup>th</sup> Tuesday	Ordinary Council

Some of the key reasons for retaining the Tuesday night schedule for all formal and informal meetings are:

- to enable Council Members and Officers to attend regular community meetings and private engagements on other nights;
- to avoid the confusion for Council Members, Officers and the community as to which meeting night is in which week (as occurred with a split night schedule); and
- to provide clarity within the community that one night (Tuesday) is designated for the various formal and informal council meetings and therefore Council Members will not be available for other meetings/events on that night.

For 2019 it is proposed to retain the schedule albeit with a change for the Workshop to be moved from the 2<sup>nd</sup> Tuesday to the 1<sup>st</sup> Tuesday, the rationale for this proposal is that it allows the Administration additional time to draft Council reports arising from a Workshop discussion in the same month.

Under the current arrangements, with the requirement for the agenda to be published 5 clear days before the meeting and with the internal report quality review processes, matters workshopped must be finalised 2 or 3 days after the workshop to make that month's Council agenda. This provides a narrow window for further research and follow-up on matters raised during the workshop.

Notwithstanding the above, please note that the December meetings are proposed to be the 3<sup>rd</sup> Tuesday of that month (thereby replacing the Professional Development session) and for there to be no Workshop or Professional Development sessions in January 2019.

## 4. OPTIONS

The Council has the following options in relation to the schedule, timing and locations of Council and informal gathering meetings:

1. To accept the recommendations contained in this report for (**Recommended**); or
2. To resolve an alternative meeting schedule (**Not Recommended**).

## 5. APPENDIX

Nil

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

<b>Item:</b>	<b>12.4</b>
<b>Originating Officer:</b>	<b>Lachlan Miller, Executive Manager Governance &amp; Performance</b>
<b>Responsible Director:</b>	<b>Andrew Aitken, Chief Executive Officer</b>
<b>Subject:</b>	<b>Council Member Allowances and Support</b>
<b>For:</b>	<b>Decision</b>

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**SUMMARY**

Allowances payable to Council Members are determined under Section 76 of the Local Government Act 1999 (the Act) by the Remuneration Tribunal through the issuing of a Determination every 4 years to synchronise with the new council term following an election.

This report provides the details of the provisions of the *Determination 6 of 2018 – Allowance for Members of Local Government Councils*.

Under Sections 77 and 78 of the Act, councils are required to provide reimbursements in specific circumstances to Council Members and can adopt a Policy to enable the provision of other categories of reimbursements along with the provision of facilities and support to Council Member in the conduct of their official duties.

Council's *Allowances and Benefits Policy* (the Policy) created under Sections 77-78 lapses at the general election of the Council.

The purpose of this report is to advise Council of the provisions of the Determination and to seek Council's consideration of the revised Policy for adoption.

**RECOMMENDATION**

**Council resolves:**

- 1. That the report be received and noted**
  - 2. That the allowances payable under s76 of the *Local Government Act 1999* will be paid monthly in arrears**
  - 3. With an effective date of 27 November 2018, to adopt the *Council Member Allowances and Support Policy*, as contained in Appendix 1.**
  - 4. That the Chief Executive Officer be authorised to make minor content, formatting or design changes necessary to publish the Policy.**
-

## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal            Organisational Sustainability  
Strategy        Governance

Council's Policy Framework is a key component of the wider Governance Framework.

### ➤ Legal Implications

Sections 76 - 80 of the *Local Government Act 1999* (the Act) and the *Local Government (Members Allowances and Benefits) Regulations 2010* (the Regulations) set out the provisions regarding the mandatory and Council-approved allowances and benefits that a Council Member is entitled to.

Section 76 of the Act provides that a member of council is entitled to the allowance determined by the Remuneration Tribunal in relation to the members' office and indexed in accordance with the Act.

The Act requires the Tribunal to make a determination on a 4 yearly basis prior to the close of nominations for each periodic election for Councils. This Determination (report) was handed down in 2018.

### ➤ Risk Management Implications

Maintenance of a contemporary and legislatively compliant Policy Framework 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)	Medium (3D)	Medium (3D)

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

### ➤ Financial and Resource Implications

Council makes a budget allocation each year for the expenses associated with Council Member allowances and benefits.

### ➤ Customer Service and Community/Cultural Implications

There is a high expectation that the payment of Council Members' allowances, the reimbursement of expenses and the provision of benefits by the Council is accountable and transparent.

➤ **Environmental Implications**

Not applicable.

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

Consultation on the review of the Policy was as follows:

*Council Committees:* Not Applicable

*Workshops:* A workshop was conducted with Council Members on 10 October 2018 to discuss the provisions of the Policy.

*Advisory Groups:* Not Applicable

*Administration:* Executive Manager Governance & Performance  
Manager ICT  
Governance & Risk Coordinator  
Executive Assistant Mayor & CEO

*Community:* Not Applicable

## 2. **BACKGROUND**

### **Council Member Allowances**

On 30 August 2018, the Remuneration Tribunal released *Determination 6 of 2018 Allowances for Members of Local Government Councils* (see **Appendix 1**).

The Determination addresses the allowances payable to Council Members under s76 of the Act. As such, these are the only allowances legally payable to Council Members.

The key provisions of the Determination (as they apply to AHC) are as follows:

- AHC is considered to be a Group 2 Council and hence the allowances payable in Year 1 are:
  - Councillor - \$17,270 per annum
  - Deputy Mayor (1.25 times the Councillor allowance) - \$21,587.50 per annum
  - Presiding Member of a Prescribed Committee (1.25 times the Councillor allowance) - \$21,587.50 per annum
    - Prescribed Committees include Audit, CEOPRP and SPDPC
  - Mayor (4 times the Councillor allowance) - \$69,080 per annum
- Travel time allowance:
  - usual place of residence is located at least 30 kms but less than 50 kms from that council's principal office - \$410 per annum
  - Travel time allowance is payable in addition to any entitlement to reimbursement of expenses actually incurred.

Section 76(8) of the Act provides that an allowance determined under this section will be payable for the period commencing on the conclusion of the periodic election (the Final Declaration by the Electoral Commissioner).

Section 76(9) of the Act provides for allowances to be adjusted on the first, second and third anniversaries of periodic elections to reflect changes in the Consumer Price Index (CPI) under a scheme prescribed by the regulations. The CPI referred to is the CPI (all groups index for Adelaide) published by the Australian Bureau of Statistics.

Regulation 4 of the Regulations provides that an allowance may be paid in instalments up to three months in advance or three months in arrears of each month in respect of which an instalment is payable. AHC's previous practice has been for allowances to be paid one month in arrears.

### **Council Member Allowances & Benefits Policy**

Section 77(1)(a) of the Act, via Regulation 5 prescribes the kinds of expenses for which a member of the Council will receive reimbursement.

Section 77(1)(b) of the Act also enables Council to develop a policy that details which of those additional expenses, specified within Regulation 6, it wishes to reimburse to Council Members.

In addition, Section 78 of the Act enables Council to provide, at its discretion, facilities and other forms of support to Council Members to assist them in the performance or discharging of their official functions and duties. These facilities and services must be made available to Council Members on a uniform basis other than those specifically provided to the Mayor.

Consequently, in accordance with Section 77 of the Act, Council first adopted in 2002, a *Council Member Allowances & Benefits Policy*. This Policy determined the expenses and benefits to be reimbursed to Council Members and the facilities and support to be provided.

At its 27 February 2018 meeting, Council adopted the current Policy based on a template developed by the Local Government Association.

In accordance with s77(2) of the Act, reimbursement of expenses policies (such as the Allowance and Benefits Policy) lapse at the general election of the council.

## **3. ANALYSIS**

### **Council Member Allowances**

As the allowances are set by the Remuneration Tribunal and no other allowances are legally payable under the Act, the only decision for Council is the payment schedule.

As identified above, Council's historical practice is the payment of the monthly allowance in arrears. As such, a similar regime is recommended for the current Council.

Should Council determine an alternative regime, the wording in Clause 6 in the Policy regarding Allowances will need to be revised.

## **Council Member Allowances & Benefits Policy**

As identified above, Council undertook its last review of the Policy in February 2018 and, as such, only a small number of changes are proposed to the Policy for the Council to consider for approval for this term.

The majority of the proposed changes were identified by the Council Members at the October 2018 workshop.

In undertaking the policy review, the requirements of applicable legislation, Local Government Association guidance/templates and the policies of other councils were reviewed to determine any required/desirable changes.

In general, the current Policy has served the Council well and only minor changes have been proposed which are shown using Track Changes in **Appendix 2**.

The key changes proposed are as follows:

- Change in nomenclature for the Policy to the Council Member Allowances and Support Policy to more appropriately recognise the facilities and support provided to Council Members to support them in undertaking their official duties.
- Clause 5 – Inclusion of the definition of a ‘prescribed committee’ to provide greater clarity to the document.
- Clause 8 – Inclusion of the third step for the travel time payment and to update the payment amounts as set down in Determination 6.
- Clause 9.1 – Inclusion of a provision to partially reimburse Council Members for Mobile Phone Plan costs associated with private mobile phones used for Council business.
- Clause 10.1 – Inclusion of support in the form of photocopying/printing and access to Council meeting rooms.

## **4. OPTIONS**

Council has the following options:

- I. Adopt the draft *Council Member Allowances and Support Policy*, in its current or amended form (**Recommended**).
- II. To determine not to adopt a revised *Council Member Allowances and Support Policy* at this time (**Not Recommended**). Doing so would result in none of the discretionary reimbursement of support being provided to the Council Members, although the mandatory allowances and reimbursements would continue to be paid.

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

## **5. APPENDIX**

- (1) Determination 6 of 2018 – Allowance for Members of Local Government Councils
- (2) Council Member Allowances and Support Policy (draft)



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# **Appendix 1**

Determination 6 of 2018 – Allowance for Members of  
Local Government Councils

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No. 6 of 2018

**DETERMINATION OF THE REMUNERATION TRIBUNAL**  
**ALLOWANCES FOR MEMBERS OF LOCAL GOVERNMENT COUNCILS**

**SCOPE OF DETERMINATION**

1. The Remuneration Tribunal has jurisdiction under section 76 of the *Local Government Act 1999* (“the Act”), to determine the allowance payable to elected members of Local Government Councils constituted under that Act.
2. This Determination applies to the members of Councils constituted under the Act, but does not apply to members of the Adelaide City Council.

**INTERPRETATION**

3. In this Determination, unless the contrary appears:

“**Committee**” means a committee established by a council in terms of section 41 of the Act.

“**Councillor**” means a person appointed or elected as a member of a local government council under the Act.

“**Principal Member**” means a principal member under the Act.

“**Prescribed Committee**” means for the purposes of this determination, a committee that endures, irrespective of whether the council has assigned any particular work for the committee to perform and assists the council or provides advice to the council in any of the following areas or any combination thereof:

- Audit
- Chief Executive Officer performance review
- Corporate services
- Finance
- Governance
- Infrastructure and works
- Risk management
- Strategic planning and development

**ALLOWANCES**

4. **Councillors**

The annual allowance for a councillor who is not a principal member, deputy mayor, deputy chairperson or presiding member of a prescribed committee shall be as follows:

<b>Council Group</b>	<b>\$ per annum</b>
Group 1A	\$23,350
Group 1B	\$20,630
Group 2	\$17,270
Group 3	\$13,900
Group 4	\$9,900
Group 5	\$6,500

Council Groups are provided in Appendix 1.

**5. Principal Members**

The annual allowance for principal members of a local government councils constituted under the Act will be equal to four (4) times the annual allowance for councillors of that council.

**6. Deputy Mayor, Deputy Chairperson or Presiding Member of a Committee**

The annual allowance for a councillor who is a deputy mayor or deputy chairperson, or the presiding member of a prescribed committee or more than one prescribed committees established by a council, will be equal to one and a quarter (1.25) times the annual allowance for councillors of that council.

7. An additional allowance in the form of a sitting fee is payable to a councillor (other than the principal member or deputy principal member, chairperson or deputy chairperson or a presiding member of a prescribed committee) who is the presiding member of a committee, that is not a prescribed committee, at the following rates:

- a. Where the councillor is a member of a council in Group 1A or Group 1B; an allowance of \$230 per meeting limited to an aggregate amount of allowance of \$1,380 per annum;
- b. Where the councillor is a member of a council in Group 2 or Group 3; an allowance of \$170 per meeting limited to an aggregate amount of allowance of \$1,020 per annum;
- c. Where the councillor is a member of a council in Group 4 or Group 5; an allowance of \$110 per meeting limited to an aggregate amount of allowance of \$660 per annum.

**TRAVEL TIME ALLOWANCE FOR MEMBERS OF NON-METROPOLITAN COUNCILS**

8. An allowance of \$410 per annum will be payable to council members, excluding principal members, whose usual place of residence is within the relevant council area and is located **at least 30 kms but less than 50 kms** from that council's principal office, via the most direct road route.
9. An allowance of \$700 per annum will be payable to council members, excluding principal members, whose usual place of residence is within the relevant council area and is located **at least 50 kms but less than 75 kms** from that council's principal office, via the most direct road route.
10. An allowance of \$1,050 per annum will be payable to council members, excluding principal members, whose usual place of residence is within the relevant council area and is located **at least 75 kms but less than 100 kms** from that council's principal office, via the most direct road route.
11. An allowance of \$1,490 per annum will be payable to council members, excluding principal members, whose usual place of residence is within the relevant council area and is located **100 kms or more** from that council's principal office, via the most direct road route.
12. The non-metropolitan council members travel time allowance will be payable in addition to any entitlement to reimbursement of expenses actually incurred.

13. A list of the non-metropolitan councils to which this payment applies is provided in Appendix 2.

**DATE OF OPERATION**

14. As provided for by section 76(8) of the Act, this Determination will come into operation on the conclusion of the 2018 Local Government Elections.



John Lewin  
**PRESIDENT**



Peter Alexander  
**MEMBER**



Pamela Martin  
**MEMBER**

Dated this 30<sup>th</sup> day of August 2018

## Appendix 1 – Council Groups

<b>GROUP 1A</b>
City of Charles Sturt
City of Onkaparinga
City of Port Adelaide Enfield
City of Salisbury

<b>GROUP 1B</b>
City of Holdfast Bay
City of Marion
City of Mitcham
City of Playford
City of Tea Tree Gully
City of West Torrens

<b>GROUP 2</b>
Adelaide Hills Council
Alexandrina Council
Barossa Council
Campbelltown City Council
City of Burnside
City of Mount Gambier
City of Prospect
City of Norwood Payneham and St Peters
City of Unley
City of Whyalla
District Council of Mount Barker
Port Augusta City Council
Rural City of Murray Bridge
Town of Gawler

<b>GROUP 3</b>
Berri Barmera Council
City of Port Lincoln
City of Victor Harbor
Clare and Gilbert Valleys Council
District Council of Loxton Waikerie
District Council of The Copper Coast
District Council of Yorke Peninsula
Light Regional Council
Mid Murray Council
Naracoorte Lucindale Council
Port Pirie Regional Council
Tatiara District Council
Wattle Range Council

<b>GROUP 4</b>
Adelaide Plains Council (formerly Mallala)
Corporation of the Town of Walkerville
District Council of Coorong
District Council of Grant
District Council of Lower Eyre Peninsula
District Council of Yankalilla
District Council of Renmark Paringa
Kangaroo Island Council
Northern Areas Council
Regional Council of Goyder
Wakefield Regional Council

<b>GROUP 5</b>
District Council of Barunga West
District Council of Ceduna
District Council of Cleve
District Council of Coober Pedy
District Council of Elliston
District Council of Franklin Harbour
District Council of Karoonda East Murray
District Council of Kimba
District Council of Mount Remarkable
District Council of Orroroo Carrieton
District Council of Peterborough
District Council of Robe
District Council of Streaky Bay
District Council of Tumby Bay
Flinders Ranges Council
Kingston District Council
Southern Mallee District Council
Wudinna District Council

## **Appendix 2 – Non – Metropolitan Councils**

Adelaide Hills Council	District Council of Renmark Paringa
Adelaide Plains Council (formerly Mallala)	District Council of Robe
Alexandrina Council	District Council of Streaky Bay
Berri Barmera Council	District Council of The Copper Coast
Barossa Council	District Council of Tumby Bay
City of Whyalla	District Council of Yankalilla
Clare and Gilbert Valleys Council	District Council of Yorke Peninsula
District Council of Barunga West	Flinders Ranges Council
District Council of Ceduna	Kangaroo Island Council
District Council of Cleve	Kingston District Council
District Council of Coober Pedy	Light Regional Council
District Council of Coorong	Mid Murray Council
District Council of Elliston	Naracoorte Lucindale Council
District Council of Franklin Harbour	Northern Areas Council
District Council of Grant	Port Augusta City Council
District Council of Karoonda East Murray	Port Pirie Regional Council
District Council of Kimba	Regional Council of Goyder
District Council of Lower Eyre Peninsula	Rural City of Murray Bridge
District Council of Loxton Waikerie	Southern Mallee District Council
District Council of Mount Barker	Tatiara District Council
District Council of Mount Remarkable	Wakefield Regional Council
District Council of Orroroo Carrieton	Wattle Range Council
District Council of Peterborough	Wudinna District Council


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## **Appendix 2**

*Council Member Allowances and Benefits Policy (draft)*

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## COUNCIL POLICY

 <p>ADELAIDE HILLS COUNCIL</p>	<b>COUNCIL MEMBER ALLOWANCES AND <del>BENEFITS</del>SUPPORT</b>
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Policy Number:	CM-02
Responsible Department(s):	Governance & Performance
Relevant Delegations:	None
Other Relevant Policies:	Council Member Conduct Policy Code of Practice for Meeting Procedures Council Member Training & Development Policy
Relevant Procedure(s):	None
Relevant Legislation:	<i>Local Government Act 1999</i> <i>Local Government (Members Allowances and Benefits) Regulations 2010</i>
Policies and Procedures Superseded by this policy on its Adoption:	Council Member Allowances and Benefits, <del>9-December 2014</del> , <u>27 February 2018</u>
Adoption Authority:	Council
Date of Adoption:	<i><u>To be updated administratively</u></i>
Effective From:	<i><u>To be updated administratively</u></i>
Minute Reference for Adoption:	<i><u>To be updated administratively</u></i>
Next Review:	This policy lapses at the Local Government General election in November <u>2022</u>



# COUNCIL MEMBER ALLOWANCE AND BENEFITS POLICY

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## 1. INTRODUCTION

Adelaide Hills Council will ensure that the payment of Council Members' allowances, the reimbursement of expenses and the provision of benefits by the Council is accountable and transparent and in accordance with the *Local Government Act 1999* ("the LG Act") and the *Local Government (Members Allowances and Benefits) Regulations 2010* ("the Regulations").

This Policy sets out the provisions of the LG Act and Regulations in respect of Council Member allowances, expenses and support. This Policy is also provided in accordance with Section 77(1)(b) of the LG Act by specifying the types of expenses that will be reimbursed without the need for specific approval of Council every time a claim is made.

Council Members are paid an allowance for performing and discharging their functions and duties on Council. Section 59 of the LG Act provides (in part) that the role of a Council Member, as a member of the governing body of the Council, is to:

- (i) participate in the deliberations and civic activities of the Council;
- (ii) keep the Council's objectives and policies under review to ensure that they are appropriate and effective; and
- (iii) keep the Council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review.

This Policy also explains the information that must be recorded within the Council's Register of Allowances and Benefits to ensure compliance with section 79 of the LG Act.

This Policy, in its entirety, will automatically lapse at the next general election of this Council, which is ~~10-11~~ November ~~2018~~2022.

## 2. POLICY OBJECTIVE

To ensure Council Member allowances, the reimbursement of expenses and the provision of benefits, facilities and support by the Council are compliant with the *Local Government Act 1999* and *Local Government (Members Allowances and Benefits) Regulations 2010*.

## 3. SCOPE & RESPONSIBILITIES

This Policy applies to all Council Members, who each have an obligation to abide by this Policy.

The Council's Chief Executive Officer has the duty to:

1. maintain the Register of Allowances and Benefits;
2. initiate a Consumer Price Index ('CPI') review of allowances paid to Council Members (to be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the CPI under the scheme prescribed by the Regulations); and
3. ensure copies of this Policy are available for inspection by the public at the principal office of the Council.

In addition, the Chief Executive Officer is responsible for:

4. implementing and monitoring expense reimbursement procedures in accordance with the LG Act, the Regulations this Policy; and
5. ensuring a copy of this Policy is provided to all Council Members.

The Council Member Allowances and Support Policy has primacy over any other Council policies regarding allowances and/or benefits payable to Council Members. Those policies will be invalid to the extent that they are inconsistent with the provisions of this Policy.

#### 4. POLICY STATEMENT

This Policy is underpinned by the following principles:

- a) Council Members should not be out-of-pocket as a result of performing and discharging their Council functions and duties.
- b) To assist Council Members in performing or discharging their official functions and duties they are entitled to be provided with a range of necessary facilities and support and to be reimbursed for expenses as specified in this policy.
- c) Any reimbursements claimed by Council Members must be for expenses actually and necessarily incurred in performing and discharging their official Council functions and duties, which will be assessed according to the role of a Council Member under the LG Act.
- d) Council encourages continued professional training and development for Council Members. This is seen as being necessary in terms of good governance and to the improved performance of their functions and duties.
- e) The accountability of the Council to its community for the use of public monies.
- f) That the fees paid, civic expenses reimbursed and facilities and support provided to the Mayor, Deputy Mayor and Councillors are appropriate to the importance of the Office and are consistently applied and transparent.

#### 5. DEFINITIONS

A 'prescribed committee' means for the purposes of this determination, a committee that endures, irrespective of whether the council has assigned any particular work for the committee to perform and assists the council or provides advice to the council in any of the following areas or any combination thereof:

- Audit
- Chief Executive Officer performance review
- Corporate services
- Finance
- Governance
- Infrastructure and works
- Risk management
- Strategic planning and development

A '**prescribed meeting**' is defined under the Regulations to mean a meeting of the Council or Council committee, or an informal gathering, discussion, workshop, briefing, training course or similar activity which is directly or closely related to the performance or discharge of the roles or duties of the member.

A **'function or activity on the business of the Council'** includes the following official Council functions:

- Council-organised receptions, opening ceremonies, dinners, citizenship ceremonies, celebration events, remembrance ceremonies and official visits etc.;
- inspection of sites within the Council area which relate to current Council or Committee agenda items;
- meetings and functions of boards/committees to which the Council Member has been appointed by Council (unless it is a remunerated position);
- meetings related to the local government governance (i.e. ALGA, LGASA, LGFA, LGAMLS, LGAWCS, ~~SHLGA~~, etc);
- meetings of community groups and organisations as an invited Council **representative Member** – but not to attend meetings of community groups or organisations when fulfilling the role as a member of the Board of any such community group or organisation.

An **'eligible journey'** means a journey (in either direction) between the principal place of residence, or a place of work, of a Council Member, and the place of a prescribed meeting.

## 6. ALLOWANCES

Council Member allowances are determined by the Remuneration Tribunal on a 4 yearly basis before the designated day in relation to each set of periodic elections held under the *Local Government (Elections) Act 1999*.

An allowance determined by the Remuneration Tribunal will take effect from the first ordinary meeting of the Council held after the conclusion of the relevant periodic election. Council Member allowances are to be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the Consumer Price Index ("CPI") under a scheme prescribed by the Regulations.

In accordance with regulation 4 of the Regulations, (and for the purposes of section 76 of the LG Act), an allowance may be paid in instalments up to 3 months in advance or 3 months in arrears of each month in respect of which an instalment is payable.

Council has determined that allowances will be paid monthly in arrears.

The annual allowance for a Council Member is determined according to the relevant Council group. There are six Council Groups which are each explained within the determination of the Remuneration Tribunal. The annual allowance for:

- principal members, is equal to four times the annual allowances for Council Members of that council;
- deputy mayor or deputy chairperson or a Council Member who is the presiding member of one or more prescribed committees is equal to one and a quarter (1.25) times the annual allowances for Council Members of that Council;

An additional allowance in the form of a sitting fee is also payable for Councillors who are presiding members of other [Section 41](#) committees (who are not deputy mayors, deputy chairpersons or presiding members of prescribed committees).

A member of a council who holds office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period (section 76(11) of the LG Act).

An allowance under this section is to be paid in accordance with any requirement set out in the Regulations (unless the member declines to accept payment of an allowance section 76(12) of the LG Act).

Council Members finishing their term of office should receive their allowances until their term expires – this is at the conclusion of the elections (i.e. when the Electoral Commissioner of South Australia makes the final declaration of the results of the elections).

## **7. PRESCRIBED (MANDATORY) REIMBURSEMENTS (SECTION 77(1)(a))**

Section 77(1)(a) of the LG Act provides that a Council Member is entitled to receive reimbursement of expenses of the kind prescribed in the Regulations incurred in performing or discharging official functions and duties related to ‘prescribed meetings’.

### **7.1 Travel**

Council Members are entitled to receive reimbursement for travelling expenses actually and necessarily incurred by the Council Member for travel within the Council area and associated with attendance at a “prescribed meeting” (section 77(1)(a) of the LG Act).

The following conditions apply to these reimbursements:

- a) reimbursement for travel expenses is restricted to ‘eligible journeys’ (as defined in Regulation 3) provided the journey is by the shortest or most practicable route and to that part of the journey within the Council area (i.e. any travelling outside the Council area in order to attend Council or Council committee meetings is not reimbursable under section 77(1)(a) of the LG Act. For reimbursement for travel outside the Council area refer to “Council Approved Reimbursements” below).
- b) where a Council Member travels by private motor vehicle, the rate of reimbursement is at a rate equal to the appropriate rate per kilometre (determined according to the engine capacity of the vehicle) prescribed for the purposes of calculating deductions for car expenses under section 28.25 of the *Income Tax Assessment Act 1997* of the Commonwealth.
- c) travelling by taxi, bus or other means of public transport is reimbursed on the basis of expenses ‘actually and necessarily incurred’, but is still limited to ‘eligible journeys’ by the shortest or most practicable route and to the part of the journey that is within the Council area.
- d) the Council may aggregate claims for reimbursement of expenses that relate to journeys that do not exceed 20 kilometres and then pay them on either a quarterly or monthly basis.
- e) claims for accident damage to Council Member’s private vehicles will not be met by Council, however Council will reimburse the insurance excess.

### **7.2 Child/Dependent Care**

Council Members are entitled to reimbursement for child/dependant care expenses actually or necessarily incurred by the Council Member as a consequence of the Council Member’s

attendance at a prescribed meeting. Child/dependant care is not reimbursed if the care is provided by a person who ordinarily resides with the Council Member.

## 8. TRAVEL TIME PAYMENT

Pursuant to the determination made by the Remuneration Tribunal, Council Members (excluding Principal Members) of non-metropolitan Councils (which includes the Adelaide Hills Council) are eligible for payment for a travel time payment where the Council Member's:

- a) usual place of residence is within the relevant Council area and is located **at least 30kms but less than 50km** distance from their Council's principal office, via the nearest route by road - ~~\$336-410~~ per annum
- b) usual place of residence is within the relevant Council area and is located **at least 50km but less than 75km** distance from their Council's principal office, via the nearest route by road - ~~\$560-700~~ per annum;
- c) usual place of residence is within the relevant Council area and is located at least 75km but less than 100km distance from their Council's principal office, via the nearest route by road - \$1,050 per annum;
- b)d) usual place of residence is within the relevant Council area and is located **100km or more** distance from their Council's principal office, via the nearest route by road - ~~\$1,490-120~~ per annum;

If eligible, this payment is made to a Council Member in addition to any entitlement to reimbursement of expenses incurred.

## 9. COUNCIL APPROVED REIMBURSEMENTS (SECTION 77(1)(b))

There are additional prescribed expenses incurred by Council Members, that can be reimbursed by the Council that do not fall within the category of mandatory reimbursement outlined above.

Section 77(1)(b) of the LG Act provides that the Council (meaning the Council as the governing body) may approve the reimbursement of additional expenses as set out in the Regulations incurred by Council Members, either on a case-by-case basis or under a policy adopted by Council. This Policy sets out the types of approved expenses that may be reimbursed.

These additional types of reimbursed expenses are distinguished from the payment of allowances and from the mandatory reimbursement of travel and child/dependant care expenses associated with attendance at a prescribed meeting.

Regulation 6 of the Regulations sets out the types of additional expenses that may be reimbursed under section 77(1)(b) with the approval of the Council. These are:

- a) an expense incurred in the use of a telephone, facsimile or other telecommunications device, or in the use of a form of electronic communication, on the business of the Council;
- b) travelling expenses incurred by the Council Member as a consequence of the Member's attendance at a function or activity on the business of the Council (other than for which the member is reimbursed under section 77(1)(a) of the LG Act);
- c) travelling expenses incurred by the Member in undertaking an eligible journey to the extent that those expenses are attributable to travel outside the area of the Council;
- d) expenses for the care of:
  - (i) a child of the Member; or

- (ii) a dependant of the Member requiring full-time care incurred by the Member as a consequence of the Member's attendance at a function or activity on the business of the Council (other than for which the member is reimbursed under section 77(1)(a) of the LG Act); and
- e) expenses incurred by the Member as a consequence of the Member's attendance at a conference, seminar, training course or other similar activity which is directly or closely related to the performance or discharge of the roles and duties of a Council Member (other than for which the member is reimbursed under section 77(1)(a) of the LG Act).

For the purposes of this Policy, and pursuant to section 77(1)(b) of the LG Act, the Council approves the reimbursement of additional expenses of Council Members as described below.

### 9.1 Telecommunications

Pursuant to section 77(1)(b) of the LG Act the Council approves reimbursement of expenses incurred in the use of a telephone on the business of the Council. The following conditions apply to these expenses:

- a) ~~Mobile or h~~Home phone costs will be considered for reimbursement on production of itemised accounts for call charges only. Line rental fees are specifically excluded.
- a)b) Mobile phone plan costs will be considered for reimbursement up to the value of the Council's Standard Monthly Plan on production of evidence of the expense. This reimbursement cannot be claimed if the Council Member is the recipient of a Mobile Phone under clause 10(d) of this Policy.

### 9.2 Travel

Pursuant to section 77(1)(b) of the LG Act the Council approves reimbursement of expenses incurred in travelling to a function or activity on Council business. The following conditions apply to these expenses:

- a) travel both within and outside the Council area must be incurred by the Council Member as a consequence of attendance at a function or activity on the business of Council;
- b) reimbursement is restricted to the shortest or most practicable route;
- c) Council Members are encouraged to actively pursue cost-saving measure such as car-pooling;
- d) where a Council Member travels by private motor vehicle, the rate of reimbursement is at a rate equal to the appropriate rate per kilometre (determined according to the engine capacity of the vehicle) prescribed for the purposes of calculating deductions for car expenses under section 28.25 of the Income Tax Assessment Act 1997 of the Commonwealth;
- e) car parking fees will be reimbursed (where they are a consequence of a Council Member attending a function or activity on the business of the Council);
- f) travel by taxi, bus, plane or other means of public transport will be reimbursed on the basis of being expenses where they are incurred as a consequence of the Member's attendance at a function or activity on the business of the Council however such travel must still be by the shortest or most practicable route;
- g) where the cost of the travel for a return trip to a function or activity is anticipated to be in excess of \$500, prior approval of the Chief Executive Officer will be required;
- h) the Council may aggregate claims for reimbursement of expenses that relate to journeys that do not exceed 20 kilometres and then pay them on either a quarterly or monthly basis;

- i) claims for accident damage to Council Member's private vehicles will not be met by Council however Council will reimburse the insurance excess.

### 9.3 Child/Dependant Care

Pursuant to section 77(1)(b) of the LG Act the Council approves reimbursement of expenses incurred for the care of a child of a Council Member or a dependant of the Council Member requiring full time care as a consequence of the Council Member's attendance at a function or activity on the business of Council (other than expenses for which the Member is reimbursed under section 77 (1)(a) of the LG Act). The following conditions apply to these expenses:

- Child/dependant care is not reimbursed if the care is provided by a person who ordinarily resides with the Council Member.

### 9.4 Professional Development, Seminars and Conferences

Pursuant to section 77(1)(b) of the LG Act the Council approves reimbursement of expenses incurred in the attendance of professional development, seminars or conferences. The following conditions apply to these expenses:

- Expenses will only be reimbursed for attendance at professional development, conferences, seminars, etc. which have been approved under delegation/policy, e.g. under the Council Member Training and Development Policy.
- Expenses will normally be restricted to:
  - **Registration** – course/seminar/conference registration fees including official luncheons, dinners and tours relevant to the conference;
  - **Travel** – see clause 10.3 of this Policy;
  - **Meals** – Council will meet the cost of main meals for Council members where any of these meals are not provided as part of the conference.
  - **Accommodation** – delegates will be accommodated in the hotel where the conference, seminar or training course is held or another nearby hotel of a suitable standard. Council will provide financial support for accommodation of a suitable standard, at the rate of a private room, for each Council member attending.
- For clarity, Council will not meet the cost of:
  - **laundry or dry cleaning expenses;**
  - **any tips or gratuities paid by Council Members;**
  - **expenses incurred for the use of a bar fridge provided in a hotel room;**
  - **any expenses incurred at bars (including the bar located at the hotel); any expense incurred by any person accompanying a Member at any conference, seminar or training course.**

## 10. FACILITIES AND SUPPORT

### 10.1 Council Members

In addition to allowances and the reimbursement of expenses, the LG Act provides that the Council can provide facilities and forms of support for use by its Council Members to assist them to perform or discharge their official functions and duties (section 78).

The Council must consider and specifically approve the particular facility and support as necessary or expedient to the performance or discharge of all Council Members' official functions or duties. In approving the provision of facilities and support section 78 requires that any such services and facilities must be made available to all Council Members on a uniform basis, other than those facilities or support specifically provided to the Principal Member set out below (if any).

Pursuant to section 78 of the LG Act, Council has considered and is satisfied that the following facilities and support are necessary or expedient for all Council Members to assist them in performing or discharging their official functions and duties:

- a) iPads (or similar tablet computer device) will be provided subject to compliance with the terms and conditions contained in the Usage Agreement, which must be signed prior to the issuing of the device.
- b) Internet access via a 4G connection provided with Council Member's iPads.
- c) A Council email address for Council business which should not be used for personal business. Email access to be via the 4G connection on Council Members iPads. Note: Email access can be made via a standard home internet connection, however, Council will not reimburse Elected Members for the cost of this internet connection.
- d) Mobile Phones (including SIM) will be provided subject to compliance with the terms and conditions contained in the Usage Agreement, which must be signed prior to the issuing of the device.
- e) Reams of paper for printing.
- f) Stationery (such as pads, pens, diaries, etc).
- g) Meals and beverages provided in association with attendance at 'prescribed meetings'.
- h) Photocopying/printing at a Council Service Centre (not to be used for distributing copies of documents to community members)
- g)i) Access to Council meeting facilities (to be booked in advance at the respective Council Service or Community Centre).

The provision of these facilities and support are made available to all Council Members (including the Principal Member) under the LG Act on the following basis:

- they are necessary or expedient for the Council member to perform or discharge his/her official functions or duties; and
- the facilities remain the Council's property regardless of whether they are used off site or not.

## 10.2 Principal Members

In addition to the above, Council has resolved to make available to the Principal Member (and to any acting Principal Member appointed during the Principal Member's absence) the following additional facilities and support to assist them in performing and discharging their official functions and duties:

- a) a laptop computer with appropriate software;
- b) Council will supply and maintain a motor vehicle for Council business use by the Mayor ;
- c) a Mayoral Office accessible 24/7 providing desk and meeting facilities;
- d) provision of media and communications support and
- e) access to administrative officer services.



In addition, although not required by the LG Act, the Council has determined that the provision of the above facilities and support are made available to Council Members on the following terms:

- each Council Member is solely responsible for those facilities released into their care and/or control for the duration of their term in office;
- all facilities must be returned to the Council at the end of each term in office, upon the office of a Member of a Council becoming vacant, or earlier at the request of the Chief Executive Officer;
- if the facilities provided to the Council Member are damaged or lost the Council Member must lodge a written report with the Council officer responsible for this Policy.
- Council Members may be held responsible for loss/damage of facilities in the absence of a satisfactory explanation.

The use of Council facilities, support and/or services by Council Members for campaign or election purposes is not permitted under any circumstances on the basis it is not necessary or expedient to the performance or discharge of a Council Member's official functions or duties under the LG Act. The use of such facilities for electoral purposes during the election period would be a breach of section 78(3) of the LG Act.

#### **11. OTHER REIMBURSEMENTS**

Any additional reimbursements and facilities and support not detailed in this Policy will require the specific approval of Council prior to any reimbursements being paid, benefits being received and facilities and/or support being provided.

#### **12. INSURANCE OF MEMBERS (SECTION 80)**

Council will take out policies of insurance insuring every Council Member and a spouse, domestic partner or another person who may be accompanying Council Member, against risk associated with the performance or discharge of official functions or duties by members.

#### **13. CLAIMS FOR REIMBURSEMENT**

Reimbursements are to be claimed using the Council Member Expense Claim Form and submitting to the CEO's Office with relevant receipts and invoices, no later than 3 months after the expenses are incurred, and by the first week in July each year.

#### **14. DISPUTE RESOLUTION/APPEAL PROCESS**

In the event that a Council Member disputes a payment, a panel consisting of the Mayor, Deputy Mayor (in circumstances where the mayor or Deputy Mayor is the complainant, they will not form part of the panel) and Chief Executive Officer will make a final determination on the reimbursement of expenses for official duties. Decisions of this panel, which must be by consensus, shall be final.

#### **15. REGISTER OF ALLOWANCES AND BENEFITS**

Pursuant to section 79(1) and (2) of the LG Act, the Chief Executive Officer must maintain a Register in which he or she shall ensure that a record is kept of:

- a) the annual allowance payable to a Council Member (in the case of section 79 (1)(a)); and
- b) details of any expenses reimbursed under section 77(1)(b) of the LG Act (in the case of section 79(1)(b)); and
- c) details of other benefits paid or provided for the benefit of the Member by the Council (in the case of section 79(1)(c)); or
- d) to make a record of the provision of a reimbursement or benefit not previously recorded in the Register (in the case of section 79(2)(b)),

on a quarterly basis (see regulation 7 of the Regulations).

Reimbursements paid under section 77(1)(a) of the LG Act are not required to be recorded in the Register, however Council has taken the position that all reimbursements will be recorded in the register.

The Chief Executive Officer is required to record in the Register any changes in the allowance or a benefit payable to, or provided for the benefit of, Council Members. Accordingly, the Chief Executive Officer will update the Register each quarter.

The Register of Allowances and Benefits is available for inspection by members of the public, free of charge, at the Council's office during ordinary business hours. Copies or extracts of the Register are available for purchase upon payment of a fixed fee. The policy is also available on Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au).

## **16. REVIEW AND EVALUATION**

Council Member allowances are determined by the Remuneration Tribunal on a 4 yearly basis.

This Policy will lapse at the next general election at which time the newly elected Council will be required to adopt a new policy dealing with Council Member's allowances, reimbursements and benefits for their term in office (section 77(2) LG Act).

## **17. DELEGATION**

The Chief Executive Officer has the delegation to:

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

## **18. AVAILABILITY OF THE COUNCIL MEMBERS' ALLOWANCES AND ~~BENEFITS~~ SUPPORT POLICY**

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

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.5

**Originating Officer:** Lachlan Miller, Executive Manager Governance & Performance

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Chief Executive Officer Performance Review Panel – Membership & Presiding Member

**For:** Decision

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**SUMMARY**

The Chief Executive Officer Performance Review Panel (the CEO PRP) is created under Section 41 of the *Local Government Act 1999* (the Act).

The purpose of this report is to seek the Council's determination on the retention of the CEOPRP with/without amendment to the CEOPRP's Terms of Reference (TOR), to determine its Council Member membership and the Presiding Member.

**RECOMMENDATION**

**That Council resolves:**

1. That the report be received and noted
2. To retain the Chief Executive Officer Performance Review Panel for the term of the Council with the Terms of Reference in Appendix 1.
3. To determine that the method of selecting the Chief Executive Officer Performance Review Panel Members to be by an indicative vote to determine the preferred persons for the two Council Member positions utilising the process set out in this Agenda report.
4. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred persons for the Chief Executive Officer Performance Review Panel Member roles and for the meeting to resume once the results of the indicative vote have been declared.
5. To appoint Councillors..... as members of the Chief Executive Officer Performance Review Panel for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).

6. **To determine that the method of selecting the Chief Executive Officer Performance Review Panel Presiding Member to be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.**
7. **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 Chief Executive Officer Performance Review Panel Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.**
8. **To appoint ..... to the position of Chief Executive Officer Performance Review Panel Presiding Member for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).**

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1. **GOVERNANCE**

➤ **Strategic Management Plan/Council Policy**

Goal	Organisational Sustainability
Strategy	Governance

➤ **Legal Implications**

Section 41 of the *Local Government Act 1999* (the 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 CEOPRP is a s41 Committee

Sections 73 and 74 of the Act set out the provisions regarding Material Conflicts of Interest. Council Member membership of the CEOPRP in one of the two Council Member roles under the Panel's TOR, may possibly constitute a personal benefit under s73 of the Act. As the Presiding Member of a Prescribed Committee earns an additional allowance, this likely constitutes a personal and/or pecuniary benefit under s73.

Sections 75 and 75A of the Act set out the provisions regarding Actual and Perceived Conflicts of Interest. A Council Member seeking to be appointed to a Committee may in actuality, or could be perceived by an impartial person to, have a conflict between their personal interests and the public interest that might lead to a decision that is contrary to the public interest.

Therefore a Council Member seeking to be appointed to a Panel Member role and/or the Presiding Member role could have a Material, Actual or Perceived Conflict of Interest and would need to consider declaring the interest and leave the Chamber prior to the discussion of the matter under s74(1) or s75A(2), as appropriate.

Council's *Informal Council and Council Committee Gatherings and Discussions Policy* created under s90(8a) of the Act sets out the provisions for the conduct of a Designated Informal Gathering.

While Part 1 – Chief Executive Officer and Chapter 7 – Staff of the Act contains provisions for the requirement for a CEO, vacancies in the Office of CEO, appointment procedures and the role of the CEO, there are no provisions for the review of the CEO’s performance. As such, the CEOPRP is an entirely discretionary committee.

➤ **Risk Management Implications**

The Council’s consideration of the requirements for a CEOPRP 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

For the purposes of *The Remuneration Tribunal Determination of Allowances for Members of Local Government Councils* the SPDPC, Audit Committee and the CEO Performance Review Panel are ‘prescribed committees’. A prescribed committee is ‘a committee that endures, irrespective of whether the council has assigned any particular work for the committee to perform and assist council or provides advice to the council.’

The annual allowance for a councillor who is a presiding member of one or more prescribed committees is equal to one and a quarter (1.25) times the annual allowance for councillors of that council. There is no allowance payment for councillors who are members of Council Committees.

As a Group 2 Council for the purposes of the Determination, the Prescribed Committee Presiding Member’s allowance in Year 1 will be \$21,587.50.

Should the Mayor, Deputy Mayor or another Council Member who is in receipt of a Presiding Member’s allowance be appointed as the CEOPRP Presiding Member, there is no additional allowance payable.

While the allowances payable to Council Members are set by the Remuneration Tribunal, Council determines the sitting fees payable to Independent Members of Council Committees.

Council’s current budget has provision for the costs associated with the CEOPRP Presiding Member role.

➤ **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.

➤ **Environmental Implications**

Not applicable.

➤ **Community Engagement/Consultation**

There is no requirement for community consultation in relation to the appointment of Council Members and the Presiding Member to the CEOPRP.

## 2. **BACKGROUND**

### **CEOPRP Terms of Reference**

At its 25 July 2017 meeting Council adopted a revised TOR (**Appendix 1**) which came into effect on 1 September 2017.

### **Audit Committee Membership**

The relevant elements of the Panel's TOR regarding membership and contained in clause 5, as follows:

- 5.1 The Panel will comprise five (5) members as follows:
  - 5.1.1 Mayor and Deputy Mayor;
  - 5.1.2 Two (2) Council Members ; and
  - 5.1.3 One (1) Independent Member.
- 5.2 All members of the Panel will be appointed by the Council.
- 5.3 The Independent Member of the Panel shall have recent and relevant skills and experience in fields related to the role and functions of the Panel.
- 5.4 It is desirable for the Council Members to be appointed to the Panel to have a sound understanding of the role and functions of the Panel.
- 5.5 In considering appointments to the Panel, Council should give consideration to the diversity of the membership.
- 5.6 Appointments to the Panel shall be for a period of up to three (3) years.

Council, at its 26 September 2017 meeting, in relation to the two Council Member positions on the CEOPRP resolved as follows:

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

**216/17**

**Council resolves, in relation to the Chief Executive Officer Performance Review Panel, to appoint Cr Linda Green and Cr Jan Loveday as members for a term to commence 29 November 2017 until the conclusion of this Council's term of office, that is November 2018.**

**Carried Unanimously**

As such, the membership terms of Councillors Green and Loveday ceased at the date of the Final Declaration of the November 2018 Local Government Election.

In relation to the one Independent Member position on the CEOPRP, at its 23 January 2018 meeting, Council resolved as follows:

**19.1.1. CEO Performance Review Committee and Audit Committee Independent Members Appointments – Confidential Item**

**RELEASED 1 FEBRUARY 2018**

**Moved Cr John Kemp**  
**S/- Cr Malcolm Herrmann**

**22/18**

**Council resolves:**

- 1. That the report be received and noted**
- 2. To appoint Paula Davies to the CEO Performance Review Panel for a term to commence immediately until 30 November 2020 (inclusive)**

As such the membership term of the Independent Member (Paula Davies) is current and, while it could be changed by resolution of the Council, this is not the subject of this report.

**CEOPRP Presiding Member**

Clause 7.1 the TOR provides that the Council will appoint the Presiding Member of the Panel. Council has the flexibility to appoint the Presiding Member for a term of its choice within the bounds of the 3 year term as per clause 5.6.

If the Presiding Member of the Panel is absent from a meeting the Deputy Presiding Member (if such position exists) will preside at that meeting.

Note that the TOR does not preclude either a Council Member or an Independent Member from eligibility for the Presiding Member role.

Council, at its 26 September 2017 meeting, resolved (218/17) the sitting fees for CEOPRP Independent Members as follows:

- i. **Presiding Member - \$525 (excl GST) per meeting.**
- ii. **Ordinary Member - \$380 (excl GST) per meeting.**

Council, at its 23 January 2018 meeting, in relation to the CEOPRP Presiding Member role resolved as follows:

**Moved Cr John Kemp  
S/- Cr Linda Green**

**217/17**

**Council resolves, in relation to the Chief Executive Officer Performance Review Panel, to appoint Cr Jan Loveday to the position of Presiding Member for a term to commence 29 November 2017 until the conclusion of this Council's term of office, that is November 2018.**

**Carried Unanimously**

As such, Councillor Loveday's term as Presiding Member ceased at the date of the Final Declaration of the November 2018 Local Government Election.

### **3. ANALYSIS**

#### **CEOPRP Terms of Reference**

The CEOPRP TOR is based on good practice guidance from the Local Government Association. In the absence of any legislative or other considerations to prompt a review, it is recommended that Council should resolve for the retention of the CEOPRP in its current form.

#### **CEOPRP Membership**

As identified in the Background section above, the discretionary Council Member membership of the CEOPRP is limited to two (2) Council Members.

Clause 5.4 of the CEOPRP TOR provides that it is desirable for the Council Members to be appointed to the Panel to have a sound understanding of the role and functions of the Panel.

Given the limit of two positions, appointment to the Panel could be most effectively managed via the *Indicative Voting Process for Determining Council Appointed Positions* as detailed below.

Similarly in considering nominations of aspiring CEOPRP Members, Council may wish to consider, in addition to the requirements of clause 5.4, some or all of the *Characteristics of a Presiding Member* as detailed below.

While the characteristics regarding presiding member duties may appear erroneous, Council is reminded that the Panel has the delegation to select a Deputy Presiding Member from amongst its members.



## **CEOPRP Presiding Member**

### Characteristics of a Presiding Member

In considering the CEOPRP Presiding Member position, Council may wish to consider suitability factors including (but not limited to):

- understanding or the ability to acquire the same in meeting procedure generally and the meeting procedure set out in the *Local Government (Procedures at Meetings) Regulations 2013* and Meeting Procedure provisions set out in the CEOPRP TOR (clause 9);
- expertise in chairing meetings of s41 Committees (if past experience exists), or other boards/committees in other organisations, public and private;
- ability to preside efficiently, firmly, impartially and fairly over Committee meetings;
- ability to manage conflict and differing opinions;
- integrity, good conduct and diligence;
- the opportunity to provide professional development in presiding member skills;
- the opportunity to consider diversity in the role;
- current and future time commitments (i.e. there are a number of Council Committees, Regional Subsidiaries and Advisory Groups that will also require Council Member representation); and
- the financial implications of the appointment.

### **Indicative Voting Process for Determining Council Appointed Positions**

Due to the potential implications of the Material Conflict of Interest provisions under s73 (see Legal Implications above) regarding the appointment of Panel Members and the Presiding Member (other than the Mayor, Deputy or any Council Member currently receiving a Presiding Member's allowance from a pecuniary interest perspective), it is proposed that the Council 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 of Panel Member and then again separately for the role of Panel Presiding Member.

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 or Council Committee, it is a Designated Informal Gathering for the purposes of s90 and the *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy). As a Designated Informal Gathering, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and informal gatherings provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the position of CEOPRP Members or the Presiding Member, as appropriate.

Note that in relation to the Presiding Member role, the Independent Member of the Committee is also eligible to self-nominate.

- b) 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.
- c) The CEO (or another Council staff member) will be appointed as the Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.
- d) The method of voting will be by secret ballot utilising the preferential counting system
- e) Each Council Member (including the Mayor) shall have one vote.

Note that while the Independent Member is eligible for the Presiding Member role, they will not have voting rights in this process.

- f) Ballot papers will be provided to each Council Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each nominee will have two (2) minutes to speak to the Gathering in support of the candidacy. The speaking order will be as listed on the ballot paper.
- i) 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 staff member) present.
- j) 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.
- k) After all votes have been counted, the Returning Officer shall publicly announce the final votes cast for each candidate and formally declare the result of the election (i.e. the preferred person).
- l) The ballot papers will be shredded.

### **Proposed Chronology of Events**

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and informal gatherings.

The following chronology has been based on guidance from the LGA regarding the election of Council Members to Committee and Presiding Member positions:

- I. Council consider whether to retain the CEOPRP for the term of the Council with the Terms of Reference as contained in Appendix 1. Council would give effect to this by dealing with Recommendations 1 and 2 (or variants) at this time.
- II. Council will then consider the process that it will use to choose the preferred persons for the two Council Member positions. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.
- III. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 4 (or a variant) at this time.

- IV. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, the Council Members who nominated for the Audit Committee Member roles would be advised to consider their obligations to declare a Material, Actual or Perceived Conflict of Interest as appropriate.

- V. Council can then resolve for the preferred persons to be appointed as the CEOPRP Members for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 5 (or a variant) at this time.

Once this matter is resolved, the Members who have declared Conflicts of Interest can return to the Chamber.

- VI. Council will then consider the process that it will use to choose the preferred person for the CEOPRP Presiding Member role. Council would give effect to this by dealing with Recommendation 6 (or a variant) at this time.

- VII. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 7 (or a variant) at this time.

- VIII. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, any Council Members who nominated for the Presiding Member role would be advised to make declarations in accordance with s74 – Dealing with material conflicts of interest.

Council can then resolve for the preferred person to be appointed as the CEOPRP Presiding Member for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 8 (or a variant) at this time.

#### 4. OPTIONS

The Council has the following options:

- I. To resolve to appoint the membership of the CEOPRP and a Presiding Member for a period and to undertake the processes as outlined in the report (**Recommended**)
- II. To determine not to resolve the membership or the Presiding Member (**Not Recommended**). Doing so would effectively revert all CEO Performance Review processes to the full Council, which may be an inefficient use of Council time.

#### 5. APPENDIX

- (1) Chief Executive Officer Performance Review Panel Terms of Reference

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# **Appendix 1**

*CEO PRP Terms of Reference*

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# ADELAIDE HILLS COUNCIL

## CEO Performance Review Panel



### TERMS OF REFERENCE

#### 1. ESTABLISHMENT

- 1.1 The CEO Performance Review Panel (the Panel) of Council is established under Section 41 of the *Local Government Act 1999* (the Act).
- 1.2 The Panel 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 Panel does not have any management functions and is therefore independent from management.

#### 2. ROLE

- 2.1 The Council is responsible for the selection, remuneration and management of the Chief Executive Officer (CEO). The overall role of the Panel is to provide advice to Council on matters relating to the performance and development of the CEO.

#### 3. SPECIFIC FUNCTIONS

- 3.1 The function of the Panel is to provide advice to Council on the CEO's performance and development, including the following matters:
  - 3.1.1 Determining the Performance Targets for the forthcoming 12 month performance period;
  - 3.1.2 Monitoring the progress on the CEO's agreed Performance Targets for the current 12 month performance period;
  - 3.1.3 Reviewing the CEO's performance over the preceding 12 month performance period, in particular the performance against the agreed Performance Targets and position description requirements;
  - 3.1.4 Identifying development opportunities for the CEO; and
  - 3.1.5 Reviewing the remuneration and conditions of employment of the CEO.

#### 4. OTHER MATTERS

The Panel 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 Where the Panel is required to act jointly with or to obtain the concurrence of the CEO in the performance of its functions, the Council expects that both parties will negotiate and consult in good faith to achieve the necessary objectives; and
- 4.5 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 Panel will comprise five (5) members as follows:
  - 5.1.1 Mayor and Deputy Mayor;
  - 5.1.2 Two (2) Council Members ; and
  - 5.1.3 One (1) Independent Member.
- 5.2 All members of the Panel will be appointed by the Council.
- 5.3 The Independent Member of the Panel shall have recent and relevant skills and experience in fields related to the role and functions of the Panel.
- 5.4 It is desirable for the Council Members to be appointed to the Panel to have a sound understanding of the role and functions of the Panel.
- 5.5 In considering appointments to the Panel, Council should give consideration to the diversity of the membership.
- 5.6 Appointments to the Panel 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.

## **6. SITTING FEES**

- 6.1 The applicable Remuneration Tribunal (or its successor) Determination outlines the applicable allowance for Council Members on the Panel.
- 6.2 The Independent Member is 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 Panel.
- 7.2 The Council authorises the Panel to determine if there will be a Deputy Presiding Member of the Committee and, if so, authorises the Panel to make the appointment to that position for a term determined by the Panel.
- 7.3 If the Presiding Member of the Panel 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 Panel are absent from a meeting of the Panel, then a member of the Panel 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 Panel 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 Panel's reporting and accountability requirements are:

8.1.1 The minutes of each Panel 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 Panel;

8.1.3 The panel 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 Panel'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 Panel 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 Panel, the Panel may determine its own procedure.

9.2 In accordance with Section 90(7a), one or more panel members may participate in the meeting by telephone or other electronic means provided that members of the public can hear the discussion between all Panel members.

9.3 Only members of the Panel are entitled to vote in Panel meetings. Unless otherwise required by the Act not to vote, each member must vote on every matter that is before the Panel for decision.

9.4 Council Employees may attend any meeting as observers or be responsible for preparing papers for the Panel.

## **10. SECRETARIAL RESOURCES**

- 10.1 The Chief Executive Officer shall provide sufficient administrative resources to the Panel to enable it to adequately carry out its functions.

**11. FREQUENCY OF MEETINGS**

- 11.1 The Panel shall meet at appropriate times and places as determined by the Panel. 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 Panel is authorised to cancel the respective Panel 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 Panel 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 Panel by email or as otherwise agreed by Panel 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 Panel, unless prohibited by resolution of the Panel under the confidentiality provisions of Section 90 of the Act.
- 12.4 Members of the public have access to all documents relating to the Panel unless prohibited by resolution of the Panel 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 Panel, 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 Panel meetings shall be circulated within five days after a meeting to all members of the Panel and will (in accordance with legislative requirements) be available to the public.



**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

<b>Item:</b>	<b>12.6</b>
<b>Originating Officer:</b>	<b>Lachlan Miller, Executive Manager Governance &amp; Performance</b>
<b>Responsible Director:</b>	<b>Andrew Aitken, Chief Executive Officer</b>
<b>Subject:</b>	<b>Strategic Planning &amp; Development Policy Committee – Membership &amp; Presiding Member</b>
<b>For:</b>	<b>Decision</b>

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**SUMMARY**

The Strategic Planning & Development Policy Committee (SPDPC) is created under Section 41 of the *Local Government Act 1999* to satisfy the requirements of Section 101A of the *Development Act 1993*.

The purpose of this report is to seek the Council's determination on the retention of the SPDPC with/without amendment to the SPDPC's Terms of Reference (TOR), to determine its membership and the presiding member.

**RECOMMENDATION**

**That Council resolves:**

- 1. That the report be received and noted**
- 2. To retain the Strategic Planning & Development Policy Committee for the term of the Council with the Terms of Reference as contained in Appendix 1.**
- 3. To determine that the number of Council Members to be appointed to the Strategic Planning & Development Policy Committee to be ... members.**
- 4. To determine that the method of selecting the Strategic Planning & Development Policy Committee Members to be by an indicative vote to determine the preferred persons for the Committee Member positions 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 persons for the Audit Committee Member roles and for the meeting to resume once the results of the indicative vote have been declared.**

6. To appoint ..... as members of the Strategic Planning & Development Policy Committee for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).
  7. To determine that the method of selecting the SPDPC Presiding Member to be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.
  8. 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 SPDPC Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.
  9. To appoint ..... to the position SPDPC Presiding Member for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).
- 

## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal	Organisational Sustainability
Strategy	Governance

### ➤ Legal Implications

Section 101A of the *Development Act 1993* requires that a council must establish a SPDPC and prescribes a series of functions (these are contained in the SPDPC Terms of Reference contained in **Appendix 1**).

Section 41 of the *Local Government Act 1999* (the 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 SPDPC is a s41 Committee

Sections 73 and 74 of the Act set out the provisions regarding Material Conflicts of Interest. As the Presiding Member of a Prescribed Committee earns an additional allowance, this likely constitutes a personal and/or pecuniary benefit under s73 and therefore Council Members seeking to be appointed to the Presiding Member role could have a Material Conflict of Interest and would need to consider declaring the interest and leave the Chamber prior to the discussion of the matter under s74(1).

Sections 75 and 75A of the Act set out the provisions regarding Actual and Perceived Conflicts of Interest. A Council Member seeking to be appointed to a Committee may in actuality, or could be perceived by an impartial person to, have a conflict between their personal interests and the public interest that might lead to a decision that is contrary to the public interest.

Therefore a Council Member seeking to be appointed to a Committee Member role and/or the Presiding Member role could have a Material, Actual or Perceived Conflict of Interest and would need to consider declaring the interest and leave the Chamber prior to the discussion of the matter under s74(1) or s75A(2), as appropriate.

Council's *Informal Council and Council Committee Gatherings and Discussions Policy* created under s90(8a) of the Act sets out the provisions for the conduct of a Designated Informal Gathering.

➤ **Risk Management Implications**

The Council's consideration of the requirement for a SPDPC 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

For the purposes of *The Remuneration Tribunal Determination of Allowances for Members of Local Government Councils* the SPDPC, Audit Committee and the CEO Performance Review Panel are 'prescribed committees'. A prescribed committee is 'a committee that endures, irrespective of whether the council has assigned any particular work for the committee to perform and assist council or provides advice to the council.'

The annual allowance for a councillor who is a presiding member of one or more prescribed committees is equal to one and a quarter (1.25) times the annual allowance for councillors of that council. There is no allowance payment for councillors who are members of Council Committees.

As a Group 2 Council for the purposes of the Determination, the Prescribed Committee Presiding Member's allowance in Year 1 will be \$21,587.50.

Should the Mayor, Deputy Mayor or another Council Member who is in receipt of a Presiding Member's allowance be appointed as the SPDPC Presiding Member, there is no additional allowance payable.

Council's current budget has provision for the costs associated with the SPDPC presiding member role.

➤ **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.

➤ **Environmental Implications**

Not applicable.

➤ **Community Engagement/Consultation**

There is no requirement for community consultation in relation to the appointment of Council Members and the Presiding Member to the SPDPC.

## 2. **BACKGROUND**

### **SPDPC Terms of Reference**

Prior to July 2017, the SPDPC's TOR in addition to containing the requirements of s101A of the *Development Act 1993* and had the delegation from Council to adopt policies and codes on the Council's behalf. With this role, the SPDPC met on a monthly basis.

At its 25 July 2017 meeting Council adopted a revised TOR (**Appendix 1**) which came into effect on 1 September 2017. The revised TOR was limited only to the requirements of s101A and, as such, the frequency of meetings was reduced to an as-needs basis, with two meetings held to the end of the Council term. The agenda items were as follows:

- 4 October 2017 - Community Engagement Charter Submission
- 14 August 2018 - Local Heritage Stage 1 (Public Places) Development Plan Amendment – Summary of Consultations and Proposed Amendments – Endorsement to send to Minister for Planning for approval

### **SPDPC Membership**

The TOR (clauses 5.1 & 5.2) provides the SPDPC will comprise of up to 13 Council Members with the membership to be appointed by the Council.

Council, at its 22 August 2017 meeting, in relation to the membership resolved (191/17) as follows:

4. **That in relation to the Strategic Planning and Development Policy Committee, to appoint all Council Members as members until the conclusion of the current Council Members' term of office.**

As such the membership terms of all Council Members ceased at the date of the Final Declaration of the November 2018 Local Government Election.

### **SPDPC Presiding Member**

Clause 7.1 provides that the Council will appoint the Presiding Member of the Committee. Council has the flexibility to appoint the Presiding Member for a term of its choice.

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.

Council, at its 26 September 2017 meeting, in relation to the role of Presiding Member resolved (219/17) as follows:

**Council resolves, in relation to the Strategic Planning and Development Policy Committee, to appoint Cr John Kemp to the position of Presiding Member for a term to commence 29 November 2017 until the conclusion of this Council's term of office, that is November 2018.**

**Carried Unanimously**

As such, Councillor Kemp's term as Presiding Member ceased at the date of the Final Declaration of the November 2018 Local Government Election.

### **3. ANALYSIS**

#### **SPDPC Terms of Reference**

The Department of Transport, Planning & Infrastructure (DPTI) has not given an indication as to the timing for the provisions of s101A to cease and, given the relatively recent review of the SPDPC TOR and the absence of any legislative or other considerations to prompt a review, it is recommended that Council should resolve for the retention of the SPDPC in its current form.

The calling of meetings is best managed on the current as-needs basis which, in effect, will be facilitated through the calling of Special Meetings, generally at the request of the Presiding Member on the advice of the Administration.

#### **SPDPC Membership**

As identified in the Background section above, the membership of the SPDPC can be up to 13 Council Members. Clearly this does not mean that all Council Members are required to be on the SPDPC.

Clause 5.3 of the SPDPC TOR provides that it is desirable for the Council Members to be appointed to the Committee to have a sound understanding of the role and functions of the Committee.

Appointment to the SPDPC could be most effectively be managed by the Mayor calling for nominations and, subject to the Council being prepared to appoint all those who have nominated, these can be inserted into Recommendation 3 for resolution.

In considering nominations of aspiring SPDPC Members, Council may wish to consider in addition to the requirements of clause 5.3, some or all of the *Characteristics of a Presiding Member* as detailed below.

While the characteristics regarding presiding member duties may appear erroneous, Council is reminded that the Committee itself has the delegation to select a Deputy Presiding Member from amongst its members.

## **SPDPC Presiding Member**

### Characteristics of a Presiding Member

In considering the SPDPC Presiding Member position, Council may wish to consider suitability factors including (but not limited to):

- understanding or the ability to acquire the same of the role and functions of the SPDPC;
- general understanding or the ability to acquire the same of the South Australian Planning System;
- understanding or the ability to acquire the same in meeting procedure generally and the meeting procedure set out in the *Local Government (Procedures at Meetings) Regulations 2013* and Meeting Procedure provisions set out in the SPDPC TOR (clause 9);
- expertise in chairing meetings of s41 Committees (if past experience exists), or other boards/committees in other organisations, public and private;
- ability to preside efficiently, firmly, impartially and fairly over Committee meetings;
- ability to manage conflict and differing opinions;
- integrity, good conduct and diligence;
- the opportunity to provide professional development in presiding member skills;
- the opportunity to consider diversity in the role;
- current and future time commitments (i.e. there are a number of Council Committees, Regional Subsidiaries and Advisory Groups that will also require Council Member representation); and
- the financial implications of the appointment.

### **Indicative Voting Process for Determining Council Appointed Positions**

Due to the potential implications of the Material Conflict of Interest provisions under s73 (see Legal Implications above) regarding the appointment of the Presiding Member (other than the Mayor, Deputy Mayor or any Council Member currently receiving a Presiding Member's allowance from a pecuniary interest perspective), it is proposed that the Council 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 position of SPDPC Presiding Member.

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 or Council Committee, it is a Designated Informal Gatherings for the purposes of s90 and the *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy). As a Designated Informal Gathering, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and informal gatherings provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the position of SPDPC Presiding Member.
- b) 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.
- c) The CEO (or another Council staff member) will be appointed as the Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.
- d) The method of voting will be by secret ballot utilising the preferential counting system
- e) Each Council Member (including the Mayor) shall have one vote.
- f) Ballot papers will be provided to each Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each nominee will have two (2) minutes to speak to the Gathering in support of the candidacy. The speaking order will be as listed on the ballot paper.
- i) 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 staff member) present.
- j) 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.
- k) After all votes have been counted, the Returning Officer shall publicly announce the final votes cast for each candidate and formally declare the result of the election (i.e. the preferred person).
- l) The ballot papers will be shredded.

### **Proposed Chronology of Events**

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and informal gatherings.

The following chronology has been based on guidance from the LGA regarding the election of Council Members to Committee and Presiding Member positions:

- I. Council consider whether to retain the SPDPC for the term of the Council with the Terms of Reference as contained in Appendix 1. Council would give effect to this by dealing with Recommendations 1 and 2 (or variants) at this time.
- II. Council will then consider the number of Committee Members it seeks to appoint to the Committee. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.
- III. Council will then consider the process that it will use to choose the preferred persons for the resolved number of Committee positions. Council would give effect to this by dealing with Recommendation 4 (or a variant) at this time.
- IV. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 5 (or a variant) at this time.
- V. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, the Council Members who nominated for the SPDPC Member roles would be advised to consider their obligations to declare a Material, Actual or Perceived Conflict of Interest as appropriate.

- VI. Council can then resolve for the preferred persons to be appointed as the SPDPC Members for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 6 (or a variant) at this time.

Once this matter is resolved, the Members who have declared Conflicts of Interest can return to the Chamber.

- VII. Council will then consider the process that it will use to choose the preferred person for the SPDPC Presiding Member role. Council would give effect to this by dealing with Recommendation 7 (or a variant) at this time.
- VIII. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 8 (or a variant) at this time.
- IX. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, the Council Members who nominated for the Presiding Member role would be advised to make declarations in accordance with *s74 – Dealing with material conflicts of interest* and leave the Chamber.

Council can then resolve for the preferred person to be appointed as the SPDPC Presiding Member for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 9 (or a variant) at this time.

#### 4. OPTIONS

The Council has the following options:

- I. To resolve to appoint the membership of the SPDPC and a Presiding Member for a period and to undertake the processes as outlined in the report (**Recommended**)
- II. To determine not to resolve the membership or the Presiding Member (**Not Recommended**). Doing so would effectively breach Council's legislative obligations.

#### 5. APPENDIX

- (1) Strategic Planning & Development Policy Committee Terms of Reference



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# **Appendix 1**

*SPDPC Committee Terms of Reference*

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**Strategic Planning & Development Policy Committee**

**TERMS OF REFERENCE**

**Adopted by Council 25 July 2017 - Effective from 1 September 2017**

**1. ESTABLISHMENT**

- 1.1 The Strategic Planning & Development Policy Committee (the Committee) of Council is established under Section 41 of the *Local Government Act* 1999 (the Act) and Section 101A of the Development Act 1993.
- 1.2 The 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 Committee is to develop strategic planning and development policy, strategic plans and consider matters referred to it by Council's Development Assessment Panel, Council and the Chief Executive Officer and perform the functions delegated to it by Council.

**3. SPECIFIC FUNCTIONS**

- 3.1 The functions of the Committee are
  - 3.1.1 Provide advice to the Council in relation to proposals of, and the extent to which, the Council's strategic planning and development policies accord with the State Planning Strategy;
  - 3.1.2 To assist the Council in undertaking strategic planning and monitoring directed at achieving:
    - 3.1.2.1 Orderly and efficient development within the area of the council;
    - 3.1.2.2 High levels of integration of transport and land-use planning;
    - 3.1.2.3 Relevant targets set out in the Planning Strategy within the area of the council;
    - 3.1.2.4 The implementation of affordable housing policies set out in the Planning Strategy within the area of the council; and
  - 3.1.3 Oversee the process of initiating and reviewing strategic planning and development policy issues when the Council is preparing:

- 3.1.3.1 Strategic Directions Report, or
- 3.1.3.2 Development Plan Amendment proposal.
- 3.1.4 Initiate Development Plan Amendments, endorse Statements of Intent, respond to submissions and agency comments received on Development Plan Amendments, and adopt final documents for authorisation by the Minister for Planning and Urban Development.
- 3.1.5 Consider and make submissions on Development Plan Amendments and planning policy initiated by adjoining Councils that would affect the Council area.
- 3.1.6 Consider, adopt and make submissions (e.g. to Ministers or State Government Agencies) on proposed strategies and planning policy from relevant Council advisory groups e.g. Rural Land Management Advisory Group.
- 3.1.7 Overview the progress of planning policy work and review priorities and comment on and make recommendations to Council on resource allocation for planning policy work generally.
- 3.1.8 Review relevant State legislative, Strategy, and Policy changes affecting Local Government activity and responsibilities in relation to development, and recommending appropriate course(s) of action.

#### **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; and
- 4.4 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 of up to 13 Council Members.
- 5.2 All members of the Committee will be appointed by the Council.
- 5.3 It is desirable for the Council Members to be appointed to the Committee to have a sound understanding of the role and functions of the Committee.
- 5.4 In considering appointments to the Committee, Council should give consideration to the diversity of the membership.
- 5.5 The term of office for Committee members shall be as determined by Council.

5.6 Members of the Committee are eligible for reappointment at the expiration of their term of office.

## **6. SITTING FEES**

6.1 The applicable Remuneration Tribunal (or its successor) Determination outlines the applicable allowance for Council Members on the Committee.

## **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 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  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.7

**Originating Officer:** Lachlan Miller, Executive Manager Governance & Performance

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Audit Committee – Membership & Presiding Member

**For:** Decision

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**SUMMARY**

The Audit Committee is created under Section 41 of the *Local Government Act 1999* (the Act) to satisfy the requirements of Section 128 of the Act.

The purpose of this report is to seek the Council's determination on the retention of the Audit Committee with/without amendment to the Audit Committee's Terms of Reference (TOR), to determine its Council Member membership and the Presiding Member.

**RECOMMENDATION**

**That Council resolves:**

- 1. That the report be received and noted**
- 2. To retain the Audit Committee for the term of the Council with the Terms of Reference in Appendix 1.**
- 3. To determine that the method of selecting the Audit Committee Members to be by an indicative vote to determine the preferred persons for the two Council Member positions utilising the process set out in this Agenda report.**
- 4. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred persons for the Audit Committee Member roles and for the meeting to resume once the results of the indicative vote have been declared.**
- 5. To appoint ..... as members of the Audit Committee for a .....month term to commence 27 November 2018 and conclude on 26 November 20XX (inclusive).**

6. **To determine that the method of selecting the Audit Committee Presiding Member to be by an indicative vote to determine the preferred person utilising the process set out in this Agenda report.**
  7. **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 Audit Committee Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.**
  8. **To appoint ..... to the position of Audit Committee Presiding Member for a .....month term to commence 1 December 2018 and conclude on 26 November 20XX (inclusive).**
- 

## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal	Organisational Sustainability
Strategy	Governance

### ➤ Legal Implications

Section 128 - Audit Committee of the Act prescribes that a council must have an audit committee to fulfil the functions set out in that section. Regulation 17(1)(b) of the *Local Government (Financial Management) Regulations 2011* requires that the audit committee must include at least 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 an audit committee (i.e. an independent member).

Regulation 17 of the *Local Government (Financial Management) Regulations 2011* provides that the audit committee of a council:

- a) must have between 3 and 5 members (inclusive); and
- b) must include 1 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 an audit committee; and
- c) must not include, as a member, the council's auditor under Section 128 of the Act.

Section 41 of the *Local Government Act 1999* (the 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 Audit Committee is a s41 Committee

Sections 73 and 74 of the Act set out the provisions regarding Material Conflicts of Interest. Council Member membership of the Audit Committee in one of the two Council Member roles under the Committee's TOR, may possibly constitute a personal benefit under s73 of the Act. As the Presiding Member of a Prescribed Committee earns an additional allowance, this likely constitutes a personal and/or pecuniary benefit under s73.



Sections 75 and 75A of the Act set out the provisions regarding Actual and Perceived Conflicts of Interest. A Council Member seeking to be appointed to a Committee may in actuality, or could be perceived by an impartial person to, have a conflict between their personal interests and the public interest that might lead to a decision that is contrary to the public interest.

Therefore a Council Member seeking to be appointed to a Committee Member role and/or the Presiding Member role could have a Material, Actual or Perceived Conflict of Interest and would need to consider declaring the interest and leave the Chamber prior to the discussion of the matter under s74(1) or s75A(2), as appropriate.

Council's *Informal Council and Council Committee Gatherings and Discussions Policy* created under s90(8a) of the Act sets out the provisions for the conduct of a Designated Informal Gathering.

➤ **Risk Management Implications**

The Council's consideration of the requirements for an 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

For the purposes of *The Remuneration Tribunal Determination of Allowances for Members of Local Government Councils* the SPDPC, Audit Committee and the CEO Performance Review Panel are 'prescribed committees'. A prescribed committee is 'a committee that endures, irrespective of whether the council has assigned any particular work for the committee to perform and assist council or provides advice to the council.'

The annual allowance for a councillor who is a presiding member of one or more prescribed committees is equal to one and a quarter (1.25) times the annual allowance for councillors of that council. There is no allowance payment for councillors who are members of Council Committees.

As a Group 2 Council for the purposes of the Determination, the Prescribed Committee Presiding Member's allowance in Year 1 will be \$21,587.50.

Should the Mayor, Deputy Mayor or another Council Member who is in receipt of a Presiding Member's allowance be appointed as the Audit Committee Presiding Member, there is no additional allowance payable.

While the allowances payable to Council Members are set by the Remuneration Tribunal, Council determines the sitting fees payable to Independent Members of Council Committees.

Council's current budget has provision for the costs associated with the Audit Committee Presiding Member role.

➤ **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.

➤ **Environmental Implications**

Not applicable.

➤ **Community Engagement/Consultation**

There is no requirement for community consultation in relation to the appointment of Council Members and the Presiding Member to the Audit Committee.

## 2. **BACKGROUND**

### **Audit Committee Terms of Reference**

At its 25 July 2017 meeting Council adopted a revised TOR (**Appendix 1**) which came into effect on 1 September 2017.

### **Audit Committee Membership**

The relevant elements of the Committee's TOR regarding membership and contained in clause 5, as follows:

- 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.

Council, at its 22 November 2016 meeting, in relation to the two Council Member positions on the Audit Committee resolved as follows:

**14.6.3 Section 41 Committee Review and Membership – Audit Committee**

**Moved Cr Lynton Vonow  
S/- Cr Jan Loveday**

**247**

**That in relation to the Audit Committee, Council appoints Cr John Kemp and Cr Malcolm Herrmann as members until the conclusion of this Council's term of office, that is November 2018.**

**Carried Unanimously**

As such, the membership terms of Councillors Kemp and Herrmann ceased at the date of the Final Declaration of the November 2018 Local Government Election.

Council, at its 23 January 2018 meeting, in relation to the three Independent Member positions on the Audit Committee resolved as follows:

**19.1.1. CEO Performance Review Committee and Audit Committee Independent Members Appointments – Confidential Item**

**RELEASED 1 FEBRUARY 2018**

**Moved Cr John Kemp  
S/- Cr Malcolm Herrmann**

**22/18**

**Council resolves:**

- 1. That the report be received and noted**
- 2. To appoint Paula Davies to the CEO Performance Review Panel for a term to commence immediately until 30 November 2020 (inclusive)**
- 3. That in relation to the Audit Committee Independent Membership:**
  - a. To appoint Peter Brass to the position of Independent Member for a term to commence immediately until 30 November 2019 (inclusive)**
  - b. To appoint Geoff Purdie to the position of Independent Member for a term to commence immediately until 30 November 2019 (inclusive)**
  - c. To appoint Paula Davies to the position of Independent Member for a term to commence immediately until 30 November 2020 (inclusive).**

**Carried Unanimously**

As such the membership terms of the Independent Members are current and, while they could be changed by resolution of the Council, are not the subject of this report.

**Audit Committee Presiding Member**

Prior to the July 2017 TOR review, the Committee had the delegation to appoint a Presiding Member. While not codified in the then TOR, the practice over a number of years had been for the Presiding Member role to be rotated amongst the Independent Members.

Clause 7.1 the current (post July 2017) TOR provides that the Council will appoint the Presiding Member of the Committee. Council has the flexibility to appoint the Presiding Member for a term of its choice within the bounds of the 3 year term as per clause 5.6.

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.

Note that the TOR does not preclude either a Council Member or an Independent Member from eligibility for the Presiding Member role.

Council, at its 26 September 2017 meeting, resolved (215/17) the sitting fees for Audit Committee Independent Members as follows:

- i. **Presiding Member - \$525 (excl GST) per meeting.**
- ii. **Ordinary Member - \$380 (excl GST) per meeting.**

Council, at its 23 January 2018 meeting, in relation to the Audit Committee Presiding Member role resolved as follows:

**19.1.2. Audit Committee Independent Members Appointments, Presiding Member – Confidential Item**

**RELEASED 1 FEBRUARY 2018**

Moved Cr Jan Loveday  
S/- Cr John Kemp

23/18

Council resolves to appoint Paula Davies as the Audit Committee Presiding Member for a term to commence immediately until 30 November 2018 (inclusive).

Carried Unanimously

### **3. ANALYSIS**

#### **Audit Committee Terms of Reference**

The Audit Committee Terms of Reference is based on the aforementioned provisions of the Act and Regulations and good practice guidance from the Local Government Association.

In November 2018, the State Parliament passed the *Public Interest Disclosure Bill 2018* which is awaiting assent from the Governor, potentially early in 2019.

The explanatory notes on the Bill describe it as:

An Act to encourage and facilitate disclosures of certain information in the public interest by ensuring that proper procedures are in place for making and dealing with such disclosures and by providing protection for persons making such disclosures; to make related amendments to the *Local Government Act 1999* and the *Public Sector Act 2009*; to repeal the *Whistleblowers Protection Act 1993*; and for other purposes.

As it will repeal the *Whistleblowers Protection Act 1993*, the Audit Committee will need to consider an appropriate role in relation to this legislation and make recommendations to Council for changes to the Committee's TOR. It is likely that this will occur at the Committee's and subsequently Council's February 2019 meeting and therefore it is suggested that any other (non-urgent) proposed changes to the Committee's TOR be incorporated into this review process.

### **Audit Committee Membership**

As identified in the Background section above, the discretionary Council Member membership of the Audit Committee is limited to two (2) Council Members.

Clause 5.4 of the Audit Committee TOR provides that 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.

Given the limit of two positions, appointment to the Audit Committee could be most effectively be managed via the *Indicative Voting Process for Determining Council Appointed Positions* as detailed below.

Similarly in considering nominations of aspiring Audit Committee Members, Council may wish to consider, in addition to the requirements of clause 5.4, some or all of the *Characteristics of a Presiding Member* as detailed below.

While the characteristics regarding presiding member duties may appear erroneous, Council is reminded that the Committee has the delegation to select a Deputy Presiding Member from amongst its members.

### **Audit Committee Presiding Member**

#### Characteristics of a Presiding Member

In considering the Audit Committee Presiding Member position, Council may wish to consider suitability factors including (but not limited to):

- understanding or the ability to acquire the same of the role and functions of the Audit Committee;
- understanding or the ability to acquire the same in meeting procedure generally and the meeting procedure set out in the *Local Government (Procedures at Meetings) Regulations 2013* and Meeting Procedure provisions set out in the Audit Committee TOR (clause 9);
- expertise in chairing meetings of s41 Committees (if past experience exists), or other boards/committees in other organisations, public and private;
- ability to preside efficiently, firmly, impartially and fairly over Committee meetings;
- ability to manage conflict and differing opinions;
- integrity, good conduct and diligence;
- the opportunity to provide professional development in presiding member skills;
- the opportunity to consider diversity in the role;

- current and future time commitments (i.e. there are a number of Council Committees, Regional Subsidiaries and Advisory Groups that will also require Council Member representation); and
- the financial implications of the appointment.

### **Indicative Voting Process for Determining Council Appointed Positions**

Due to the potential implications of the Material Conflict of Interest provisions under s73 (see Legal Implications above) regarding the appointment of Committee Members and the Presiding Member (other than the Mayor, Deputy or any Council Member currently receiving a Presiding Member's allowance from a pecuniary interest perspective), it is proposed that the Council 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 of Committee Member and then again separately for the role of Committee Presiding Member.

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 or Council Committee, it is a Designated Informal Gathering for the purposes of s90 and the *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy). As a Designated Informal Gathering, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and informal gatherings provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the position of Audit Committee Members or the Presiding Member, as appropriate.

Note that in relation to the Presiding Member role, the Independent Members of the Committee are also eligible to self-nominate.

- b) 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.
- c) The CEO (or another Council staff member) will be appointed as the Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.
- d) The method of voting will be by secret ballot utilising the preferential counting system
- e) Each Council Member (including the Mayor) shall have one vote.

Note that while the Independent Members are eligible for the Presiding Member role, they will not have voting rights in this process.

- f) Ballot papers will be provided to each Council Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each nominee will have two (2) minutes to speak to the Gathering in support of the candidacy. The speaking order will be as listed on the ballot paper.
- i) 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 staff member) present.
- j) 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.

- k) After all votes have been counted, the Returning Officer shall publicly announce the final votes cast for each candidate and formally declare the result of the election (i.e. the preferred person).
- l) The ballot papers will be shredded.

### **Proposed Chronology of Events**

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and informal gatherings.

The following chronology has been based on guidance from the LGA regarding the election of Council Members to Committee and Presiding Member positions:

- I. Council consider whether to retain the Audit Committee for the term of the Council with the Terms of Reference as contained in Appendix 1. Council would give effect to this by dealing with Recommendations 1 and 2 (or variants) at this time.
- II. Council will then consider the process that it will use to choose the preferred persons for the two Council Member positions. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.
- III. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 4 (or a variant) at this time.
- IV. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, the Council Members who nominated for the Audit Committee Member roles would be advised to consider their obligations to declare a Material, Actual or Perceived Conflict of Interest as appropriate.

- V. Council can then resolve for the preferred persons to be appointed as the Audit Committee Members for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 5 (or a variant) at this time.  
Once this matter is resolved, the Members who have declared Conflicts of Interest can return to the Chamber.
- VI. Council will then consider the process that it will use to choose the preferred person for the Audit Committee Presiding Member role. Council would give effect to this by dealing with Recommendation 6 (or a variant) at this time.
- VII. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Council would give effect to this by dealing with Recommendation 7 (or a variant) at this time.
- VIII. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, any Council Members who nominated for the Presiding Member role would be advised to make declarations in accordance with s74 – Dealing with material conflicts of interest.

Council can then resolve for the preferred person to be appointed as the Audit Committee Presiding Member for an identified term (this term may be equal to or less than the term resolved in Recommendation 2). Council would give effect to this by dealing with Recommendation 8 (or a variant) at this time.

Note that Recommendation 8 has a term commencing on 1 December 2018 to accommodate the expiry of the current Audit Committee Presiding Member's term.

#### 4. OPTIONS

The Council has the following options:

- I. To resolve to appoint the membership of the Audit Committee and a Presiding Member for a period and to undertake the processes as outlined in the report (**Recommended**)
- II. To determine not to resolve the membership or the Presiding Member (**Not Recommended**). Doing so would effectively breach Council's legislative obligations.

#### 5. APPENDIX

- (1) Audit Committee Terms of Reference



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**Appendix 1**  
*Audit Committee Terms of Reference*

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**ADELAIDE HILLS COUNCIL**  
**Audit Committee**



**TERMS OF REFERENCE**  
**Effective from 1 September 2017**

**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 Whistle blowing

The committee shall:

3.3.1 Review annually the Council's Whistleblower Protection Policy

3.3.2 Provide recommendations to Council regarding the Whistleblower Protection Policy to ensure that:

3.3.2.1 There are adequate arrangements for Council employees to raise concerns, in confidence, about possible wrongdoing in financial reporting or other matters; and

3.3.2.2 The policy allows independent investigation of such matters and appropriate follow-up action in a manner that is in accordance with the Independent Commissioner Against Corruption Act 2012 and Regulations 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,
- 3.7 Service Improvement
- The Committee shall:
- 3.7.1 Monitor the benefits achieved through Council's Service Improvement Program with a focus on efficiency and effectiveness.

#### **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.

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday, 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.8

**Originating Officer:** Lachlan Miller, Executive Manager Governance & Performance

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Section 43 Regional Subsidiary Membership

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**SUMMARY**

Council is a constituent council to four regional subsidiaries being:

- Eastern Waste Management Authority (East Waste)
- Adelaide Hills Region Waste Management Authority (AHRWMA)
- Gawler River Floodplain Management Authority (GRFMA)
- Southern & Hills Local Government Association (SHLGA)

As such Council has board membership rights to each of the subsidiaries in accordance with their respective charters.

The purpose of this report is to seek Council's consideration of the membership rights of these regional subsidiaries and the process for the nomination and election to these board member positions.

**RECOMMENDATION**

**That Council resolves:**

1. That the report be received and noted.
2. To determine that the method of selecting the respective Regional Subsidiary Board Members to be by an indicative vote to determine the preferred persons for the relevant positions 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 persons for the respective Regional Subsidiary Board Member roles and for the meeting to resume once the results of the indicative voting for all of the Board Member roles have been declared.

4. **That in relation to the Eastern Waste Management Authority Board:**
    - a. **To appoint ..... to the Board Member position for a two year term to commence from 27 November 2018 and conclude on 26 November 2020 (inclusive)**
    - b. **To appoint ..... to the Deputy Board Member position for a two year term to commence from 27 November 2018 and conclude on 26 November 2020 (inclusive)**
  
  5. **That in relation to the Adelaide Hills Region Waste Management Authority Board:**
    - a. **To appoint ..... to the Board Member (Council Member) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
    - b. **To appoint ..... to the Board Member (Council Officer) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
    - c. **To appoint ..... to the Deputy Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
  
  6. **That in relation to the Gawler River Floodplain Management Authority Board:**
    - a. **To note that the Chief Executive Officer has nominated..... to the Board Member (Chief Executive Officer) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
    - b. **To appoint ..... to the Board Member (Council Member) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
    - c. **To appoint ..... to the Deputy Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
  
  7. **That in relation to the Southern & Hills Local Government Association Board:**
    - a. **To appoint ..... to the Board Member (Council Member) position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
    - b. **To appoint ..... to the Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
    - c. **To appoint ..... to the Deputy Board Member position for a X year term to commence from 27 November 2018 and conclude on 26 November 20XX (inclusive)**
-

**1. GOVERNANCE**

➤ **Strategic Management Plan/Council Policy**

Goal	Organisational Sustainability
Strategy	Governance

The appointment of members to the regional subsidiaries is an important element of Council’s commitment to open and transparent decision making which facilitates public accountability.

➤ **Legal Implications**

Section 43 of the *Local Government Act 1999* sets out the processes for the establishment of regional subsidiaries. Regional subsidiaries can be established to provide a specific service or services to carry out a specified activity or to perform a function of the councils. To establish a s43 regional subsidiary a resolution from each constituent council is required, a charter and other mandated arrangements agreed and Ministerial approval granted.

Sections 73 and 74 of the Act set out the provisions regarding Material Conflicts of Interest. Council Member membership of a Regional Subsidiary Board in one of the limited Board Member roles under the respective Subsidiary’s Charter, may possibly constitute a personal benefit under s73 of the Act.

Sections 75 and 75A of the Act set out the provisions regarding Actual and Perceived Conflicts of Interest. A Council Member seeking to be appointed to a Committee may in actuality, or could be perceived by an impartial person to, have a conflict between their personal interests and the public interest that might lead to a decision that is contrary to the public interest.

Therefore a Council Member seeking to be appointed to a Board Member role could have a Material, Actual or Perceived Conflict of Interest and would need to consider declaring the interest and leave the Chamber prior to the discussion of the matter under s74(1) or s75A(2), as appropriate..

➤ **Risk Management Implications**

The establishment of appropriately and effectively constituted regional subsidiaries 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

There are a number of financial implications in relation to the regional subsidiaries; however this report concerns the appointment of Council representatives to the board of Regional Subsidiaries rather than a discussion regarding the operations of each Subsidiary.

Neither Council nor the Regional Subsidiaries pay allowances for attendance at meetings. Council Members are however entitled to claim travel reimbursement in accordance with the *Council Member Allowance & Benefits Policy*.

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

There are no direct end-user customer service implications regarding the appointment of Council representatives to a regional subsidiary board acknowledging however that Council itself is a customer of all Regional Subsidiaries.

➤ **Environmental Implications**

Not directly applicable.

➤ **Community Engagement/Consultation**

*Council Committees:* Not Applicable

*Council Workshops:* Not Applicable

*Advisory Groups:* Not Applicable

*Administration:* Consultation occurred with the Executive Leadership Team and suggestions for Council Officers to be considered for roles are contained in the respective Subsidiary's section of the report.

*Community:* Not Applicable

➤ **BACKGROUND**

**Eastern Waste Management Authority (East Waste)**

East Waste is a regional subsidiary with the following constituent councils: Adelaide Hills Council, City of Burnside, City of Campbelltown, City of Norwood, Payneham and St Peters, City of Mitcham, City of Prospect, and Corporation of the Town of Walkerville.

The purpose of East Waste (see Charter at **Appendix 1**) is the collection and disposal of Waste, primarily within the areas of the Constituent Councils and has the following functions in this regard:

- to predominantly operate or obtain services for the collection of Waste on behalf of Constituent Councils and/or other approved Councils;
- to provide waste management services whether in or (so far as the Act allows) outside the area of any of the Constituent Councils, including waste collection, recycling of organic and inorganic materials, disposal of waste;
- to undertake management and collection of Waste (in accordance with regulatory approvals) and kerbside materials recovery, on behalf of Constituent Councils (and/or other approved councils) in an environmentally responsible, effective, efficient, economic and competitive manner

Clause 21 of the Charter provides that the Board will consist of seven directors with one person appointed from each constituent council who may be an officer, employee, elected member or an independent person and one independent person appointed by absolute majority of the constituent councils. Appointments are for a two year term.

Each constituent council must also appoint a deputy director for a term determined by the council who may act in place of that constituent council's director if the director is unable to be present at a meeting of the Board.

Council, at its 22 November 2016 meeting, in relation to the East Waste Board Member and Deputy Board Member positions resolved as follows:

**14.7.1 Section 43 Regional Subsidiary Board Membership – Eastern Waste Management Authority Board**

**Moved Cr Ian Bailey  
S/- Cr Nathan Daniell**

**251**

**That in relation to the Eastern Waste Management Authority Board:**

- a. to appoint Cr Green to the director position for a 2 year term to commence from 26 November 2016.**
- b. to appoint the Executive Manager Governance & Risk, Lachlan Miller, to the deputy director position for a 2 year term to commence from 26 November 2016.**

**Carried Unanimously**

As such, the membership terms of Councillor Green and Mr Miller ceased on 25 November 2018.

### **Adelaide Hills Region Waste Management Authority (AHRWMA)**

AHRWMA is a regional subsidiary with the following constituent councils: Adelaide Hills Council, District Council of Mount Barker, Rural City of Murray Bridge, and Alexandrina Council.

AHRWMA is established (see Charter at **Appendix 2**) for the following objects and purposes:

- to facilitate and co-ordinate waste management including collection, treatment, disposal and recycling within the Region;
- to develop and implement policies designed to improve waste management and recycling programmes and practices within the Region;
- to regularly review the Region's waste management and recycling practices and policies;
- to provide and operate a place or places for the treatment, recycling and disposal of waste collected by or in the areas of the Constituent Councils;
- to develop further cooperation between the Constituent Councils in the collection, treatment, recycling and disposal of waste for which the Constituent Councils are or may become responsible;
- to minimise the volume of waste collected in the areas of the Constituent Councils which is required to be disposed of by landfill;
- to educate and motivate the community to achieve the practical reduction of waste through reuse and recycling initiatives;
- to be financially self-sufficient,

Clause 3.2 of the Charter provides that the Board will consist of eight members (appointed by the Constituent Councils) as follows:

- one Elected member appointed by each Constituent Council; and
- one employee appointed by each Constituent Council.

Each Constituent Council will also appoint a Deputy Board Member. The Deputy Board Member is entitled to act in place of a Board Member appointed by the same Constituent Council if the Board Member is unable for any reason to be present at a Board meeting.

The term of office for the board and deputy board member will be determined by the Constituent Council.

Council, at its 22 November 2016 meeting, in relation to the AHRWMA Board Member and Deputy Board Member positions resolved as follows:

**Moved Cr John Kemp  
S/- Cr Malcolm Herrmann**

**252**

**That in relation to the Adelaide Hills Region Waste Management Authority Board:**

- a. to appoint Cr Nathan Daniell to the board member position for a 2 year term to commence from 26 November 2016.**
- b. to appoint the Director Strategy and Development, Marc Salver, to the (Council Officer) board member position for a 2 year term.**
- c. to appoint Manager, Waste, Health & Regulatory Services, John McArthur, to the deputy board member position for a 2 year term.**

**Carried Unanimously**

As such, the membership terms of Councillor Daniell, Mr Salver and Mr McArthur ceased on 25 November 2018.

### **Gawler River Floodplain Management Authority (GRFMA)**

GRFMA is a regional subsidiary with the following constituent councils: City of Playford, District Council of Mallala, Town of Gawler, The Barossa Council, Light Regional Council and the Adelaide Hills Council.

GRFMA (see Charter at **Appendix 3**) has been established for the following purposes:

- to co-ordinate the construction, operation and maintenance of flood mitigation infrastructure for the Gawler River. This purpose is the core business of the Authority;
- to raise finance for the purpose of developing, managing and operating and maintaining works approved by the Board;
- to provide a forum for the discussion and consideration of topics relating to the Constituent Council's obligations and responsibilities in relation to management of flood mitigation for the Gawler River;
- upon application of one or more Constituent Councils pursuant to clause 12.4:
- to coordinate the construction, maintenance and promotion and enhancement of the Gawler River and areas adjacent to the Gawler River as recreational open space for the adjacent communities; and
- to enter into agreements with one or more of the Constituent Councils for the purpose of managing and developing the Gawler River.

Clause 4.3 of the Charter provides that:

- each of the Constituent Councils will appoint two persons to the Board. The Constituent Councils' appointees shall be the Chief Executive Officer of the Constituent Council or his or her nominee plus one elected member of the Constituent Council.
- Each Constituent Council may appoint either an Elected Member or a Council Officer as Deputy Board Member who may attend Board Meetings in the place of a Council Board Member who is absent.



The term of office for the board and deputy board member will be determined by the Constituent Council.

Council, at its 24 November 2015 meeting, in relation to the GRFMA Board Member and Deputy Board Member positions resolved as follows:

**Moved Cr Nathan Daniell**  
**S/- Cr Jan-Claire Wisdom**

**193**

**That Council resolves:**

- 1. That the report be received and noted.**
- 2. That in relation to the Gawler River Floodplain Management Authority Board:**
  - a. to appoint Cr Malcolm Herrmann to the board member position for a 3 year term.**
  - b. to appoint the Director Strategy and Development to the Deputy Board member position for a 3 year term.**

**Carried Unanimously**

As such, the membership terms of Councillor Herrmann and Mr Salver ceased on 23 November 2018.

#### **Southern & Hills Local Government Association (SHLGA)**

SHLGA is a regional subsidiary with the following constituent councils: District Council of Mount Barker, City of Victor Harbor, District Council of Yankalilla, Adelaide Hills Council, Alexandrina Council, Kangaroo Island Council and The Barossa Council.

SHLGA (see Charter at **Appendix 4**) has been established for the following purposes:

- To work collaboratively with the LGA to achieve the aims and objectives of the LGA.
- To encourage, promote, protect and foster an efficient and effective autonomous, democratic system of local government elected by and responsible to local communities.
- To identify available resources within the region and to co-ordinate or assist in co-ordinating the management of these resources for the betterment of their region's community.
- To encourage, assist, seek out, determine, assess and respond to the needs and aspirations of the region's constituents.
- To develop, encourage, promote, foster and maintain consultation and co-operation between local government authorities, State and Commonwealth Governments and their instrumentalities.
- To develop, encourage, promote, foster and maintain the financial and economic well-being and advancement of the region and if desirable for such purpose to undertake, establish, acquire, conduct or dispose of any business, enterprise, undertaking or venture which in the opinion of S&HLGA is necessary, desirable or convenient.

- To effectively liaise and work with the State and Commonwealth Governments and their instrumentalities on a regional basis for the general enhancement of the region.

Clause 7.3 of the Charter provides that:

- Each of the Constituent Councils will appoint two persons to the Board. The Constituent Councils' appointees shall be not less than one elected member of the Constituent Council and the other appointee may be a Council Officer.
- Each Constituent Council may appoint either an Elected Member or a Council Officer as Deputy Board Member who may attend Board Meetings in the place of a Council Board Member who is absent.

The term of office for the board and deputy board member will be determined by the Constituent Council.

Council, at its 23 January 2018 meeting, in relation to the S&HLGA Board Member and Deputy Board Member positions resolved as follows:

**12.3.1. Section 43 Regional Subsidiary Membership – Southern & Hills Local Government Association – Board Member position until November 2019**

Moved Cr John Kemp 7/18  
S/- Cr Jan Loveday

**That Council resolves to appoint Andrew Aitken to the board member position until 1 November 2019.**

Carried unanimously

**12.3.2. Section 43 Regional Subsidiary Membership – Southern & Hills Local Government Association – Board Member position until November 2018**

Moved Cr Nathan Daniell 8/18  
S/- Cr John Kemp

**That Council resolves to appoint Cr Jan-Claire Wisdom to the board member position until 9 November 2018.**

Carried unanimously

Moved Cr Malcolm Herrmann 9/18  
S/- Cr Lynton Vonow

**That Council resolves to appoint Cr Linda Green to the deputy board member position until 9 November 2018.**

Carried unanimously

As such, the membership terms of Councillors Wisdom and Green ceased on 8 November 2018. Andrew Aitken's term will cease on 1 November 2019.

## 2. ANALYSIS

### Board Membership Suitability

Council's membership on these regional subsidiaries is important given their ability to both provide services and financial returns and to incur risks and liabilities for Council.

While they are Subsidiaries of the Constituent Councils, aspiring Board Members must be cognisant of the fiduciary duty of Board Members to act in the best interests of the Subsidiary, which might conflict with the interests of the Council. Further the Conflict of Interest provisions relating to Regional Subsidiaries are more complicated, although training will be provided by the Governance Team.

A number of the Subsidiary Charters specifically identify Board Member positions for Council Officers whereas others provide flexibility for a Council Member, Council Officer or even an Independent Person to be appointed by the Constituent Council.

In considering Regional Subsidiary memberships, Council may wish to consider may wish to consider suitability factors including (but not limited to):

- understanding or the ability to acquire the same of the charter, functions, operations and legislative framework of the respective Subsidiary;
- understanding or the ability to acquire the same of the roles and duties of a Board Member;
- understanding or the ability to acquire the same in meeting procedure generally and the meeting procedure set out in the *Local Government (Procedures at Meetings) Regulations 2013* and Meeting Procedure provisions of the respective Subsidiary;
- ability to manage conflict and differing opinions;
- integrity, good conduct and diligence;
- the opportunity to provide professional development;
- the opportunity to consider diversity in the role;
- willingness and ability to travel to meetings (given that these are regional groupings, meetings can be held a considerable distance from the Council district);
- willingness and ability to attend meetings during business hours and Special Meetings at short notice; and
- current and future time commitments (i.e. there are a number of Council Committees and Advisory Groups that will also require Council Member representation).

### **Council Officers on Regional Subsidiaries**

The Chief Executive Officer has sought expressions of interest from senior Council Officers for appointment to those Board Member positions that provide for Council Officers.

As such, the Chief Executive Officer provides the following Council Officer suggestions for Council's consideration:

#### East Waste

- Board Member (can be a Member, Officer or Independent) – No nomination
- Deputy Board Member (can be a Member, Officer or Independent)– John McArthur

#### AHRWMA

- Board Member (must be an Officer) – John McArthur
- Deputy Board Member (can be a Member or Officer) – No nomination

#### GRFMA

- Board Member (CEO or nominee) – Marc Salver
- Deputy Board Member (can be a Member or Officer) – No nomination

#### S&HLGA

- Board Member (can be a Member or Officer) – Note that the CEO is currently appointed to this position under 1 November 2019.
- Deputy Board Member (can be a Member or Officer) – Lachlan Miller, Executive Manager Governance & Performance

### **Indicative Voting Process for Determining Council Appointed Positions**

Due to the potential implications of the Material Conflict of Interest provisions under s73 (see Legal Implications above) regarding the appointment of Board Members, it is proposed that the Council adjourn the meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote (Indicative Voting Process) to determine the preferred persons for each of the Regional Subsidiary Board Member and Deputy Board Member positions.

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 or Council Committee, it is a Designated Informal Gathering for the purposes of s90 and the *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy). As a Designated Informal Gathering, the Chief Executive will conduct the meeting in accordance with the Policy.

The proposed Indicative Vote Process below is based on the Appointments to Positions Process contained in Clause 4.7 Council's *Code of Practice for Code of Practice for Council Meeting Procedures* with modifications to suit the legislative requirements of the conflict of interest and informal gatherings provisions.

The proposed Indicative Voting Process is:

- a) Chief Executive Officer calls for self-nominations for the relevant position on the respective Subsidiary Boards.

Note that in relation to the Board Member positions that Council Officers are eligible, the relevant Council Officer as identified above, is also eligible to self-nominate.

- b) 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.
- c) The CEO (or another Council staff member) will be appointed as the Returning Officer and may enlist other Council staff to assist with the conduct of the vote and the count.
- d) The method of voting will be by secret ballot utilising the preferential counting system
- e) Each Council Member (including the Mayor) shall have one vote.

Note that while the Council Officers are able to nominate for some Board Member roles, they will not have voting rights in this process.

- f) Ballot papers will be provided to each Council Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each nominee will have two (2) minutes to speak to the Gathering in support of the candidacy. The speaking order will be as listed on the ballot paper.
- i) 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 staff member) present.
- j) 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.
- k) After all votes have been counted, the Returning Officer shall publicly announce the final votes cast for each candidate and formally declare the result of the election (i.e. the preferred person).
- l) The ballot papers will be shredded.

### **Proposed Chronology of Events**

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and informal gatherings, as such the following chronology is suggested:

- I. Council will determine to receive the report. Council would give effect to this by dealing with Recommendation 1 (or a variant) at this time.
- II. Council will then consider the process that it will use to choose the preferred persons for the respective Regional Subsidiary Board Member positions. Council would give effect to this by dealing with Recommendation 2 (or a variant) at this time.
- III. Having decided the method, Council will then have to adjourn the meeting to enable the process to be undertaken. Unlike in the s41 Committee agenda items when it was necessary to appoint members before a presiding member could be determined, there are no prerequisites or dependencies other than the deputies for each Board. Therefore it is proposed that the voting on each position can occur sequentially as listed in the report without the need to come back to Council for resolution. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.

- IV. Once the Indicative Voting Process has been completed the Council meeting will resume in accordance with the previous resolution.

Upon resumption, it is proposed the Council work through each Regional Subsidiary separately to manage quorum requirements throughout the process.

As Council moves to each Regional Subsidiary, the Council Members who nominated for the Board Member roles would be advised to consider their obligations to declare a Material, Actual or Perceived Conflict of Interest, as appropriate

- V. Council can then resolve for the preferred persons to be appointed to each Regional Subsidiary Board Member position for an identified term (only East Waste has a set term). Council would give effect to this by dealing with Recommendations 4 - 7 (or variants) separately.

Once each Regional Subsidiary is resolved, the Members who have declared Conflicts of Interest can return to the Chamber.

### 3. OPTIONS

The Council has the following options:

- I. To resolve to make appointments to the regional subsidiary positions as identified following the established process to fill each position. (**Recommended**)
- II. To decide not to make any or all of the appointments to regional subsidiary at this time. (**Not Recommended**). Doing so would mean that the respective regional Subsidiary Boards would not have a full complement of members which could affect their functioning.

### 4. APPENDICES

- (1) East Waste Charter  
(2) AHRWMA Charter  
(3) GRFMA Charter  
(4) SHLGA Charter

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# **Appendix 1**

*East Waste Charter*

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LOCAL GOVERNMENT ACT 1999  
EASTERN WASTE MANAGEMENT AUTHORITY  
*Charter*  
PART 1—PRELIMINARY

## 1. DICTIONARY

In this Charter:

*Absolute Majority* means a majority of the whole number of the Constituent Councils.

*Act* means Local Government Act 1999.

*Annual Plan* means an Annual Plan that conforms to Part 14 and last adopted by the Board.

*Authority* means Eastern Waste Management Authority ('East Waste').

*Board* means the board of management of the Authority.

*Borrowings Limit* means at any time the amount authorised in the current Annual Plan and Budget of the Authority.

*Budget* means a budget that conforms to Part 14 and last adopted by the Board.

*Business Plan* means a business plan that conforms to Part 12 and last adopted by the Board.

*Chief Executive Officer* means at any time the chief executive officer of the Authority and includes that person's deputy or a person acting in that position.

*Constituent Council* means at any time a constituent council in relation to the Authority and on the date of publication of this Charter in the *Gazette* means Adelaide Hills Council, City of Burnside, City of Campbelltown, City of Norwood Payneham and St Peters, City of Mitcham, Corporation of the Town of Walkerville, City of Prospect.

*Core Activity* means collection, recycling and/or disposal of waste produced within the area of one or more of the Constituent Councils.

*Deputy Director* means a deputy for a Director.

*Director* means at any time a member of the Board.

*Financial Year* means 1 July in each year to 30 June in the subsequent year.

*Gazette* means the South Australian Government Gazette.

*Non-core Activity* means an activity that is not a Core Activity.

*Non-core Assets* means in relation to a Non-core Activity any assets of the Authority acquired for the purpose of that Non-core Activity and includes any revenue derived from that Non-core Activity. Where an asset or revenue is acquired or derived for both a Core Activity and a Non-core Activity, a fair allocation between those purposes must be made by the Board.

*Non-core Liabilities* means in relation to a Non-core Activity any liabilities of the Authority incurred or assumed for the purpose of that Non-core Activity. Where a liability is incurred or assumed for both a Core Activity and a Non-core Activity, a fair allocation between those purposes must be made by the Board.

*Non-core Plan* means a plan for a Non-core Activity that conforms to Part 13 and forms part of the Business Plan.

*Share* means a Constituent Council's percentage share in the assets, liabilities and revenue of the Authority. On the date of Gazettal of this Charter, the shares are held between the Constituent Councils in equal proportions

The Shares may be varied by agreement in writing of all the Constituent Councils, and must be reviewed (and if necessary, varied) where a new Constituent Council is admitted or an existing Constituent Council resigns.

*Simple Majority* means a majority of the Directors present at a Board Meeting and entitled to vote, or a majority decision of the Constituent Councils as the case may be.

*Surplus Funds* means funds that are surplus to the long-term financial requirements of the Authority, as evidenced by its Business Plan.

*Unanimous Decision* means a decision made by all of the Constituent Councils as voting in the same manner.

*Waste* means any and all waste as approved by the Environment Protection Act Licence held by the Authority and includes domestic and commercial kerbside waste, kerbside green and food/organics, kerbside recyclable material, Council waste and Council depot waste.

Subject to the above, words and expressions in this Charter have the same meaning as in a provision of the Act that deals with the same matter.

## 2. INTERPRETATION

In this Charter: The singular includes the plural and *vice versa* and words importing a gender include other genders; words importing natural persons include corporations; reference to a section(s) is to a section of the Act and includes any section that substantially replaces that section and deals with the same matter; headings are for ease of reference only and do not affect the construction of this Charter.

## 3. ABOUT THIS CHARTER

3.1 This Charter is the charter of the Authority.

3.2 This Charter binds the Authority and each Constituent Council.

3.3 Despite any other provision in this Charter:

3.3.1 if the Act prohibits a thing being done, the thing may not be done;

3.3.2 if the Act requires a thing to be done, Board approval is given for that thing to be done; and

3.3.3 if a provision of this Charter is or becomes inconsistent with the Act, that provision must be read down or failing that severed from this Charter to the extent of the inconsistency.



- 3.4 This Charter may not be amended except as all the Constituent Councils may agree by each passing a resolution in the same terms. An amendment is not effective unless and until published in the *Gazette*.
- 3.5 The Constituent Councils may review this Charter at any time, but must in any event review this Charter at least once in every four years.
- 3.6 Notwithstanding Clause 3.5, the first review of this Charter is to be completed two years from the date of Gazettal of the Charter.

#### PART 2—AUTHORITY

#### 4. ABOUT THE AUTHORITY

The Authority is an Authority established under the Act.

#### 5. NAME OF THE AUTHORITY

The name of the Authority is Eastern Waste Management Authority trading as 'East Waste'.

#### 6. CORPORATE STATUS

The Authority is a body corporate.

#### PART 3—FUNCTIONS AND POWERS

#### 7. PROPERTY

The Authority holds its property and assets on behalf of the Constituent Councils.

#### 8. AREA OF INTEREST

The Authority may only undertake a Non-core Activity outside the areas of the Constituent Councils where that activity has been approved by Unanimous Decision of the Constituent Councils as being necessary or expedient to the performance by the Authority of its functions and is an activity included in a Business Plan of the Authority

#### 9. PURPOSE AND FUNCTIONS

- 9.1 The Authority is established by the Constituent Councils for the purpose of the collection and disposal of Waste, primarily within the areas of the Constituent Councils and has the following functions in this regard:
  - 9.1.1 to predominantly operate or obtain services for the collection of Waste on behalf of Constituent Councils and/or other approved Councils;
  - 9.1.2 to provide waste management services whether in or (so far as the Act allows) outside the area of any of the Constituent Councils, including waste collection, recycling of organic and inorganic materials, disposal of waste;
  - 9.1.3 to undertake management and collection of Waste (in accordance with regulatory approvals) and kerbside materials recovery, on behalf of Constituent Councils (and/or other approved councils) in an environmentally responsible, effective, efficient, economic and competitive manner;
- 9.2 The following functions may be undertaken by the Authority but only where required or directed by one or more Constituent Councils and charged directly to the Council or Councils so requiring or directing:
  - 9.2.1 to promote the minimisation of Waste in the areas of the Constituent Councils;
  - 9.2.2 to promote the recycling of recyclable materials in the areas of the Constituent Councils
  - 9.2.3 to undertake Waste community education programs on behalf of the Constituent Councils;
  - 9.2.4 on behalf of the Constituent Councils or on its own behalf, to liaise with other councils, the State of South Australia and the Commonwealth of Australia and their respective instrumentalities for matters relating to Waste management in the common interest of the Constituent Councils;
  - 9.2.5 on behalf of the Constituent Councils, provide a representative to any statutory board or statutory committee concerned with waste management that allows two or more of the Constituent Councils to nominate a representative;
  - 9.2.6 on behalf of the Constituent Councils or on its own behalf, to make application for grants and other funding from the State of South Australia and the Commonwealth of Australia and their respective instrumentalities for the purposes of the Authority;
  - 9.2.7 to keep Constituent Councils abreast of any emerging opportunities/trends/issues in waste management;
  - 9.2.8 to undertake activities which result in a beneficial use of Waste on behalf of the Constituent Councils;
  - 9.2.9 to conduct all activities in a manner which complies with all regulatory requirements and minimises risks to the Constituent Councils;
  - 9.2.10 on behalf of the Constituent Councils or on its own behalf, to liaise with relevant State Government agencies such as Green Industries SA (successor to Zero Waste SA), Environment Protection Authority (or equivalent successor organisations), taking into account its approved Business Plan;
  - 9.2.11 on behalf of the Constituent Councils, to perform and/or monitor the effectiveness and application of funding arrangements agreed by the Constituent Councils for waste management;
  - 9.2.12 to provide a forum for discussion and consideration of topics relating to the Constituent Councils' responsibilities to manage waste particularly in the area of the Constituent Councils and the implications of that management beyond the area of the Constituent Councils.

#### 10. POWERS

The Authority may do anything necessary, expedient or incidental to performing or discharging its functions including, without limitation:

- 10.1 become a member of and/or co-operate with any organisation with complementary functions;
- 10.2 receive gifts of money or property from any person;
- 10.3 make payable by a new Constituent Council any joining fee;
- 10.4 carry out its Annual Plan and Budget;

- 10.5 carry out its Business Plan and Non-core Plans;
- 10.6 make payable by Constituent Councils contributions to the Authority in proportion to their Core Shares;
- 10.7 employ and dismiss a Chief Executive Officer;
- 10.8 contract with any person;
- 10.9 acquire or dispose of any real or personal property in accordance with the Business Plan or otherwise with a Unanimous Decision of the Constituent Councils;
- 10.10 operate an account or accounts with a bank or with the Local Government Finance Authority, or both;
- 10.11 borrow or raise money within the Borrowings Limit;
- 10.12 lend money in accordance with the Business Plan or pursuant to a Unanimous Decision of the Constituent Council;
- 10.13 insure against any risk;
- 10.14 enter into a partnership or joint venture with any person in accordance with the Business Plan or pursuant to a Unanimous Decision of the Constituent Councils;
- 10.15 pay any cost or expense of the establishment, operation, administration or winding up of the Authority;
- 10.16 compromise, compound, abandon or settle a debt or claim owed to the Authority;
- 10.17 waive a legal or equitable or statutory right;
- 10.18 refer a dispute between the Authority and any third party (other than a Constituent Council) to arbitration;
- 10.19 allocate receipts and expenditure between Core Activity and Non-core Activities and between each Non-core Activity;
- 10.20 where the same services/activities are not being provided equally to all Constituent Councils, to charge the differential costs of those services/activities directly to the benefiting Councils;
- 10.21 charge Constituent Councils the full costs incurred in the delivery of the services to them, such costs being calculated on a user pays basis (including depreciation and other overheads for use of shared assets, and all other common expenses);
- 10.22 charge non Constituent Councils a price, based on an estimate of costs incurred in providing the service plus a margin for profit and risk;
- 10.23 make any election for the purpose of any tax;
- 10.24 delegate the exercise of any of its functions or other powers (including the receipt and payment of money) to any person;
- 10.25 those powers given to trustees by law, equity or statute and not necessarily inconsistent with this Charter or the functions of the Authority;
- 10.26 pay to the Constituent Councils or accumulate as reserves for up to such period as the law allows any surplus funds;
- 10.27 such other powers as the Act or this Charter may confer upon the Authority;
- 10.28 all things incidental to the exercise of any other power of the Authority.

## 11. POWER OF DELEGATION

As a matter of record, Schedule 2, Clause 36 of the Act vests a power of delegation in the Authority. The Authority may not delegate the following powers or functions:

- 11.1 the power to impose charges;
- 11.2 the power to enter into transactions in excess of \$50 000 unless authorised in an Annual Plan;
- 11.3 the power to borrow money or obtain any other form of financial accommodation unless authorised in an Annual Plan;
- 11.4 the power to approve expenditure of money on the works, services or operations of the Authority not set out in a Budget approved by the Authority or where required by this Charter approved by the Constituent Councils;
- 11.5 the power to approve the reimbursement of expenses or payment of allowances to members of the Board of Management;
- 11.6 the power to adopt a Budget;
- 11.7 the power to adopt an Annual Plan;
- 11.8 the power to adopt a Business Plan (or any component thereof);
- 11.9 the power to adopt or revise financial estimates and reports; and
- 11.10 the power to make any application or recommendation to the Minister.

## 12. GUIDING PRINCIPLES

The Authority must in the performance of its functions and in all of its plans, policies and activities give due weight to economic, social and environmental considerations.

### PART 4—CONSTITUENT COUNCILS

## 13. CONSTITUENT COUNCILS MAY ACT INDEPENDENTLY

A Constituent Council may perform for itself the same functions and powers as the Authority could on behalf of that Constituent Council.

## 14. INCOMING CONSTITUENT COUNCILS

- 14.1 Any council may become a Constituent Council (an Incoming Constituent Council) if:
  - 14.1.1 it makes written application (in a form approved by the Board) to become a Constituent Council and agrees to be bound by this Charter (noting that Shares will change);
  - 14.1.2 its application is supported by a thorough, realistic, independent, and diligent Business Case analysis;
  - 14.1.3 it pays any joining fee or other payment as may be required by the Board;
  - 14.1.4 the Constituent Councils approve the application and revised Shares by Unanimous Decision; and
  - 14.1.5 the Minister approves.

14.2 An Incoming Constituent Council:

- 14.2.1 is jointly and severally liable with the other Constituent Councils for the debts and liabilities of the Authority incurred before or after the date it becomes a Constituent Council, or as otherwise agreed;
- 14.2.2 is bound by a decision made or step taken by the Board in the affairs of the Authority before it became a Constituent Council to the extent such decision or step was recorded in minutes of the Board's meetings or otherwise notified to the Incoming Constituent Council before it made application to become a Constituent Council; and
- 14.2.3 upon becoming a Constituent Council has the Share agreed between the Incoming Constituent Council and the Constituent Councils.

**15. OUTGOING CONSTITUENT COUNCILS**

15.1 A Constituent Council may resign if and only if:

- 15.1.1 the Constituent Council gives at least 24 months' written notice of resignation to each Constituent Council, which notice is effective on the next 30 June on or after expiry of that period;
- 15.1.2 the Board by majority vote approves; and
- 15.1.3 the Minister approves.

15.2 A former Constituent Council remains liable to contribute to the debts and liabilities of the Authority incurred while it was a Constituent Council including by contributing to the depreciated value of any asset acquired during that time, and for a share of any future losses on contracts entered into whilst a Constituent Council.

15.3 A former Constituent Council:

- 15.3.1 is not entitled to any refund of contributions made;
- 15.3.2 relinquishes any beneficial interest in the assets of the Authority; and
- 15.3.3 remains bound by any separate contract in force between the Authority and the former Constituent Council.

15.4 This Clause is to be read conjunctively with Clause 57 of this Charter.

**16. NO TRANSFER OF MEMBERSHIP**

Membership of the Authority is personal to the Constituent Council and is not transferable.

**17. CONSTITUENT COUNCILS MAY DIRECT THE AUTHORITY**

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

17.2 To be effective, a determination or direction or other decision of the Constituent Councils must be a Unanimous Decision and evidenced by either:

- 17.2.1 a minute signed by the chair of a meeting of authorised delegates of the Constituent Councils that at such meeting a decision was duly made by each delegate on behalf of their Constituent Council; or
- 17.2.2 a resolution in the same terms in favour of that decision passed individually by each of the Constituent Councils.

**18. CONSTITUENT COUNCILS ARE GUARANTORS OF THE AUTHORITY**

18.1 As a matter of record, Schedule 2, Clause 31 (1) of the Act is that liabilities incurred or assumed by the Authority are guaranteed by the Constituent Councils.

18.2 As between the Constituent Councils, they share in the liabilities of the Authority in proportion to their respective Share.

**19. SPECIAL DECISIONS FOR THE AUTHORITY**

Neither the Authority nor any person on its behalf may give effect to a Special Decision unless the Constituent Councils vote in favour of a resolution for the Special Decision by Absolute Majority.

For these purposes, a Special Decision means any of the following:

- (a) adopt or vary a Business Plan;
- (b) adopt or vary an Annual Plan;
- (c) delegate the authority of the Board to any person other than the Chief Executive Officer;
- (d) to any extent not provided for in a Business Plan or Annual Plan and Budget:
  - (i) call on Constituent Councils to contribute funds;
  - (ii) grant or vary a guarantee/indemnity of the obligations of another person;
  - (iii) apply for government funding;
  - (iv) obtain credit except in the ordinary course of the activities of the Authority;
  - (v) acquire (by purchase or finance lease) a capital asset;
  - (vi) dispose of a capital asset except at the end of its effective life;
  - (vii) take a lease or tenancy of any premises;
  - (viii) employ any employees.

The Authority must promptly give effect to Special Decision made in conformity with this clause.

PART 5—DIRECTORS

**20. QUALIFICATION OF DIRECTORS**

A Director must be a natural person.

**21. APPOINTMENT OF DIRECTORS**

21.1 Subject to the provisions of Clauses 33.1 and 33.2 the Board shall consist of eight Directors appointed as follows:

- 21.1.1 one person appointed by each Constituent Council which person may be an officer, employee, elected member of a Constituent Council or an independent person who will be appointed for a two year term; and

21.1.2 one independent person (who shall be the Chair) appointed jointly by Absolute Majority of the Constituent Councils for a two year term (and at the expiration of the term is eligible for re-appointment) who is not an officer, employee or elected member of a Constituent Council, but who has expertise in:

- (a) corporate financial management and/or
- (b) general management and/or
- (c) waste management and/or
- (d) transport fleet management and/or
- (e) public sector governance and/or
- (f) marketing and/or
- (g) economics and/or
- (h) environmental management.

21.2 Each Constituent Council must give to the Authority a written notice of appointment of the Director appointed under Clause 21.1.1 and written confirmation of their agreement with the proposed appointment of the Director under Clause 21.1.2.

21.3 Each Director must give to the Authority a written consent to act as a Director, signed by him/herself.

21.4 Each Constituent Council must appoint a person to be a Deputy Director for such term as determined by that Constituent Council who may act in place of that Constituent Council's Director, and will have the same powers as a Director pursuant to the Charter, if the Director is unable for any reason to be present at a meeting of the Board; and

21.4.1 If at any time a Deputy Director is removed from their office pursuant to Clause 22A, the Constituent Council must appoint another person to be a Deputy Director.

## 22. REMOVAL OF DIRECTORS

22.1 Neither the Authority nor the Board may remove a Director.

22.2 A Constituent Council which appointed a person as a Director may remove that person from office by giving to the Authority a written notice of removal of the Director, signed by the Chief Executive Officer of the Constituent Council.

22.3 The Director appointed pursuant to Clause 21.1.2 may be removed by a decision being a resolution in the same or similar terms passed by an Absolute Majority of the Constituent Councils.

22.4 The Board may recommend to Constituent Councils, that the appointment of a Director be terminated in the event of:

- 22.4.1 behaviour of the Director which in the opinion of the Board amounts to impropriety;
- 22.4.2 serious neglect of duty in attending to the responsibilities of Director;
- 22.4.3 breach of fiduciary duty to the Board;
- 22.4.4 breach of the duty of confidentiality to the Board;
- 22.4.5 breach of the conflict of interest rules of the Board; or
- 22.4.6 any other behaviour which may discredit the Board.

22.5 The office of a Director becomes vacant if the Director:

- 22.5.1 dies;
- 22.5.2 is not reappointed;
- 22.5.3 resigns by written notice addressed to the Constituent Councils and served on any of them;
- 22.5.4 becomes bankrupt or applies for the benefit of a law for the relief of insolvent debtors;
- 22.5.5 was when appointed an elected member or employee of the Constituent Council who appointed them and ceases to be an elected member or employee of that Constituent Council; or
- 22.5.6 was appointed by a Constituent Council, which ceases to be a Constituent Council.

## 22A. REMOVAL OF DEPUTY DIRECTORS

22A.1 Neither the Authority nor the Board may remove a Deputy Director.

22A.2 A Constituent Council which appointed a person as a Deputy Director may remove that person from their office by giving the Board a written notice of removal of the Deputy Director, signed by the Chief Executive Officer of the Constituent Council.

22A.3 The Board may recommend to Constituent Councils that the appointment of a Deputy Director may be terminated in the event of:

- 22A.3.1 behaviour of the Deputy Director which in the opinion of the Board amounts to impropriety;
- 22A.3.2 serious neglect of duty in attending to the responsibilities of the Deputy Director;
- 22A.3.3 breach of fiduciary duty to the Board;
- 22A.3.4 breach of duty of confidentiality to the Board;
- 22A.3.5 breach of the conflict of interest rules of the Board; or
- 22A.3.6 any other behaviour which may discredit the Board.

22A.4 The office of a Deputy Director becomes vacant if the Deputy Director:

- 22A.4.1 dies;
- 22A.4.2 is not reappointed;
- 22A.4.3 resigns by written notice addressed to the Constituent Councils and served on any of them;

- 22A.4.4 becomes bankrupt or applies for the benefit of a law for the relief of insolvent debtors;
- 22A.4.5 was when appointed an elected member or employee of the Constituent Council who appointed them and ceases to be an elected member of employee of that Constituent Council; or
- 22A.4.6 was appointed by a Constituent Council, which ceases to be a Constituent Council.

### 23. REMUNERATION AND EXPENSES OF DIRECTORS

- 23.1 The Authority will only remunerate the Independent Director/Chair appointed under Clause 21.1.2.
- 23.2 The Board will determine the level of the remuneration (no matter how it is classified) of the Independent Director/Chair, by having regard to its Director/Chair Remuneration Policy.
- 23.3 The Authority can pay a Director's travelling and other expenses that they properly incur in connection with the Authority's business and with the prior approval of the Board as recorded in minutes of Board meetings.

### 24. REGISTER OF INTERESTS

A Director is required to submit returns to the Authority under Chapter 5, Part 4, Division 2 of the Act.

### 25. PROTECTION FROM LIABILITY

As a matter of record, Schedule 2, Clause 38 of the Act protects a Director from certain civil liabilities.

### 26. SAVING PROVISION

As a matter of record, Schedule 2, Clause 40 of the Act is that no act or proceeding of the Authority is invalid by reason of:

- 26.1 a vacancy or vacancies in the membership of the Board; or
- 26.2 a defect in the appointment of a Director.

## PART 6—OTHER OFFICERS

### 27. CHAIR

- 27.1 At all times, the Authority must have a Chair, who will be the independent Director appointed under Clause 21.1.2.
- 27.2 The Chair's functions are:
  - 27.2.1 to preside at all meetings of the Board;
  - 27.2.2 to serve as an *ex officio* member and chair of all committees established by the Board;
  - 27.2.3 to represent the Authority in relations with the media and the public generally; and
  - 27.2.4 to exercise other functions as the Board determines.

### 28. DEPUTY CHAIR

- 28.1 At all times, the Authority must have a Deputy Chair, who must be a Board Member.
- 28.2 The Board appoints the Deputy Chair and may at any time remove from office the Deputy Chair and appoint a replacement Deputy Chair.
- 28.3 The Deputy Chair's functions are:
  - 28.3.1 to assist the Chair; and
  - 28.3.2 to exercise the Chair's functions whenever the Chair is unable to do so.
- 28.4 A person ceases to be Deputy Chair if they cease to be a Board Member.

### 29. CHIEF EXECUTIVE OFFICER

- 29.1 At all times so far as practicable, the Authority must have a Chief Executive Officer.
- 29.2 At any time the Board may give a new title to the position of Chief Executive Officer in which case this Charter is taken to refer to the same position under a new title.
- 29.3 The Board shall appoint a Chief Executive Officer on a fixed term performance based employment contract, which does not exceed five years in duration.
- 29.4 The Board may at the end of the contract term, enter into a new contract not exceeding five years in duration with the same person.
- 29.5 The Board may revoke or vary an appointment of a Chief Executive Officer, subject to any agreement made between the Chief Executive Officer and the Authority.
- 29.6 In the absence of the Chief Executive Officer for any period exceeding one week, the Chief Executive Officer shall appoint a suitable person as Acting Chief Executive Officer. If the Chief Executive Officer does not make or is incapable of making such an appointment, a suitable person must be appointed by the Board.
- 29.7 The Board delegates responsibility for day to day management of the Authority to the Chief Executive Officer, who will ensure that sound business, risk minimisation, financial and human resource management practices are applied in the efficient and effective management of the operations of the Authority.
- 29.8 The functions of the Chief Executive Officer shall include:
  - 29.8.1 ensuring that the decisions of the Board are implemented in a timely and efficient manner;
  - 29.8.2 providing information to assist the Board to assess the Authority's performance against its Business Plan;
  - 29.8.3 appointing, managing, suspending and dismissing other employees of the Authority;
  - 29.8.4 providing advice and reports to the Board on the exercise and performance of its powers and functions under this Charter or any Act;
  - 29.8.5 co-ordinating and initiating proposals for consideration of the Board including but not limited to continuing improvement of the operations of the Authority;
  - 29.8.6 ensuring that the assets and resources of the Authority are properly managed and maintained;
  - 29.8.7 ensuring that records required under the Act or any other legislation are properly kept and maintained;

- 29.8.8 exercising, performing or discharging other powers, functions or duties conferred on the Chief Executive Officer by or under the Act or any other Act, and performing other functions lawfully directed by the Board, and achieving financial outcomes in accordance with adopted plans and budgets.
  - 29.8.9 issuing notices calling Board meetings;
  - 29.8.10 attending all Board meetings and keeping correct minutes of the proceedings unless excluded by resolution of the Board;
  - 29.8.11 managing all other employees of the Authority;
  - 29.8.12 receiving and answering correspondence and notices to the Authority;
  - 29.8.13 keeping all documents and records belonging to the Authority;
  - 29.8.14 supervising the handling of money by or for the Authority and the keeping of financial records;
  - 29.8.15 issuing receipts for moneys received and keep a correct account of all receipts and expenditure;
  - 29.8.16 operating the Authority's bank account (including sign cheques and other negotiable instruments and make payments over the Internet within the delegations to the position) together with one other signatory appointed by the Board. Unless the Board determines otherwise, that other person must be the Chair;
  - 29.8.17 having custody and safekeeping of the records of the Authority;
  - 29.8.18 preparing draft Annual and Business Plans for consideration of the Board;
  - 29.8.19 monitoring the financial performance of the Authority against an adopted Annual and Business Plan and promptly reporting to the Board any material discrepancies known or anticipated;
  - 29.8.20 preparing such statements, reports, returns or other written information as the Act or any law requires the Authority to lodge with government;
  - 29.8.21 preparing draft financial statements; and
  - 29.8.22 such other functions as the Board may vest in the Chief Executive Officer.
- 29.9 The Board may delegate to the Chief Executive Officer any of the powers that the Board can exercise where those powers are not restricted from delegation by the Act or this Charter, noting that:
- 29.9.1 the Chief Executive Officer may delegate or sub-delegate to an employee of the Authority or a committee comprising employees of the Authority, any power or function vested in the Chief Executive Officer. Such delegation or sub-delegation may be subject to conditions or limitations as determined by the Chief Executive Officer;
  - 29.9.2 where a power or function is delegated to an employee, the employee is responsible to the Chief Executive Officer for the efficient and effective exercise or performance of that power or function; and
  - 29.9.3 a written record of delegations and sub-delegations must be kept by the Chief Executive Officer at all times.
- 29.10 The Chief Executive Officer enjoys functions and responsibilities set out at Section 99 (1) (a), (b), (c), (d), (e) and (h) and 103 of the Act as if the Authority were a council and the Chief Executive Officer were a chief executive officer of a council.
- 29.11 The Chief Executive Officer may establish an Operations Assistance Committee consisting of one appropriately qualified senior officer from each Constituent Council and this Committee will:
- 29.11.1 advise and assist the Chief Executive Officer in operations matters;
  - 29.11.2 report to the Board via the Chief Executive Officer;
  - 29.11.3 meet at least four times in each calendar year;
  - 29.11.4 be chaired by the Chief Executive Officer; and
  - 29.11.5 have its terms of reference written by the Chief Executive Officer.

### 30. AUDITOR

The Authority must have an auditor. Subject to the Act, an auditor holds office on the terms and conditions (including as to remuneration) that the Board determines.

#### PART 7—AUDIT COMMITTEE

### 31. AUDIT COMMITTEE

As a matter of record, the Authority is required to establish an audit committee and Schedule 2, Clause 30 of the Act governs the constitution and functions of the audit committee.

#### PART 8—STAFF

### 32. STAFF

- 32.1 In addition to a Chief Executive Officer, the Authority may employ other staff subject to the Board making appropriate financial provision.
- 32.2 The Board and a Constituent Council may arrange for that Constituent Council to make available its staff in connection with the Authority's affairs for such remuneration (if any) as those parties may agree.

#### PART 9—BOARD

### 33. BOARD

The Authority must at all times have a Board comprised of Directors.

- 33.1 The Constituent Councils acknowledge and accept that the Directors will act and take decisions in the best interest of the Authority.
- 33.2 The Constituent Councils understand that each Director nominated by a Constituent Council will bring to discussion a perspective from the Council which nominated that Director but that shall not interfere with the obligations of Directors in respect of Clause 33.1.

**34. BOARD'S POWERS**

- 34.1 As a matter of record, Schedule 2, Clause 22 (1) of the Act is that the Board is responsible for the administration of the affairs of the Authority.
- 34.2 As a matter of record, Schedule 2, Clause 22 (3) of the Act is that anything done by the Board in the administration of the Authority's affairs is binding on the Authority.
- 34.3 The Board may exercise all the powers of the Authority except any powers that the Act or this Charter requires the Constituent Councils to exercise.
- 34.4 As a matter of record, Schedule 2, Clause 36 (1) of the Act authorises the Board to delegate powers or functions conferred under this or another Act.
- 34.4.1 A delegation of powers by the Board:
- (a) may authorise the delegate to sub-delegate all or any of the powers vested in the delegate;
  - (b) is concurrent with the exercise by the Board of those powers;
  - (c) is subject to any specified conditions and limitations; and
  - (d) is revocable at will.

**35. BOARD MEETINGS**

- 35.1 Subject to Schedule 2, Clause 21 of the Act, to a direction of the Constituent Councils and to the other provisions of this Charter.
- 35.1.1 the Board must determine its own procedures for meetings, which must be fair and contribute to free and open decision making;
- 35.1.2 the Board must set out the adopted meeting procedures in a meeting procedure code of practice which will be available to the public for inspection (without charge) and by way of a copy (on payment of a fee fixed by the Board); and
- 35.1.3 the code of practice may be reviewed by the Board at any time but must be reviewed at least once in every three years.
- 35.2 An ordinary meeting of the Board must be held at least every three calendar months.
- 35.3 Ordinary meeting of the Board must take place at such times and places as may be fixed by the Board or absent any decision of the Board the Chief Executive Officer of the Authority. Meetings shall not be held before 5 p.m. unless the Board resolves otherwise by resolution supported unanimously by all Board Members.
- 35.4 An ordinary meeting of the Board will constitute an ordinary meeting of the Authority. The Board shall administer the business of the ordinary meeting.
- 35.5 Notice of ordinary meetings of the Board must be given by the Chief Executive Officer to each Board Member and to each Constituent Council not less than three clear days prior to the holding of the meeting and shall be accompanied by the agenda for the meeting and any written reports.
- 35.6 The Chair or any two Directors may call a special meeting of the Board.
- 35.7 A special meeting of the Board must be held at a reasonable time and if the meeting is to be held in person, at a reasonable place.
- 35.8 Unless all Directors entitled to vote at the meeting agree otherwise, the persons calling a special Board meeting must give to the Chief Executive Officer a notice of meeting that:
- 35.8.1 sets out the place, date and time for the meeting;
- 35.8.2 states the general nature of the business of the meeting;
- 35.8.3 is accompanied by relevant information so far as reasonably available (if not already given to the Directors); and
- 35.8.4 is provided at least one clear business day before the special meeting (or such other period as all the Directors in office may as a matter of general policy determine otherwise).
- 35.9 A notice of special meeting provided to Directors by the Chief Executive Officer will at the same time be placed on public display at the principal office of the Authority and of each Constituent Council.
- 35.10 As a matter of record, Schedule 2, Clause 21 (5) of the Act permits a Board meeting by telephone or videoconference.
- 35.10.1 For the purposes of this subclause, the contemporary linking together by telephone, audio-visual or other instantaneous means ('telecommunications meeting') of a number of the Directors provided that at least a quorum is present, is deemed to constitute a meeting of the Board. Each of the Directors taking part in the meeting, must at all times during the telecommunications meeting be able to hear and be heard by each of the other Directors present. At the commencement of the meeting, each Director must announce his/her presence to all other Directors taking part in the meeting. A Director must not leave a telecommunications meeting by disconnecting his/her telephone, audio visual or other communication equipment, unless that Director has previously notified the chair of the meeting.
- 35.11 As a matter of record, Schedule 2, Clause 21 (6) of the Act permits a decision of the Board to be made in writing and not at a meeting.
- 35.11.1 A proposed resolution in writing and given to all Directors in accordance with proceedings determined by the Board will be a valid decision of the Board where a simple majority of Directors vote in favour of the resolution by signing and returning the resolution to the Chief Executive Officer or otherwise giving written notice of their consent and setting out the terms of the resolution to the Chief Executive Officer. The resolution shall thereupon be as valid and effectual as if it had been passed at the meeting of the Board duly convened and held.
- 35.12 Chapter 6, Parts 3 and 4 (public access to meetings and minutes) of the Act (to the extent that Part 4 is not inconsistent with this Charter) apply to Board meetings as if the Authority were a council and the Directors were members of a council.

- 35.13 Unless the Directors determine otherwise, the quorum for a Board meeting is a number ascertained by dividing the total number of members of the committee by two, ignoring any fraction resulting from the division and adding one.
- 35.14 At any time, the Board may agree to invite a person to attend a Board meeting as an observer or adviser.
- 35.15 As a matter of record, Schedule 2, Clauses 21 (4) (one vote per Director, no casting vote) and 21 (3) (majority vote) of the Act govern voting at a Board meeting.
- 35.16 As a matter of record, Schedule 2, Clause 21 (11) of the Act obliges the Board to keep minutes of its proceedings. All minutes must be prepared and distributed to both Directors and also to Constituent Councils within seven business days of the meeting to which they relate.

## PART 10—COMPETITIVE NEUTRALITY

**36. COMPETITIVE NEUTRALITY**

- 36.1 For the purposes of Schedule 2, Clause 32 of the Act, the Authority is not involved in a significant business activity in undertaking its Core Activity.
- 36.2 In respect of any Non-core Activity that is a significant business activity, the Authority must at all times have current a National Competition Policy Statement in relation to competitive neutrality which it will adhere to in undertaking that Non-core Activity.

## PART 11—GOVERNANCE

**37. DIRECTOR'S CONFLICT OF INTEREST**

As a matter of record, by Section 75 (2) of the Act, the provisions of Chapter 5, Part 4, Division 3 apply to Directors.

**38. DIRECTOR'S DUTIES OF CARE**

As a matter of record, Schedule 2, Clause 23 of the Act (care and diligence) and Schedule 2, Clause 34 of the Act (honesty, use of information, use of position) set out certain statutory duties that apply to a Director.

**39. BOARD POLICIES AND CODES**

- 39.1 The Authority must, in consultation with the Constituent Councils, prepare and adopt and thereafter keep under review policies on:
- 39.1.1 procedures for meetings of the Board (in accordance with Clause 35.1 of this Charter);
  - 39.1.2 contracts and tenders, as would conform to Section 49 of the Act;
  - 39.1.3 public consultation, as would conform to Section 50 of the Act.
  - 39.1.4 governance including as concerns:
    - (a) the operation of any account with a bank or Local Government Finance Authority;
    - (b) human resource management;
    - (c) improper assistance to a prospective contract party;
    - (d) improper offering of inducements to Directors or to staff of the Authority;
    - (e) improper lobbying of Directors or staff of the Authority;
  - 39.1.5 occupational health and safety;
  - 39.1.6 protection of the environment.
- 39.2 To the extent it is able, the Board must ensure that such policies as above are complied with in the affairs of the Authority.
- 39.3 The Board must prepare and adopt within six months after the Gazettal of this Charter, a code of conduct to be observed by Directors.

**40. BOARD DUTIES TO CONSTITUENT COUNCILS**

As a matter of record, Schedule 2, Clause 22 (2) of the Act is that the Board must ensure as far as practicable:

- 40.1 that the Authority observes all plans, targets, structures, systems and practices required or applied to the Authority by the Constituent Councils;
- 40.2 that all information furnished to a Constituent Council is accurate; and
- 40.3 that the Constituent Councils are advised, as soon as practicable, of any material development that affects the financial or operating capacity of the Authority or gives rise to the expectation that the Authority may not be able to meet its debts as and when they fall due.

**41. BOARD DUTIES TO THE AUTHORITY**

The Board must ensure:

- 41.1 that the Authority acts in accordance with applicable laws, mandatory codes of practice, this Charter, Business Plan, Annual Plan and achieves the financial outcomes projected in its Budget;
- 41.2 that the Authority acts ethically and with integrity;
- 41.3 that the activities of the Authority are conducted efficiently and effectively and that any assets of the Authority are properly managed and maintained; and
- 41.4 that, subject to any overriding duty of confidence, the affairs of the Authority are undertaken in an open and transparent manner.

## PART 12—BUSINESS PLANS

**42. BUSINESS PLANS**

As a matter of record, Schedule 2, Clause 24 of the Act sets out requirements for Business Plans. The following provisions of this Part are in addition to and not in derogation of the requirements of the Act.



**43. ABOUT A BUSINESS PLAN**

- 43.1 The Board must prepare at least a ten-year Business Plan for the region, in a collaborative manner with Constituent Councils which cannot be in conflict with this Charter.
- 43.2 The Board must also prepare a ten year Long Term Financial Plan (which, must include principles detailing the actual distribution of overheads between the Constituent Councils and any other matter required by the Constituent Councils or determined by the Board to be included therein) and an Asset Management Plan.
- 43.3 The Long Term Financial and Asset Management Plans form part of the Business Plan.
- 43.4 In preparing and when reviewing a Business Plan, the Board must at a minimum have regard to the following:
- 43.4.1 any State Government Agency Waste plan then in force in relation to the area of a Constituent Council and any proposed changes to such plan;
  - 43.4.2 any initiatives proposed by the Commonwealth of Australia or the State Government as may impact upon or affect proper waste management in the area of an individual Constituent Council or Constituent Councils collectively;
  - 43.4.3 any plan or policy of a Constituent Council for waste management then in force, and any proposed changes to such plan or policy;
  - 43.4.4 the strategic management plans of each Constituent Council then in force; and
  - 43.4.5 the annual business plan and budget of each Constituent Council then in force.

## PART 13—NON-CORE ACTIVITY

**44. ABOUT NON-CORE ACTIVITY**

- 44.1 Where before the date this Charter becomes effective the Authority has committed to a Non-core Activity:
- 44.1.1 a Non-core Plan for that Non-core Activity must be prepared by the Chief Executive Officer and approved by Board resolution no later than 30 June 2013, so far as that Non-core Activity at the time then remains to be performed; and
  - 44.1.2 all the Constituent Councils are taken to be participants in that Non-core Activity with Non-core Shares equal to their Core Shares.
- 44.2 After the date this Charter becomes effective, the Authority must not tender for or commit to a Non-core Activity except in compliance with this Charter.

**45. NON-CORE ACTIVITY PROPOSALS**

The Chief Executive Officer, the Board or any Constituent Council may propose the Authority adopt a Non-core Plan.

**46. NON-CORE ACTIVITY CONSULTATION**

A proposer of a draft Non-core Plan must consult all the Constituent Councils in developing the draft.

**47. NON-CORE PLAN REQUIREMENTS**

A draft Non-core Plan must set out in reasonable detail in relation to the Non-core Activity it concerns:

- 47.1 the kind of service to which it relates;
- 47.2 its priority in relation to other existing or proposed Core Activity and Non-core Activity;
- 47.3 its expected duration;
- 47.4 a timetable for its full implementation;
- 47.5 its anticipated effect on the resources of the Authority (including financial, technological, physical and human resources) and in particular and without limiting the generality of the foregoing:
  - 47.5.1 personnel requirements over time, and how those requirements are to be satisfied;
  - 47.5.2 plant and equipment requirements over time, and how those requirements are to be satisfied;
  - 47.5.3 fuel and other consumables requirements over time, and how those requirements are to be satisfied;
  - 47.5.4 access to weigh-stations, recycling premises, and waste dump premises over time, and how those requirements are to be satisfied;
- 47.6 its anticipated expenditure, revenue and cash-flow outcomes over time (on a calendar monthly basis);
- 47.7 the sources of funds and when those funds need be sourced;
- 47.8 whether and if so what resources of a Constituent Council are required to be available to the Non-core Activity;
- 47.9 whether the Local Government Mutual Liability Scheme has forecast any peculiar liability issues for the Non-core Activity, and the advice given in relation to those liability issues;
- 47.10 whether the lawyers for the Authority have forecast any peculiar legal issues for the Non-core Activity, and the advice given in relation to those legal issues;
- 47.11 whether the auditors of the Authority have forecast any peculiar accounting or audit issues for the Non-core Activity;
- 47.12 governance issues, including whether and what delegations are required;
- 47.13 whether the Non-core Activity is a significant business activity and if so, how adherence to the National Competition Policy will be assured; and
- 47.14 how the Non-core Plan may change over time.

**48. CONDITIONS OF ADOPTION OF A NON-CORE PLAN**

A Non-core Plan is not effective unless and until all of the following are satisfied:

- 48.1 the Board resolves to adopt the Non-core Plan;

48.2 the Constituent Councils have each resolved to:

48.2.1 approve their Council's participation in the Non-core Activity; and

48.2.2 make any necessary consequential changes to their Council's strategic management plans, annual business plan and budget.

#### 49. NON-CORE PLANS AS PART OF THE BUSINESS PLAN

A Non-core Plan adopted by the Authority forms part of the Business Plan.

#### 50. REVIEW OF A NON-CORE PLAN

As part of a Business Plan, a Non-core Plan is subject to review by the Authority at the same times as the remainder of the Business Plan.

### PART 14—ANNUAL PLAN AND BUDGET

#### 51. ANNUAL PLAN

The Authority must, for each financial year, have an Annual Plan which supports and informs its Budget. The Annual Plan must:

51.1 include an outline of the Authority's objectives for the financial year, the activities that the Authority intends to undertake to achieve those objectives and the measures that the Authority intends to use to assess its performance against its objectives over the financial year;

51.2 assess the financial requirements of the Authority for the financial year and, taking those requirements into account, set out a summary of the Authority's proposed operating expenditure, capital expenditure and sources of revenue;

51.3 take into account the objectives set out in the Business Plan and, in particular, the Long Term Financial Plan and issues relevant to the management of assets and resources by the Authority;

51.4 set out proposals for the recovery of overheads over the financial year from the Constituent Councils; and

51.5 address or include any other matter prescribed by the Constituent Councils or determined to be relevant by the Board.

#### 52. ABOUT AN ANNUAL PLAN

52.1 An adopted Annual Plan binds the Authority and is the basis upon which the Budget is prepared.

52.2 Before the Authority adopts its Annual Plan it must prepare a draft Annual Plan and obtain the consent of an Absolute Majority of the Constituent Councils to that Plan.

52.3 The Authority must prepare the draft Annual Plan and provide it to the Constituent Councils by a date determined by the Councils for the purpose of obtaining the consent of the Councils on or before 31 May in each financial year.

#### 53. BUDGETS

As a matter of record, Schedule 2, Clause 25 of the Act sets out requirements for Budgets, and the Authority must advise Constituent Councils of the proposed fees for the next financial year by 1 April in the preceding financial year.

#### 54. ABOUT A BUDGET

54.1 An adopted Budget (prepared in a manner consistent with the Annual Plan) binds the Authority and is authority for the Authority to perform work and incur debts and meet obligations according to its own terms without reference back to the Board or to a Constituent Council (except to any extent the Budget or the Annual Plan otherwise requires).

54.2 Each Budget of the Authority must be adopted:

54.2.1 after the Authority has adopted its Annual Plan;

54.2.2 must be consistent with that Plan; and

54.2.3 before 30 June in each financial year.

#### 55. EXPENDITURE OUTSIDE A BUDGET

55.1 As a matter of record, Schedule 2, Clause 25 (4) is that the Authority may incur, for the purpose of genuine emergency or hardship, spending that is not authorised by its Budget without consulting with and seeking approval from the Constituent Councils.

55.2 As a matter of record, Schedule 2, Clause 25 (5) is that the Authority may, in a financial year, after consultation with the Constituent Councils, incur spending before adoption of its Budget for the year, but the spending must be provided for in the appropriate Budget for the year.

### PART 15—SHARES

#### 56. ABOUT SHARES

A Share means a Constituent Council's percentage share in the assets, liabilities and revenue of the Authority (after deducting Non-core Assets and Non-core Liabilities) as between all the Constituent Councils in accordance with this Part 15.

To avoid doubt, a third party dealing with the Authority is entitled to have recourse to all the Constituent Councils jointly and severally, regardless of the Shares of the Constituent Councils.

#### 57. VARIATION OF SHARES

57.1 At the date of operation of this Charter the Constituent Councils' shares in the Authority are equal.

57.2 At any time, all the Constituent Councils may in writing agree to vary the Share of one or more of them.

57.3 The Shares must be reviewed and, as necessary, varied each time:

57.3.1 a council is admitted to the Authority as a Constituent Council;

57.3.2 a Constituent Council amalgamates with another council; or

57.3.3 a Constituent Council resigns from the Authority.

57.4 Notwithstanding the above, it is recognised and agreed that the Shares of the Constituent Councils immediately preceding the date of operation of this Charter are as follows:

City of Burnside	18.90%
City of Norwood Payneham and St. Peters	16.93%
Corporation of the Town of Walkerville	3.23%
City of Mitcham	26.24%
City of Campbelltown	19.83%
Adelaide Hills Council	14.87%

57.5 It is agreed between the Constituent Councils that the Constituent Councils are liable to contribute to any debts and liabilities of the Authority incurred prior to the date of operation of this Charter (including in relation to the depreciated value of any asset acquired and for any losses under contract entered into before that date) in the Shares set out at Clause 57.4 above.

#### PART 16—FUNDING

##### 58. FUNDING

The Authority may decline to take any action where funds then available to the Authority are in the Board's opinion insufficient to defray the costs of such action and any debt or liability that may result.

##### 59. CONSTITUENT COUNCIL CONTRIBUTIONS TO WORKING CAPITAL

59.1 This Clause applies only to a Core Activity.

59.2 A Constituent Council must contribute to the Authority such amounts at such times as the Budget requires (after deducting from the Budget any amounts identified as Non-core Assets and Non-Core Liabilities).

59.3 If the Budget does not specify a fixed dollar amount to be payable by the Contributor, the Constituent Council may require as a condition of payment that the Authority first provide an itemised estimate of the Core Activity expenditure reasonably expected to be incurred and which that contribution is to defray (after adjustments for payments previously made by that Constituent Council).

59.4 The Authority must use contributions received from a Constituent Council only for the purposes of a Core Activity as set out in the Budget.

59.5 If a Constituent Council (a Defaulter) fails to pay its full contribution so required when due:

59.5.1 the Defaulter must pay to the Authority interest on that amount at the official Reserve Bank Cash Rate Target plus 10% per annum from the due date to the date of actual payment;

59.5.2 the Authority may recover that amount and that interest from the Defaulter as a debt;

59.5.3 the Authority may, without prejudicing its other rights, set off any moneys otherwise payable by the Authority to the Defaulter against that amount and interest; and

59.5.4 if the default continues for at least 14 days:

(a) the Authority must notify all Constituent Councils (including the Defaulter) of the fact and details of the default; and

(b) Constituent Councils other than the Defaulter must together lend to the Authority an amount (equal to the amount not paid by the Defaulter) in such proportions as they may agree or failing agreement between themselves, in the proportion that their Share bears to the total Shares held by those Constituent Councils making such loan, for repayment when and to the extent the Defaulter makes good the contribution and accrued interest.

##### 60. DEBT FUNDING

The Authority may borrow or raise money from the Local Government Finance Authority or a bank of such amount(s) as provided for in a Business Plan and Budget approved by the Constituent Councils.

##### 61. DISTRIBUTIONS TO CONSTITUENT COUNCILS

The Authority must pay or credit surplus funds to the Constituent Councils in proportion to their Shares to the extent the Board determines the Authority can afford to pay having regard to future expenditure the Business Plan anticipates be incurred.

##### 62. CONTRIBUTIONS ON INSOLVENCY

On the insolvency of the Authority, and subject to Clause 57 of this Charter, each Constituent Council must contribute in proportion to their Share to the debts and liabilities of the Authority and otherwise as incurred while the Constituent Council is a Constituent Council.

#### PART 17—ASSETS

##### 63. ACQUISITION OF ASSETS

The Authority may in accordance with this Charter acquire such assets (real or personal) as its Business Plan provides or otherwise pursuant to a Unanimous Decision of the Constituent Councils.

##### 64. DISPOSAL OF ASSETS

The Authority may dispose of (personal) assets as its Business Plan provides, or at the end of the asset's economic life.

##### 65. INVESTMENTS

In accordance with its Business Plan and Budget the Authority may invest in the items below:

65.1 in waste management infrastructure and ancillary land;

65.2 in plant and equipment to store, transfer and/or treat waste;

65.3 in plant and equipment to transport waste from properties to an appropriate place of storage and/or disposal; and

65.4 cash on interest-bearing deposit with any bank

**66. INTERESTS IN COMPANIES**

As a matter of record, Schedule 2, Clause 39 of the Act prohibits the Authority from having an interest in most companies.

## PART 18—INSURANCE

**67. INSURANCE**

67.1 The Authority must register with the Local Government Association Mutual Liability Scheme and comply with the rules of that Scheme.

67.2 If the Authority employs any person, it must register with the Local Government Superannuation Scheme and the Local Government *Association Workers Compensation Scheme* and comply with the rules of those Schemes.

## PART 19—FINANCIAL PRACTICES

**68. ACCOUNTING RECORDS**

The Authority must comply with Section 124 of the Act as if the Authority were a council.

**69. ABOUT ACCOUNTING FOR SERVICES**

The Authority must keep accounting records in relation to services in such manner as will enable the calculation of Constituent Councils' contributions to, expenditure on and revenue from that service separately.

**70. OTHER FINANCIAL PRACTICES**

Except as may be stated elsewhere in this Charter or required by law, there are no special accounting, internal auditing or financial systems or practices to be established or observed by the Authority.

## PART 20—ACCESS TO INFORMATION

**71. ACCESS TO RECORDS**

A Constituent Council and a Director each has a right to inspect and take copies of the books and records of the Authority for any proper purpose.

**72. PROVISION OF INFORMATION**

As a matter of record Schedule 2, Clause 27 of the Act entitles each Constituent Council to be furnished with information or records of the Authority.

**73. BOARD REPORTS**

The Authority must provide Board reports to the Directors and Constituent Councils in accordance with this Charter and otherwise at such times, in such format and with such content as the Board may determine.

**74. ANNUAL REPORTS**

74.1 As a matter of record, Schedule 2, Clause 28 of the Act requires the Authority to furnish an annual report to the Constituent Councils.

74.2 The annual report will be in such format and include such content as the Constituent Councils may prescribe by Absolute Majority.

74.3 The annual report must be delivered to the Councils on or before 30 September in each year subsequent to the financial year to which the report relates.

## PART 21—DISPUTE RESOLUTION

**75. DISPUTE RESOLUTION****75.1 About this clause:**

75.1.1 The procedure in this Clause must be applied to any dispute that arises between the Authority and a Constituent Council concerning the affairs of the Authority, or between Constituent Councils concerning the affairs of the Authority, including a dispute as to the meaning or effect of this Charter and whether the dispute concerns a claim in common law, equity or under statute.

75.1.2 The Authority and a Constituent Council must continue to observe and perform this Charter despite the application or operation of this clause.

75.1.3 This Clause does not prejudice the right of a party:

- (a) to require the continuing observance and performance of this Charter by all parties; or
- (b) to institute proceedings to enforce payment due under this Charter or to seek injunctive relief to prevent immediate and irreparable harm.

75.1.4 Pending completion of the procedure set out in this clause, and subject to this clause, a dispute must not be the subject of legal proceedings between any of the parties in dispute. If legal proceedings are initiated or continued in breach of this provision, a party to the dispute is entitled to apply for and be granted an order of the court adjourning those proceedings pending completion of the procedure set out in this clause.

**75.2 Step 1: Notice of dispute:** A party to the dispute must promptly notify each other party to the dispute:

- 75.2.1 the nature of the dispute, giving reasonable details;
- 75.2.2 what action (if any) the party giving notice thinks will resolve the dispute; and but a failure to give such notice does not entitle any other party to damages.

**75.3 Step 2: Meeting of the parties:** A party to the dispute who complies with the previous step may at the same or a later time notify each other party to the dispute that the first party requires a meeting within 14 business days after the giving of such notice. In that case, each party to the dispute must send to the meeting a senior manager of that party with the Board to resolve the dispute and at the meeting make a good faith attempt to resolve the dispute.

**75.4 Step 3: Mediation:** Despite whether any previous step was taken, a dispute not resolved within 30 days must be referred to mediation, as to which:

- 75.4.1 the mediator must be a person agreed by the parties in dispute or, if they cannot agree within 14 business days, a mediator nominated by the then President of the South Australian Bar Association (or equivalent officer of any successor organisation);

- 75.4.2 the role of a mediator is to assist in negotiating a resolution of a dispute. A mediator may not make a decision binding on a party unless that party has so agreed in writing;
- 75.4.3 the mediation must take place in a location in Adelaide agreed by the parties;
- 75.4.4 a party in dispute must co-operate in arranging and expediting mediation;
- 75.4.5 a party in dispute must send to the mediation a senior manager with authority to resolve the dispute;
- 75.4.6 the mediator may exclude lawyers acting for the parties in dispute and may co-opt expert assistance as the mediator thinks fit;
- 75.4.7 a party in dispute may withdraw from mediation if there is reason to believe the mediator is not acting in confidence, or with good faith or is acting for a purpose other than resolving the dispute;
- 75.4.8 unless otherwise agreed in writing:
- (a) everything that occurs before the mediator is in confidence and in closed session;
  - (b) discussions (including admissions and concessions) are without prejudice and may not be called into evidence in any subsequent litigation by a party;
  - (c) documents brought into existence specifically for the purpose of the mediation may not be admitted in evidence in any subsequent legal proceedings by a party;
  - (d) the parties in dispute must report back to the mediator within 14 business days on actions taken, based on the outcome of the mediation;
- 75.4.9 a party in dispute need not spend more than one day in mediation for a matter under dispute;
- 75.4.10 a party in dispute must bear an equal share of the costs and expenses of the mediator and otherwise bears their own costs.
- 75.5 **Step 4: Arbitration:** Despite whether any previous step was taken, a dispute not resolved within 60 days must be referred to arbitration, as to which:
- 75.5.1 there must be only one arbitrator and who is a natural person agreed by the parties or, if they cannot agree within 14 business days, an arbitrator nominated by the then Chairperson of The Institute of Arbitrators and Mediators Australia (South Australian Chapter);
- 75.5.2 the role of the arbitrator is to resolve the dispute and make decisions binding on the parties;
- 75.5.3 the arbitration must take place in an agreed location in Adelaide;
- 75.5.4 a party must co-operate in arranging and expediting arbitration;
- 75.5.5 a party must send to the arbitration a senior manager with authority to resolve the dispute;
- 75.5.6 the parties may provide evidence and given written and verbal submissions to the arbitrator within the time set by the arbitrator;
- 75.5.7 the arbitrator must:
- (a) consider the evidence and submissions;
  - (b) decide the dispute; and
  - (c) give written reasons to each party;
- 75.5.8 subject to this clause, the arbitration must take place under Rules 5 to 18 (inclusive) of the Rules of The Institute of Arbitrators and Mediators for the Conduct of Commercial Arbitrations and the provisions of the Commercial Arbitration Act 1986 (S.A.) and which Rules are taken to be incorporated by reference into this clause or subject to this clause, the arbitrator must fix the rules of arbitration;
- 75.5.9 the costs and expenses of the arbitrator and of each party must be borne as the arbitrator decides.

## PART 22—WINDING UP

**76. WINDING UP**

The Authority may be wound up in circumstances as Schedule 2, Clause 33 (1) of the Act allows or requires.

**77. DISTRIBUTION OF ASSETS AND LIABILITIES ON WINDING UP**

In the event the Authority commences to wind up and except to any extent the Board unanimously determines otherwise, the Authority must divide among the Constituent Councils in kind all of the Authority's assets and liabilities in proportion to their Shares or as otherwise agreed by Unanimous Decision of the Constituent Councils.

## PART 23—COMMITTEES

**78. COMMITTEES**

- 78.1 The Board may establish a committee of Directors for the purpose of enquiring into and reporting to the Board on any matter within the Authority's functions and powers and as detailed in the terms of reference given by the Board to the committee.
- 78.2 A member of a committee established under this Clause holds office at the pleasure of the Board.
- 78.3 The Board may establish advisory committees consisting of or including persons who are not Directors for enquiring into and reporting to the Board on any matter within the Authority's functions and powers and as detailed in the terms of reference which must be given by the Board to the advisory committee.
- 78.4 A member of an advisory committee established under this Clause holds office at the pleasure of the Board.

## PART 24—OTHER MATTERS

**79. EXECUTION OF DOCUMENTS**

The Chief Executive Officer must maintain a register of use of the Common Seal. As a matter of record, Schedule 2, Clause 37 of the Act governs the execution of documents by the Authority.

**80. PRINCIPAL OFFICE**

The Authority's principal office is at 1 Temple Court, Ottoway, S.A. 5013 or as the Board may determine otherwise.

**81. SERVICE OF DOCUMENTS**

A document to be given by the Authority to a Constituent Council, or by a Constituent Council to the Authority may be given in a manner Section 280 of the Act permits. A written notice given by the Authority to a Constituent Council must be marked, 'Attention: Chief Executive Officer'.

**82. CIRCUMSTANCES NOT PROVIDED FOR**

If any circumstances arise about which this Charter is silent, incapable of taking effect or being implemented according to its terms, the Board may consider the circumstances and determine the action to be taken.

The undersigned (being each Council specified in the Charter) agree to the above as the charter of the Authority.

SHANE RAYMOND, Manager, Corporate Services, East Waste

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# **Appendix 2**

*AHRWMA Charter*

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# LOCAL GOVERNMENT ACT 1999

## ADELAIDE HILLS REGION WASTE MANAGEMENT AUTHORITY

### *Amendments to the Rules*

#### 1. INTRODUCTION

##### 1.1 Definitions

‘the Act’ means the Local Government Act 1999;

‘administration costs’ means as defined by LGA Accounting Regulations and AAS27 accounting standards;

‘annual asset percentage’ means the percentage that the Council’s annual mass bears to the combined annual masses of all Constituent Councils;

‘annual mass’ means the mass of rubbish and waste collected or disposed of from the area of a Constituent Council in the 12 months preceding 1 July in each calendar year;

‘the Authority’ means the Adelaide Hills Region Waste Management Authority;

‘Constituent Council’ has the same meaning as in section 43 of the Act and more particular refers to the:

1.1.1 District Council of Mount Barker;

1.1.2 Adelaide Hills Council;

1.1.3 Rural City of Murray Bridge; and

1.1.4 Alexandrina Council,

‘the Board’, ‘Board Members’ or ‘Board of Management’ means those Members appointed in accordance with Clause 3.2.1 of this Charter and acting collectively or singularly as the context requires;

‘Financial Year’ means 1 July in each year to 30 June in the subsequent year;

‘Hartley Landfill’ means that land which is held under certificate of title volume 5500, folio 460, by Robin Angas Harvey, Darrell Drew Harvey and Ian Brownhill Harvey comprising the southern portion of Section 299, Hundred of Freeling in the area of the Alexandrina Council which land is subject to a licence agreement with the Authority for purposes of bulk waste disposal and backfill and also a licence agreement with the District Council of Mount Barker for mining purposes (the latter licence to the Council prevailing in the event of any conflict between the licences);

‘net assets’ means total assets (current and non-current) less total liabilities (current and non-current) as reported in the annual audited financial statements of the Authority together with the net present value of the projected future cash inflows net of cash outflows of the remaining useable airspace over the Hartley Landfill as licensed by the Environment Protection Authority;

‘operating costs’ means expenses incurred in the delivery of the Authority’s services excluding administration costs;

‘Region’ means the collective areas of the Constituent Councils.

##### 1.2 Establishment

The Authority is a regional subsidiary established under section 43 of the Act by the Constituent Councils and conducts its affairs in accordance with Schedule 2, Parts 2 and 3 of the Act except as modified by this Charter in a manner permitted by the Act.

##### 1.3 National Competition Policy

The Authority does not undertake any commercial activities which constitute a significant business activity of the Authority to which the principles of competitive neutrality must be applied.



#### 1.4 **Objects and Purposes**

The Authority is established for the following objects and purposes:

- 1.4.1 to facilitate and co-ordinate waste management including collection, treatment, disposal and recycling within the Region;
- 1.4.2 to develop and implement policies designed to improve waste management and recycling programmes and practices within the Region;
- 1.4.3 to regularly review the Region's waste management and recycling practices and policies;
- 1.4.4 to provide and operate a place or places for the treatment, recycling and disposal of waste collected by or in the areas of the Constituent Councils;
- 1.4.5 to develop further co-operation between the Constituent Councils in the collection, treatment, recycling and disposal of waste for which the Constituent Councils are or may become responsible;
- 1.4.6 to minimise the volume of waste collected in the areas of the Constituent Councils which is required to be disposed of by landfill;
- 1.4.7 to educate and motivate the community to achieve the practical reduction of waste through reuse and recycling initiatives;
- 1.4.8 to be financially self sufficient,

and in so doing will give due weight to economic, social and environmental considerations.

#### 1.5 **Powers**

The powers, functions and duties of the Authority are to be exercised in the performance of the Authority's objects and purposes. The Authority shall have those powers, functions and duties delegated to it by the Constituent Councils from time to time which include but are not limited to the following:

- 1.5.1 to acquire, deal with and dispose of real and personal property (wherever situated) and rights in relation to real and personal property provided that it shall be a condition precedent that any such transaction may not incur a singular or a total liability of \$250 000 or more without the prior approval of all of the Constituent Councils;
- 1.5.2 to sue and be sued in its corporate name provided that any litigation is subject to an immediate urgent report to the Constituent Councils by the Executive Officer;
- 1.5.3 subject to Clauses 1.5.1, 1.5.12 and 1.6 of this Charter to enter into any kind of contract or arrangement;
- 1.5.4 to borrow funds and incur expenditure in accordance with Clauses 1.5.1, 1.5.2 and 1.6 of this Charter;
- 1.5.5 to establish a reserve fund or funds clearly identified for the upkeep and/or replacement of fixed assets of the Authority or for meeting any deferred liability of the Authority;
- 1.5.6 to invest any surplus funds of the Authority in any investment authorised by the Trustee Act 1936, or with the Local Government Finance Authority provided that:
  - 1.5.6.1 in exercising this power of investment the Authority must exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
  - 1.5.6.2 the Authority must avoid investments that are speculative or hazardous in nature;
- 1.5.7 to distribute profit to the Constituent Councils and where this power of distribution is exercised to do so on a proportionate basis in accordance with the Schedule of Constituent Council's Interests in Net Assets as provided at Clause 7.2 of this Charter;

- 1.5.8 to enter into agreements with the Constituent Councils for the purpose of operating and managing sites for the treatment, recycling and disposal of waste;
- 1.5.9 to raise finance for all purposes relating to the collection, treatment, recycling and disposal of waste;
- 1.5.10 to determine the types of refuse and waste which will be received and the method of collection, treatment, recycling and disposal of the waste;
- 1.5.11 to enter into any kind of contract or arrangement to undertake projects and to undertake all manner of things relating to and incidental to the collection, treatment, recycling and disposal of waste, provided that any project with a value of \$500 000 or more requires the prior approval of all the Constituent Councils;
- 1.5.12 to commit the Authority to undertake a project in conjunction with any other Council or government agency and in doing so to participate in the formation of a trust, partnership or joint venture with the other body to give effect to the project provided that any project with a value of \$500 000 or more requires the prior approval of all of the Constituent Councils;
- 1.5.13 to employ, engage, remunerate, remove, suspend or dismiss the Executive Officer of the Authority;
- 1.5.14 to open and operate bank accounts;
- 1.5.15 to make submissions for and accept grants, subsidies and contributions to further its objects and purposes and to invest any funds of the Authority in any securities in which a Council may lawfully invest;
- 1.5.16 to charge whatever fees the Authority considers appropriate for services rendered to any person, body or Council (other than a Constituent Council) provided that such fees charged by the Authority shall be sufficient to cover the cost to the Authority of providing the service;
- 1.5.17 to charge the Constituent Councils fees for services that cover the cost to the Authority of providing the services;
- 1.5.18 to do anything else necessary or convenient for, or incidental to, the exercise, performance or discharge of its powers, functions or duties.

## 1.6 **Borrowings and Expenditure**

- 1.6.1 The Authority has the power to borrow and/or to incur expenditure in accordance with this Clause or Clauses 1.5.1 or 1.5.12 of this Charter or in accordance with its approved budget or otherwise as expressly authorised by resolutions (expressed in the same terms) passed by the Constituent Councils.
- 1.6.2 If the Authority intends to borrow money for the purposes of a project with expenditure of a capital nature in excess of \$500 000, the Authority must make a proposal in writing to all Constituent Councils outlining the amount of money proposed to be borrowed, the terms and conditions of the borrowing and the purpose to which the money will be put. The consent of all of the Constituent Councils is required for the Authority to proceed with the proposed borrowing.
- 1.6.3 For the purposes of Clause 1.6.2 such borrowings must:
  - 1.6.3.1 not be used for the purpose of funding operational costs;
  - 1.6.3.2 be from the Local Government Financial Authority or a registered bank or financial institution within Australia; and
  - 1.6.3.3 must be drawn down within a period of 24 months from the date of approval.
- 1.6.4 The Authority may operate an overdraft facility or facilities as required provided that it must not exceed \$100 000 in total without the approval of all of the Constituent Councils.

## 1.7 **Property**

- 1.7.1 All property held by the Authority is held by it on behalf of the Constituent Councils.
- 1.7.2 No person may sell, encumber or otherwise deal with any property of the Authority without the approval of the Board by way of a Board resolution.

#### 1.8 **Delegation by the Authority**

The Board may by resolution delegate to the Executive Officer or to any officer of the Authority any of its powers, functions and duties under this Charter but may **not** delegate:

- 1.8.1 the power to impose charges;
- 1.8.2 the power to enter into transactions in excess of \$50 000;
- 1.8.3 the power to borrow money or obtain any other form of financial accommodation;
- 1.8.4 the power to approve expenditure of money on the works, services or operations of the Authority not set out in a budget approved by the Authority or where required by this Charter approved by the Constituent Councils;
- 1.8.5 the power to approve the reimbursement of expenses or payment of allowances to Members of the Board of Management;
- 1.8.6 the power to adopt budgets;
- 1.8.7 the power to adopt or revise financial estimates and reports; and
- 1.8.8 the power to make any application or recommendation to the Minister.

A delegation is revocable at will and does not prevent the Board from acting in a matter.

### 2. **STRUCTURE**

- 2.1 The Authority is a body corporate and is governed by its Board, which has the responsibility to manage the business and other affairs of the Authority ensuring that the Authority acts in accordance with this Charter.
- 2.2 All meetings of the Authority shall be meetings of the Board.
- 2.3 The Board will be entitled to make decisions in accordance with the powers and functions of the Authority established in this Charter.

### 3. **THE BOARD OF MANAGEMENT**

The Board shall have the responsibility to manage all of the activities of the Authority ensuring that the Authority acts in accordance with this Charter.

#### 3.1 **Functions of the Board**

- 3.1.1 The formulation of strategic and business plans in accordance with Clause 5 of this Charter and the development of strategies aimed at improving the business of the Authority.
- 3.1.2 To provide policy direction to the Authority.
- 3.1.3 Monitoring, overseeing and measuring the performance of the Executive Officer of the Authority.
- 3.1.4 Subject to this Charter ensuring that the business of the Authority is undertaken in an open and transparent manner.
- 3.1.5 Ensuring that ethical behaviour and integrity is established and maintained by the Authority and its Board Members in all activities undertaken by the Authority.
- 3.1.6 Assisting in the development of strategic and business plans.
- 3.1.7 Exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons.
- 3.1.8 Developing and giving effect to policies that reflect the Authority's responsibilities under the National Competition Policy (if applicable) and the Trade Practices Act.

3.1.9 Ensuring that the Authority functions in accordance with its objects and purposes and within its approved budget.

### 3.2 **Membership**

3.2.1 The Board shall consist of eight Members (appointed by the Constituent Councils) as follows:

(a) one elected Member appointed by each Constituent Council; and

(b) one employee appointed by each Constituent Council.

3.2.2 Each Constituent Council will also appoint a deputy Board Member. The deputy Board Member is entitled to act in place of a Board Member appointed by the same Constituent Council if the Board Member is unable for any reason to be present at a Board meeting.

3.2.3 In the absence of the Board Member, a deputy Board Member will be deemed to be the Board Member and can exercise all rights, privileges and obligations of the Board Member during the absence of that Board Member.

3.2.4 A certificate signed by the Chief Executive Officer of a Constituent Council will be sufficient evidence of the appointment of a Board Member and deputy Board Member of the Board of Management.

3.2.5 There will be a Chairperson and a Deputy Chairperson of the Board elected by ballot of the whole Board from those Board Members who are appointed under Clause 3.2.1 (a) of this Charter.

3.2.6 The term of office for the Chairperson and Deputy Chairperson will expire at the annual general meeting of the Authority. The outgoing Chairperson and Deputy Chairperson will be eligible for re-election as well as all Authority Members.

3.2.7 The Chairperson shall preside at all meetings of the Board and in the absence of the Chairperson, the Deputy Chairperson will act in the office of Chairperson. In the absence of the Chairperson and the Deputy Chairperson the Board will elect an Acting Chairperson from amongst those Board Members present who have been appointed under Clause 3.2.1 (a) of this Charter.

3.2.8 Board Members are not required to submit returns under Chapter 5, Part 4, Division 2 of the Act.

### 3.3 **Term of Office**

3.3.1 The term of office of each Board Member shall be for a term determined by the Constituent Council appointing the Board Member. At the conclusion of this term all Board Members are eligible for re-appointment.

3.3.2 The office of a Board Member will become vacant upon:

3.3.2.1 the death of the Board Member; or

3.3.2.2 the appointing Constituent Council providing written notice of termination to the Board Member and the Board; or

3.3.2.3 if the Board Member is an elected Member of a Constituent Council upon ceasing to be an elected Member; or

3.3.2.4 if the Board Member is an officer of a Constituent Council, upon ceasing to be employed by the Council which appointed him/her; or

3.3.2.5 upon the Board Member providing his/her resignation in writing to one or more of the Constituent Councils; or

3.3.2.6 upon the happening of any other event through which the Board Member would be ineligible to remain as a Member of the Board; or

3.3.2.7 upon the Board Member becoming a bankrupt or applying for the benefit of a law for the relief of insolvent debtors.

- 3.3.3 The Board may by a two-thirds majority vote of the Members present (excluding the Board Member subject to this Clause) make a recommendation to a Constituent Council requesting it to terminate the appointment of a Board Member appointed by it in the event of any behaviour which in the opinion of the Board amounts to:
- 3.3.3.1 impropriety;
  - 3.3.3.2 serious neglect of duty in attending to the responsibilities as a Member of the Board;
  - 3.3.3.3 breach of fiduciary duty to the Board or a Constituent Council;
  - 3.3.3.4 breach of the duty of confidentiality to the Board and/or the Constituent Councils; or
  - 3.3.3.5 any other behaviour which may discredit the Board.
- 3.3.4 Where, for any reason, the office of a Board Member becomes vacant the Constituent Council which appointed the Board Member will be responsible for appointing a replacement Board Member.

#### 3.4 **Proceedings of the Board**

- 3.4.1 Subject only to the extent that they are modified by this Clause, the proceedings of the Board of Management will be those under Part 2 of the Local Government (Procedures at Meetings) Regulations 2000.
- 3.4.2 Subject only to the special provisions of this Clause, no meeting of the Board will commence until a quorum of Members is present and no meeting may continue if there is not a quorum of Members present. A quorum of Members will comprise one half of the Members in office, ignoring any fraction, plus one.
- 3.4.3 For the purposes of this subclause, the contemporary linking together by telephone, audio-visual or other instantaneous means ('telecommunications meeting') of a number of the Board Members provided that at least a quorum is present, is deemed to constitute a meeting of the Board. Each of the Board Members taking part in the telecommunications meeting, must at all times during the telecommunications meeting be able to hear and be heard by each of the other Board Members present. At the commencement of the meeting, each Board Member must announce his/her presence to all other Board Members taking part in the meeting. A Board Member must not leave a telecommunications meeting by disconnecting his/her telephone, audio-visual or other communication equipment, unless that Board Member has previously notified the Chairperson of the meeting.
- 3.4.4 A proposed resolution in writing and given to all Board Members in accordance with proceedings determined by the Board will be a valid decision of the Board where a majority of Board Members vote in favour of the resolution by signing and returning the resolution to the Executive Officer or otherwise giving written notice of their consent and setting out the terms of the resolution to the Executive Officer. The resolution shall thereupon be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.
- 3.4.5 Meetings of the Board will be open to the public unless the Board resolves to consider a matter in confidence in accordance with the provisions of Chapter 6, Part 3 of the Act. Where an order is made under this Clause, a note must be made in the minutes of the making of the order and of the grounds on which it was made.
- 3.4.6 Where the Board has considered any information or a matter in confidence under Clause 3.4.5 it may subsequently resolve to keep minutes and/or documents considered during that part of the meeting confidential in accordance with section 91 of the Act.
- 3.4.7 All matters for decision at a meeting of the Board will be decided by a simple majority of the Members present and entitled to vote on the matter. All Members including the Chairperson present and entitled to vote on the matter are required to cast a vote. All Members including the Chairperson are entitled only to a deliberative vote.

- 3.4.8 In the case of an equality of votes, the Chairperson does not have a casting vote and the matter is deemed to have elapsed.
- 3.4.9 Ordinary meetings of the Board will be held at such time and such place as the Board decides subject only to the requirement that (disregarding the annual general meeting) there will be at least one ordinary meeting of the Board in every four months.
- 3.4.10 Special meetings of the Board may be held at any time and may be called at the request of the Chairperson or the written request of at least three Members of the Board. A request for a special meeting must be accompanied by the proposed agenda for the meeting or the request will be of no effect.
- 3.4.11 Notice of all meetings will be given in accordance with the requirements applicable to a Council meeting under the Act, which apply to the Board as if it were a Council.
- 3.4.12 The Executive Officer must cause minutes to be kept of the proceedings at every meeting of the Board and ensure that the minutes are presented to the next ordinary meeting of the Board for confirmation and adoption. Where the Executive Officer is excluded from attendance at a meeting of the Board pursuant to Clause 3.4.5, the person presiding at the meeting shall cause the minutes to be kept.
- 3.4.13 All Members must keep confidential all documents and any information provided to them for their consideration prior to a meeting of the Board.

### **3.5 Propriety of Members of the Board**

- 3.5.1 All provisions governing propriety of Members of a Council and public officers under the law of South Australia will be applicable to Board Members.
- 3.5.2 The provisions regarding conflict of interest prescribed in the Act apply to all Board Members as if they were elected Members of a Council.
- 3.5.3 The Board Members will at all times act in accordance with their duties of confidence and confidentiality and individual fiduciary duties, including honesty and the exercise of reasonable care and diligence with respect to the performance and discharge of official functions and duties as required by Part 4, Division 1, Chapter 5 of the Act and Clause 23 of Schedule 2, Part 2 of the Act.

### **3.6 Committees**

- 3.6.1 The Board may from time to time as it sees fit establish committees for the purposes of assisting it in the performance of its functions. A committee established by the Board under this provision may be comprised of such persons that the Board determines.
- 3.6.2 Every committee shall operate in accordance with the general procedure applicable to the Board itself subject to any variation prescribed by the Board in establishing the committee.

### **3.7 Annual General Meeting**

- 3.7.1 An annual general meeting of the Board shall be held prior to 30 June in each year at a place and time determined by a resolution of the Board.
- 3.7.2 The annual general meeting shall conduct business of a general nature aimed at reviewing the progress and direction of the Authority and shall include the following:
  - 3.7.2.1 Chairperson's report;
  - 3.7.2.2 election of the Chairperson until the next annual general meeting; and
  - 3.7.2.3 adoption of the annual budget for the ensuing financial year.

## **4. BUDGETS AND CONTRIBUTIONS**

### **4.1 Annual Budget**

- 4.1.1 The Authority shall, prepare and after 31 May of each year adopt an annual budget for the ensuing financial year in accordance with the Act.

4.1.2 The Authority must provide a copy of its annual budget to the Chief Executive Officer of each Constituent Council within five business days after adoption.

4.1.3 Reports summarising the financial position and performance of the Authority shall be prepared and presented to the Board at each ordinary meeting and copies provided to the Chief Executive Officer of each Constituent Council.

4.1.4 The Authority will reconsider the budget at least three times at intervals of not less than three months between 30 September and 31 May in the relevant financial year.

*(See Clause 25, Part 2, Schedule 2 to the Act for the contents of the budget)*

#### 4.2 **Financial Contributions**

4.2.1 The Board will determine annually and will include within the budget submitted to the Constituent Councils for approval the funds required to enable the Authority to operate and to fulfil its objects and purposes.

4.2.2 The accounting and audit requirements of the Act and the Local Government (Financial Management) Regulations 1999, will apply to the Authority.

#### 4.3 **Administration Contributions**

4.3.1 The Board will determine annually and will include within the budget submitted to the Constituent Councils for approval the administrative funds required by the Authority to enable it to function ('administration costs').

4.3.2 Each of the Constituent Councils will contribute equally to the administration costs required by the Authority as set out in the approved budget.

4.3.3 The annual administration costs will be paid by each Constituent Council in advance by monthly instalments.

4.3.4 The Board may during any Financial Year for purposes of genuine emergency or hardship determine that additional administration costs are required for the continuing function of the Authority.

4.3.5 Any additional administration costs will be paid in equal proportions by each Constituent Council in the manner and at the time determined by the Board.

#### 4.4 **Operating Contributions**

4.4.1 The Board may from time to time fix all fees, charges, imposts and levies and prices payable for the collection, receipt or purchase of waste.

4.4.2 Each Constituent Council shall contribute contributions to the amount required in proportion to that Council's current annual asset percentage at the date the income requirement is approved by the Board. The Board will determine annually and will include within the budget submitted to the Constituent Councils for approval the operating contributions required by the Authority to enable it to function ('operating costs').

4.4.3 The Board may during any year for purposes of genuine emergency or hardship determine that additional operating costs contributions are required for the continuing function of the Authority.

4.4.4 Any contribution to operating costs shall be made by each Constituent Council within 60 days of notice in writing being given by the Board to the Chief Executive Officer of the Constituent Council, provided that if the Board so decides such payments may be made in advance by monthly instalments.

### 5. **MANAGEMENT**

#### 5.1 **Strategic Plans**

The Authority shall:

5.1.1 prepare and adopt a ten year Strategic Plan for the conduct of its business which will identify its objectives over the period of the Plan and the principal activities that the Authority intends to undertake to achieve its objectives;

- 5.1.2 in consultation with the Constituent Councils review the Strategic Plan at any time but subject to a comprehensive review being undertaken at least once in every four years; and
- 5.1.3 submit the Strategic Plan to the Constituent Councils for their approval.

## 5.2 **Business Plans**

The Authority shall:

- 5.2.1 prepare a three year Business Plan linking the core business activities of the Authority to strategic, operational and organisational requirements with supporting financial projections setting out the estimates of revenue and expenditure as necessary for the period;
- 5.2.2 in consultation with the Constituent Councils review the Business Plan annually; and
- 5.2.3 submit the Business Plan to the Constituent Councils for their approval.  
*(See Clause 24, Part 2, Schedule 2 to the Act for the contents of the Business Plan)*

## 5.3 **Reporting**

- 5.3.1 The Authority must submit to the Constituent Councils, by 30 September in each financial year a report on the work and operations of the Authority detailing achievement of the aims and objectives of its Business Plan and incorporating the audited Financial Statements of the Authority and any other information or reports as required by the Constituent Councils.
- 5.3.2 On or before the second Friday in September of each year the Board shall present to the Constituent Councils a balance sheet and full financial report in respect of the previous Financial Year.

# 6. **ADMINISTRATIVE MATTERS**

## 6.1 **Executive Officer and Staff**

- 6.1.1 The Board may appoint an Executive Officer and/or other staff of the Authority on terms and conditions to be determined by the Board.
- 6.1.2 The Board shall delegate responsibility for the day-to-day management of the Authority to the Executive Officer, who will ensure that sound business and human resource management practices are applied in the efficient and effective management of the operations of the Authority.
- 6.1.3 The Executive Officer will be responsible to the Board:
  - 6.1.3.1 for the implementation of its decisions in a timely and efficient manner;
  - 6.1.3.2 to carry out such duties as the Board may direct;
  - 6.1.3.3 attending at all meetings of the Board unless excluded by resolution of the Board;
  - 6.1.3.4 providing information to assist the Board to assess the Authority's performance against its Strategic and Business Plans;
  - 6.1.3.5 appointing, managing, suspending and dismissing all other employees of the Authority;
  - 6.1.3.6 determining the conditions of employment of all other employees of the Authority, within budgetary constraints set by the Board;
  - 6.1.3.7 providing advice and reports to the Board on the exercise and performance of its powers and functions under this Charter or any Act;
  - 6.1.3.8 ensuring that the assets and resources of the Authority are properly managed and maintained;
  - 6.1.3.9 ensuring that records required under the Act or any other legislation are properly kept and maintained;



- 6.1.3.10 exercising, performing or discharging other powers, functions or duties conferred on the Executive Officer by or under the Act or any other Act or this Charter, and performing other functions lawfully directed by the Board;
- 6.1.3.11 achieving financial and other outcomes in accordance with adopted plans and budgets of the Authority; and
- 6.1.3.12 for the efficient and effective management of the operations and affairs of the Authority.
- 6.1.4 In the absence of the Executive Officer for any period exceeding three weeks the Executive Officer can after consultation with the Board appoint a suitable person to act in the position of Executive Officer.
- 6.1.5 The Executive Officer may delegate or sub-delegate to an employee of the Authority or a committee comprising employees of the Authority, any power or function vested in the Executive Officer. Such delegation or sub-delegation may be subject to any conditions or limitations as determined by the Executive Officer.
- 6.1.6 Where a power or function is delegated to an employee, the employee is responsible to the Executive Officer for the efficient and effective exercise or performance of that power or function.
- 6.1.7 A written record of all delegations and sub-delegations must be kept by the Executive Officer at all times.
- 6.2 **Auditor and Other Professionals**
  - 6.2.1 The Board must annually appoint an Auditor in accordance with the Local Government (Financial Management) Regulations 1999.
  - 6.2.2 The Board may engage professional consultants and it may authorise the Executive Officer to so engage professional consultants to provide services to the Authority to ensure the proper execution of its decisions, the efficient and effective management of the operations and affairs of the Authority, and forgoing effect to the general management objectives and principals of personnel management prescribed by the Charter.
  - 6.2.3 The Authority is exempt from establishing an audit committee as required by Clause 30, Schedule 2 of the Act.
- 6.3 **Common Seal**
  - 6.3.1 There will be a common seal of the Authority which may be affixed to documents and must be attested by the Chairperson and the Executive Officer of the Authority.
  - 6.3.2 The common seal must not be affixed to a document except to give effect to a resolution of the Board. The Executive Officer will maintain a register which records the resolutions of the Board giving authority to affix the common seal and details of the documents to which the common seal has been affixed with the particulars of the persons who attested the fixing of the seal and the date thereof.

## 7. FINANCE

### 7.1 Banking

- 7.1.1 The Board will establish and maintain a bank account with such banking facilities and at a bank to be determined by the Board. The Board will appoint no less than two Board Members as jointly authorised operators of the bank accounts at any one time.
- 7.1.2 All payments must be authorised by resolution of the Board or at least two persons delegated by a resolution of the Board.
- 7.1.3 The Executive Officer must act prudently in the handling of all financial transactions for the Board and must provide quarterly financial and corporate reports to the Board, and the Constituent Councils.

### 7.2 Schedule of Net Assets

- 7.2.1 The Board will at the end of every Financial Year prepare a schedule of assets and liabilities. In addition it will maintain a record to be known as the ‘Schedule of Constituent Councils Interest in Net Assets’.
- 7.2.2 The ‘Schedule of Constituent Councils Interest in Net Assets’ will reflect the proportionate contribution each Constituent Council has made to the growth of the net assets of the Authority having regard to the proportion of contributions to the Authority’s assets in proportion to each Constituent Council’s asset percentage and subscriptions. The Schedule when updated at the end of each Financial Year will reflect the proportionate contribution of each Constituent Council since the commencement of the Authority and once accepted by the Board will be evidence of the agreed proportion of a Constituent Council’s interest in the net asset percentage as at 30 June in that year. The Constituent Councils agree to be bound by the annual decision of the Board on this issue.

## **8. MISCELLANEOUS MATTERS**

### **8.1 Alteration to Charter**

- 8.1.1 Subject to the Act, this Charter may be amended at the request of a Constituent Council, a Board Member, or on the recommendation of the Executive Officer by the giving of not less than two month’s notice of the proposed changes to the Constituent Councils and the Board.
- 8.1.2 Before the Constituent Councils vote on a proposal to alter the Charter they must take into account the recommendations of the Board.
- 8.1.3 This Charter can only be altered with the agreement of all of the Constituent Councils.

### **8.2 Withdrawal of a Constituent Council**

- 8.2.1 Subject to Ministerial consent, a Constituent Council may withdraw from the Authority by giving not less than six months notice of its intention to do so to the Board and to the Executive Officer.
- 8.2.2 In any event, a withdrawal cannot become effective until 30 June following the expiry of the six months notice period. Until withdrawal becomes effective the Constituent Council proposing withdrawal from the Authority will remain liable for all financial contributions in the remaining period and through its Board Members and deputy Board Members retains responsibility of ensuring the continued proper conduct of the affairs of the Authority during that time.
- 8.2.3 Upon withdrawal taking effect and subject to Clause 8.2.4 a Constituent Council will be entitled at the discretion of the Board to be paid not more than 20% of the Constituent Council’s interest in the net asset percentage of the Authority as determined and agreed in accordance with Clause 7.2.2. The withdrawing Constituent Council will be entitled to receive that sum by quarterly instalments to be paid over a period of two years with the first instalment being due on the 1st day of January following the actual date of withdrawal.
- 8.2.4 A Constituent Council will not be entitled to be paid any amount in respect of any reserve fund established under Clause 1.5.5 of this Charter.
- 8.2.5 The withdrawal of any Constituent Council does not extinguish the liability of that Constituent Council for the payment of its contribution towards any actual or contingent deficiency in the net assets of the Authority at the end of the Financial Year in which such withdrawal occurs.
- 8.2.6 The withdrawal of any Constituent Council does not extinguish the liability of that Constituent Council to contribute to any loss or liability incurred by the Authority at any time before or after such withdrawal in respect of any act or omission by the Authority prior to such withdrawal.

### **8.3 Addition of New Member**

Subject to the provisions of the Act and in particular Ministerial approval to the admission of a new Constituent Council or Councils, this Charter may be amended by agreement of all of the Constituent Councils to provide for the admission of a new Constituent Council or Councils.

#### 8.4 **Winding Up**

- 8.4.1 Subject to the Act, the Authority may be wound up by the Constituent Councils.
- 8.4.2 In the event of there being net assets upon dissolution and after realisation of all assets and meeting all liabilities, the net assets will be distributed to the then Constituent Councils on the basis of their current interest in the net assets of the Authority as agreed in accordance with Rule 7.2.2.
- 8.4.3 In the event of there being any unfunded liabilities of the Authority at the time of a winding up or otherwise the Constituent Councils acting in accordance with their obligations under the statutory guarantee will be responsible to meet those liabilities on the basis of their current interest in the net assets of the Authority as agreed in accordance with Rule 7.2.2.

#### 8.5 **Insurance and Superannuation Requirements**

- 8.5.1 The Authority shall register with the Local Government Mutual Liability Scheme and the Local Government Workers Compensation Scheme and comply with the Rules of those Schemes.
- 8.5.2 The Authority shall advise the Local Government Risk Management Services of its insurance requirements relating to Local Government Special Risks including buildings, structures, vehicles and equipment under the management, care and control of the Authority.
- 8.5.3 The Authority shall register with the Local Government Superannuation Scheme and comply with the Rules of the Scheme (where applicable).

#### 8.6 **Non-Derogation and Direction by Constituent Councils**

- 8.6.1 The establishment of the Authority does not derogate from the power of any of the Constituent Councils to act independently in relation to a matter within the jurisdiction of the Authority.
- 8.6.2 Provided that the Constituent Councils have all first agreed as to the action to be taken, the Constituent Councils may direct and control the Authority.
- 8.6.3 For the purpose of subclause 8.6.2, any direction given by the Constituent Councils must be given in writing to the Executive Officer of the Authority.

#### 8.7 **Review of Charter**

- 8.7.1 This Charter will be reviewed by the Constituent Councils acting in concurrence at least once in every three years.
- 8.7.2 This Charter may be amended by a resolution passed by each of the Constituent Councils.
- 8.7.3 The Executive Officer must ensure that the amended Charter is published in the *Gazette* and a copy of the amended Charter provided to the Minister.
- 8.7.4 Before the Constituent Councils vote on a proposal to alter this Charter they must take into account any recommendation of the Board.

#### 8.8 **Disputes Between Constituent Councils**

- 8.8.1 The Constituent Councils agree to work together in good faith to resolve any matter requiring their direction or resolution.
- 8.8.2 Where the Constituent Councils are unable to resolve a matter within 21 days of the matter being presented to them, the matter will be referred for arbitration by the President (or his/her nominee) of the Institute of Arbitrations and Mediators Australia.
- 8.8.3 Notwithstanding subclause 8.8.2 the Constituent Councils agree to be bound by the decision of the Arbitrator (except in relation to any decision relating to the acquisition or disposal of any real property) and will endeavour to work together in good faith in the implementation of that decision.
- 8.8.4 The costs of arbitration shall be borne equally by the Constituent Councils.

**8.9 Circumstances Not Provided For**

8.9.1 If any circumstance arises about which this Charter is silent, incapable of taking effect or being implemented according to its strict provisions, the Chairperson may decide the action to be taken to ensure achievement of the objects and purposes of the Authority and its effective administration.

8.9.2 The Chairperson shall report any such decision at the next ordinary meeting of the Authority.

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# **Appendix 3**

*GRFMA Charter*

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# LOCAL GOVERNMENT ACT 1999

## GAWLER RIVER FLOODPLAIN MANAGEMENT AUTHORITY

### *Notice of Alteration to the Charter*

PURSUANT to Clause 17 of the Charter, and Clause 19, Part 2, Schedule 2 of the Local Government Act 1999, the Charter published in the *Gazette* on 25 October 2012 at pages 4730 to 4735 was amended by a resolution passed in the same terms of the City of Playford on 28 April 2015, District Council of Mallala on 10 March 2015, Town of Gawler on 24 March 2015, The Barossa Council on 17 March 2015, Light Regional Council on 24 March 2015 and the Adelaide Hills Council on 24 March 2015.

The Charter, as amended, of the Gawler River Floodplain Management Authority is set out below.

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#### 1. ESTABLISHMENT

The Gawler River Floodplain Management Authority ('the Authority') is established by the Constituent Councils as a regional subsidiary pursuant to section 43 and Schedule 2 ('the Schedule') of the Local Government Act 1999 ('the Act').

This Charter governs the affairs of the Authority.

#### 2. CONSTITUENT COUNCILS

The Authority is established by the City of Playford, District Council of Mallala, Town of Gawler, The Barossa Council, Light Regional Council and the Adelaide Hills Council ('the Constituent Councils').

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

#### 3. PURPOSE

3.1 The Authority has been established for the following purposes:

3.1.1 to co-ordinate the construction, operation and maintenance of flood mitigation infrastructure for the Gawler River. This purpose is the core business of the Authority;

3.1.2 to raise finance for the purpose of developing, managing and operating and maintaining works approved by the Board;

3.1.3 to provide a forum for the discussion and consideration of topics relating to the Constituent Council's obligations and responsibilities in relation to management of flood mitigation for the Gawler River;

3.1.4 upon application of one or more Constituent Councils pursuant to clause 12.4:

3.1.4.1 to coordinate the construction, maintenance and promotion and enhancement of the Gawler River and areas adjacent to the Gawler River as recreational open space for the adjacent communities; and

3.1.4.2 to enter into agreements with one or more of the Constituent Councils for the purpose of managing and developing the Gawler River.

3.2 The Authority is not involved in a significant business activity as defined in the Clause 7 Statement prepared under the Competition Principles Agreement of the National Competition Policy.

#### 4. THE BOARD—ROLE AND MEMBERSHIP

4.1 The Authority will be governed by a Board.

4.2 The Board is responsible for the administration of the affairs of the Authority. The Board must ensure insofar as it is practicable, that the Authority observes the objectives set out in this Charter, that information provided to the Constituent Councils is accurate and that Constituent Councils are kept informed of the solvency of the Authority as well as any material developments which may affect the operating capacity and financial affairs of the Authority:

4.3 The Board will comprise:

4.3.1 One independent person who is not an officer, employee or elected member of a Constituent Council appointed by absolute majority of the Constituent Councils as the Chairperson for a term of two years and who has expertise in one or more of the following areas:

(a) environmental management;

(b) corporate financial management;

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- (c) general management;
  - (d) public sector governance.
- 4.3.2 The Chairperson is, at the expiry of his or her term of office, eligible for reappointment.
- 4.3.3 Each of the Constituent Councils will appoint two persons to the Board. The Constituent Councils' appointees shall be the Chief Executive Officer of the Constituent Council or his or her nominee plus one elected member of the Constituent Council.
- 4.3.4 Each Constituent Council may appoint either an Elected Member or a Council Officer as Deputy Board Member who may attend Board Meetings in the place of a Council Board Member who is absent.
- 4.3.5 The Board may appoint observers to the Board. Such appointees will not be entitled to vote at meetings.
- 4.3.6 Board members (with the exception of the Chairperson), shall not be entitled to receive a sitting fee.
- 4.3.7 The Board may pay a sitting fee to the Chairperson in such amount as determined by the Board.
- 4.4 A certificate signed by the Chief Executive Officer of the appointing Constituent Council will be sufficient evidence of appointment.
- 4.5 In the absence of the Chairperson, the Board will elect a temporary acting Chairperson from amongst their members.

## **5. TERM OF OFFICE—THE BOARD**

- 5.1 Subject only to the following subclauses, the term of office of each member of the Board, (with the exception of the Chairperson), will be as determined by the Constituent Council responsible for the appointment of the member and the Constituent Councils express a preference that members of the Board are appointed following each election of the Constituent Council for the term of the Council.
- 5.2 The Board may by a two-thirds majority vote of the members present (excluding the member subject to this clause) make a recommendation to the Constituent Council responsible for the appointment of the relevant member, that the Constituent Council terminate the appointment of the member in the event of:
- 5.2.1 any behaviour of the member which in the opinion of the Board amounts to impropriety;
  - 5.2.2 serious neglect of duty in attending to the responsibilities of a member and/or Chairperson of the Board;
  - 5.2.3 breach of fiduciary duty to the Board;
  - 5.2.4 breach of the duty of confidentiality to the Board or the Constituent Councils;
  - 5.2.5 breach of the conflict of interest rules of the Board; or
  - 5.2.6 any other behaviour which may discredit the Board.
- 5.3 The Board may by a two-thirds majority vote of the members present (excluding the Chairperson) make a recommendation to the Constituent Councils that the appointment of the Chairperson be terminated in the event of:
- 5.3.1 any behaviour of the Chairperson which in the opinion of the Board amounts to impropriety;
  - 5.3.2 serious neglect of duty in attending to the responsibilities of a member and/or Chairperson of the Board;
  - 5.3.3 breach of fiduciary duty to the Board;
  - 5.3.4 breach of the duty of confidentiality to the Board or the Constituent Councils;
  - 5.3.5 breach of the conflict of interest rules of the Board; or
  - 5.3.6 any other behaviour which may discredit the Board.
- 5.4 The Constituent Council which appointed the member whose term of office has become vacant will be responsible to appoint the replacement member.

## **6. PROCEEDINGS OF THE BOARD**

- 6.1 Subject only to the extent that they are modified by this clause, the proceedings of the Board will be the same as those for committees of Council as defined in Part 2 of Chapter 6 of the Act and in accordance with the Regulations for 'Other Committees' comprised in Part 2 of the Local Government (Proceedings at Meetings) Regulations 2000.

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References in Part 2 of Chapter 6 of the Act to ‘the Chief Executive Officer’ shall be read as if they were references to the Executive Officer of the Authority and references to ‘the Council’ or ‘the committee’ shall be read as if they were references to the Authority.

To the extent that this Charter and the Act and its associated Regulations are silent, the Board may determine its own meeting procedures.

- 6.2 Subject only to the special provisions of this clause, no meeting of the Board will commence until a quorum of members is present and no meeting may continue unless there is a quorum of members present. A quorum of members will comprise half the members plus one. A time limit of 30 minutes shall apply from the advertised time of the meeting in which to reach a quorum. Failure to reach a quorum within this time limit shall result in a failed meeting.
- 6.3 For the purpose of this clause, the contemporaneous linking together by an audio-visual or other interactive means, but excluding telephones (‘telecommunication meeting’) of a number of members of the Board provided that at least a quorum is present, is deemed to constitute a meeting of the Board. Each of the Board members taking part in the telecommunication meeting, must be able to hear and be heard by each of the other Board members present. At the commencement of the meeting, each Board member must announce his/her presence to all other Board members taking part in the meeting. A Board member must not leave a telecommunication meeting by disconnecting his/her, audio visual or other communication equipment, unless that Board member has previously notified the Chairperson of the meeting.
- 6.4 In the event that there is not a quorum present at two consecutive meetings of the Board, then an extraordinary meeting of the Board may be convened in the same manner as for a special meeting (see Clause 6.1), at which the business which was on the agendas for the two previous but failed meetings may be transacted at the extraordinary meeting of the Board where the requirement for a quorum is that there be at least one member representing each of the Constituent Councils in attendance. Decisions made at such a meeting will be binding on the subsidiary and all members of the Board and the Constituent Councils.
- 6.5 Subject only to any specific requirement of this Charter, all matters for decision at a meeting of the Board will be decided by a simple majority of the members present and entitled to vote on the matter. Both members from each Constituent Council present are entitled to vote on a matter. Voting members are entitled only to a deliberative vote. Board members may not vote by proxy.
- 6.6 In the event of equality of votes, the Chairperson will not have a casting vote and the matter will be deemed to have lapsed and may at some later time be reconsidered.
- 6.7 Meetings of the Board will be held at such time and such place as the Board decides subject only to the requirement that there will be at least one meeting in every two calendar months.
- 6.8 A special meeting of the Board may be held at any time and may be called at the request of the Chairperson or at the written request of six members of the Board representing all of the Constituent Councils.
- 6.9 Notice of all meetings will be given in accordance with the provisions applicable to a committee meeting under Part 2 of Chapter 6 of the Act and the associated Regulations.
- 6.10 Meetings of the Board will be open to the public unless the Board so resolves to exclude the public pursuant to section 90 of the Act.
- 6.11 All members must keep confidential all documents and any information provided to them in confidence for their consideration prior to a meeting of the Board.
- 6.12 The Board must ensure that accurate written minutes of its proceedings are kept and are produced for verification at the subsequent meeting of the Board.

## **7. PROPRIETY OF MEMBERS OF THE BOARD**

- 7.1 The principles regarding conflict of interest prescribed in the Act will apply to all members of the Board as if they were elected members of a Council.
- 7.2 The members of the Board will not be required to comply with Division 2, Chapter 5 (Register of Interests) of the Act.
- 7.3 The members of the Board will at all times act in accordance with their duties of confidence and confidentiality and individual fiduciary duties including honesty and the exercise of reasonable care and diligence with respect to the Board as required by Part 4, Division 1, Chapter 5 of the Act and Clause 23 of Part 2 of Schedule 2.

## **8. POWERS**

- 8.1 The Authority is constituted as a body corporate under the Act and in all things acts through the Board.
- 8.2 The Authority has:
  - 8.2.1 the power to acquire, deal with and dispose of real and personal property and rights in relation to real and personal property;



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- 8.2.2 the power to compulsorily acquire land in accordance with the Land Acquisition Act 1969, provided that such acquisition is for the purposes of flood mitigation
  - 8.2.3 the power to sue and be sued in its corporate name;
  - 8.2.4 the power to enter into any kind of contract or arrangement;
  - 8.2.5 the power to return surplus revenue to Constituent Councils in such proportions as the Board considers appropriate at the end of any financial year either by way of cash payment or reduction of annual contribution;
  - 8.2.6 the power to set aside surplus revenue for future capital expenditure;
  - 8.2.7 the power to invest funds and in doing so to take into account Part 4 of Chapter 9 of the Act;
  - 8.2.8 the power to establish committees;
  - 8.2.9 the power to delegate any function or duty except for the power to compulsorily acquire land as set out in Rule 8.2.2 and except for any of the powers set out in section 44 of the Local Government Act 1999, (where such powers are applicable to a Subsidiary); and
  - 8.2.10 the power to do anything else necessary or convenient for, or incidental to, the exercise, performance or discharge of its powers, functions or duties.
- 8.3 The Authority shall not act outside of the areas of the Constituent Councils without their prior approval that approval shall only be granted upon the basis that the Councils consider it necessary or expedient for the performance of their or the Authority's functions.<sup>1</sup>
  - 8.4 The Authority will have a common seal which may be affixed to documents requiring execution under common seal and must be witnessed by the Chairman of the Board and one other Board member.
  - 8.5 The common seal must not be affixed to a document except to give effect to a resolution of the Board. The Executive Officer will maintain a register which records the resolutions of the Board giving authority to affix the common seal and details of the documents to which the common seal has been affixed with particulars of the persons who witnessed the fixing of the seal and the date.
  - 8.6 The Board may by instrument under seal authorise a person to execute documents on behalf of the Authority. The Executive Officer will maintain a register of such resolutions and details of any documents executed in this way, together with particulars of the person executing the document.

## **9. ADMINISTRATIVE MATTERS**

- 9.1 There will be an Executive Officer of the Authority appointed by the Board on terms and conditions to be determined by the Board.
- 9.2 The Executive Officer will be responsible to the Board:
  - 9.2.1 to ensure that the policies and lawful decisions of the Authority are implemented in a timely manner;
  - 9.2.2 for the efficient and effective management of the operations and affairs of the Authority;
  - 9.2.3 to provide advice and reports to the Board on the exercise and performance of the Authority's powers and functions; and
  - 9.2.4 to give effect to the principles of human resource management generally applicable within the local government industry.
- 9.3 The Executive Officer has such powers, functions and duties prescribed by this clause and as determined necessary by the Board from time to time to ensure the efficient and effective management of the operations and affairs of the Authority.
- 9.4 The Board may employ other officers and it may authorise the Executive Officer to employ such other officers on its behalf as are required for the efficient and effective management of the operations and affairs of the Authority.
- 9.5 The Board may engage professional consultants and it may authorise the Executive Officer to engage professional consultants to provide services to the Authority to ensure the proper execution of its decisions, the efficient and effective management of the operations and affairs of the Authority and for giving effect to the general management objectives and principles of personal management prescribed by this Charter.

## **10. FINANCIAL CONTRIBUTIONS TO THE AUTHORITY**

- 10.1 The contributions of the Constituent Councils shall be based on the following percentage shares for capital works, maintenance of assets of the Authority and operational costs of the Authority.
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Constituent Council	Capital Works Percentage Share %	Maintenance of Assets Percentage Share %	Operational Costs Percentage Share %
Adelaide Hills Council	1.73	1.73	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
District Council of Mallala	28.91	28.91	16.66
City of Playford	34.68	34.68	16.66
Total	100%	100%	100%

- 10.2 The Board will be responsible to provide the Constituent Councils with sufficient information for each of them to ascertain the level of and understand the reasons behind the funding required in the following financial year. This will be achieved via the business plan and the annual budget.
- 10.3 The Board will determine annually the funds required by the Authority to enable it to function. The Constituent Councils shall contribute the funds requested by the Board, in the annual budget and approved by the Council, and any additional funds that are required for the continuing function of the Authority and approved by the Council, in accordance with Clause 11. The Board must provide full details regarding the need for additional funds to the Constituent Councils.
- 10.4 The annual contribution will be paid by each Constituent Council in advance by six monthly instalments.
- 10.5 Additional contributions (if any) will be paid by each Constituent Council in the manner and at the time determined by the Board.
- 10.6 The Board is accountable to each Constituent Council to ensure that the Authority functions in accordance with its business plan and approved budgets.
- 10.7 The Board on behalf of the Authority may enter into separate funding arrangements with Constituent Councils and with any State or Federal Government or their agencies in respect of any project undertaken or to be undertaken by or on behalf of the Authority.
- 10.8 Where a Council or Councils enter into an agreement with the Authority under Clause 12.4 of this Charter the subscriptions payable under that agreement shall be additional to the subscriptions payable under this Clause.

## 11. BUDGET

- 11.1 The Authority must prepare a budget for the forthcoming financial year.
- 11.2 The budget must:
- 11.2.1 deal with each principal activity of the Authority on a separate basis;
  - 11.2.2 be consistent with and account for activities and circumstances referred to in the Authority's business plan;
  - 11.2.3 be submitted in draft form to each Constituent Council before 31 March for approval of its contribution for the year;
  - 11.2.4 not be adopted by the Authority until after 31 May but before 30 September;
  - 11.2.5 the adoption of the budget requires a two-thirds majority of the Board members present; and
  - 11.2.6 identify the amount of and the reasons for the financial contributions to be made by each Constituent Council to the Authority.
- 11.3 The Authority must provide a copy of its budget to each Constituent Council within five business days after adoption.
- 11.4 The Authority must reconsider its budget in accordance with Regulation 9 of the Local Government (Financial Management) Regulations 2011.
- 11.5 The Authority must submit to each Constituent Council for approval, any proposed amendment to the budget that provides for an additional contribution by the Constituent Councils.
- 11.6 Where a Constituent Council has failed to approve a draft budget, or an amended budget, and has not served a notice on the Authority in accordance with Clause 20.2 within two months of the receipt of the draft budget, or amended budget by the Constituent Council, then the approval of the Constituent Council to the draft budget, or amended budget, will be deemed to have been given.

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## 12. BUSINESS PLAN

- 12.1 The Authority shall have a rolling Business Plan in respect of the ensuing three years.
- 12.2 The Business Plan must:
  - 12.2.1 state the services to be provided by the Authority;
  - 12.2.2 identify how the Authority intends to manage service delivery;
  - 12.2.3 identify the performance targets which the Authority is to pursue;
  - 12.2.4 provide a statement of financial and other resources and internal processes that will be required to achieve the performance targets and objectives of the Authority; and
  - 12.2.5 specify the performance measures that are to be used to monitor and assess performance against targets.
- 12.3 Prior to setting the draft budget each year the Authority must review the Business Plan in conjunction with the Constituent Councils. The Business Plan must be updated to ensure it presents a plan for the ensuing three years.
- 12.4 One or more of the Constituent Councils may request the Authority to undertake a function provided for in Clause 3.1.4 of this Charter, which function is additional to those undertaken by the Authority for all of the Constituent Councils. Where one or more Constituent Councils make a request under this Clause, the Constituent Council or Councils must enter into a written agreement with the Authority which commits the Council or Councils to annual subscription amounts and/or an equal percentages of classes of subscription to meet the costs of the Authority in undertaking the additional function and which deals, amongst other things, with the ownership and maintenance of any resultant infrastructure.

## 13. ACCOUNTING

The Authority must ensure that its accounting records, accounts and financial statements are prepared and maintained in accordance with all relevant Australian Accounting Standards. See Regulations 11 and 12, Local Government (Financial Management) Regulations 2011, in relation to particular accounting practices.

## 14. AUDIT

- 14.1 The Authority must appoint an auditor.
- 14.2 The Authority must provide its audited financial statements to the Chief Executive Officer of each Constituent Council by 30 September. See Part 6, Local Government (Financial Management) Regulations 2011, in relation to the Authority's audit responsibilities.

## 15. FINANCE

- 15.1 The Board must establish and maintain a bank account with such banking facilities and at a bank to be determined by the Board.
- 15.2 All cheques to be authorised must be signed by two members of the Board or one member of the Board and the Executive Officer.
- 15.3 The Executive Officer must act prudently in the handling of all financial transactions for the Board and must provide quarterly financial and corporate reports to the Board and if requested, the Constituent Councils.
- 15.4 The Board will, at the end of each financial year prepare a schedule of assets and liabilities. In addition, the Board must maintain a record to be known as the 'Schedule of Constituent Councils' Interests in Net Assets'.
- 15.5 The 'Schedule of Constituent Councils' Interests in Net Assets' will reflect the proportionate contribution each Constituent Council has made to capital, operations and maintenance to the Authority having regard to the proportionate contribution to subscriptions for each function undertaken by the Authority. The Schedule when updated by the Board at the end of each financial year will reflect the proportionate contribution of each Constituent Council since the commencement of the Authority and once accepted by each Constituent Council will be evidence of the agreed proportion of a Constituent Council's interests in the net assets as at 30 June in that year.
- 15.6 Where there is any dispute as to the Schedule, Clause 20 shall apply.

## 16. REPORTS AND INFORMATION

- 16.1 The Authority must submit its annual report on its work and operations including its audited financial statements, to each Constituent Council before 30 September.

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16.2 Within two weeks following each ordinary meeting of the Board, the Constituent Councils shall be provided with a Key Outcomes Summary of the meeting that shall include the Achievements Against the Business Plan Report for those meetings that it is received by the Board.

16.3 The Board shall report at any other time at the written request of a Constituent Council on matters being undertaken by the Authority. Any such report shall be provided to all Constituent Councils.

#### **17. ALTERATION TO THE CHARTER**

17.1 This Charter may be amended by unanimous resolution of the Constituent Councils.

17.2 The Executive Officer of the Authority must ensure that the amended Charter is published in the *Gazette*.

17.3 Before the Constituent Councils vote on a proposal to alter this Charter they must take into account any recommendations of the Board.

#### **18. WITHDRAWAL OF A CONSTITUENT COUNCIL**

18.1 Subject to the approval of the Minister, a Constituent Council may withdraw from the Authority by giving not less than six months notice of its intention to do so to all other Constituent Councils and the Executive Officer.

18.2 In any event a withdrawal cannot become effective until 30 June following the expiry of the six months in the preceding subclause. Until withdrawal becomes effective, the Constituent Council proposing withdrawal from the Authority will remain liable for all financial contributions in the remaining period and through its members on the Board, the responsibility of ensuring the continued proper conduct of the affairs of the Authority.

18.3 A withdrawing Constituent Council is not entitled to any refunds of any contributions made.

#### **19. ADDITION OF NEW MEMBER**

19.1 The Board may consider the addition of a new member to the Authority.

19.2 The Constituent Councils must resolve unanimously to approve the addition of a new member to the Authority and must obtain Ministerial approval.

19.3 The Charter shall be amended in accordance with the provisions of this Charter to address any new addition.

#### **20. DISPUTES**

20.1 In the event of any dispute or difference between the Constituent Councils and the Authority concerning the operations or affairs of the Authority, the dispute process shall be initiated by a Constituent Council serving a notice of dispute on all other Constituent Councils with a contemporaneous copy being served on the Authority. The Constituent Councils:

20.1.1 will attempt to settle the dispute or difference by negotiating in good faith;

20.1.2 if good faith negotiations do not settle the dispute or difference within one month of the dispute arising then the dispute shall be referred to an expert for determination. The expert shall be a person with the skills and expertise necessary to resolve the dispute and shall be nominated by the President of the Local Government Association of South Australia. The expert is an expert and not an arbitrator. The expert's determination shall be final and binding on the Constituent Councils. The costs of the expert will be apportioned and payable in accordance with the expert's determination;

20.1.3 if the dispute is unable to be resolved by the expert within six months then any Constituent Council may request the Minister to dissolve the Authority; and

20.1.4 notwithstanding the existence of a dispute or difference, the Constituent Councils will continue to meet their obligations to the Authority.

20.2 In the event of any dispute or difference between one or more Constituent Councils and the Authority concerning the operations or affairs of the Authority, the dispute process shall be initiated by a Constituent Council, or the Authority, serving a notice of dispute on the Constituent Council or the Authority, as the case may be, with a contemporaneous copy being served on all other Constituent Councils:

20.2.1 will attempt to settle the dispute or difference by negotiating in good faith;

20.2.2 if good faith negotiations do not settle the dispute or difference within one month of the dispute arising then, the dispute shall be referred to an expert for determination. The expert shall be a person with the skills and expertise necessary to examine the issues and shall be nominated by the President of the Local Government Association of South Australia. The expert is an expert and not an arbitrator. The expert's determination shall be final and binding on the Constituent Council and the Authority. The costs of the expert will be apportioned and payable in accordance with the expert's determination; and

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20.2.3 notwithstanding the existence of a dispute or difference, the Constituent Councils and the Authority will continue to meet their obligations to each other.

For the purposes of Clause 20.2 'dispute' includes where a Constituent Council has failed or refuses to approve the draft budget advised by the Authority under Clauses 11.2.3 or 11.5.

#### **20A LIMIT OF LIABILITY**

20A.1 Except insofar as clause 12.4 applies the liability of a Constituent Council to the Authority is limited to those functions undertaken by the Authority and to which the Constituent Council has made a financial contribution. The liability of a Constituent Council is proportional to the interest of that Council in the net assets of the Authority as determined under Clause 15 of this Charter.

20A.2 The liability of a Constituent Council to the Authority for any function undertaken by the Authority under clause 12.4 is limited to the requesting Constituent Council or Constituent Councils and as reflected in the agreement entered into with the Authority for those purposes.

#### **21. DISSOLUTION OF THE AUTHORITY**

21.1 The Authority may be dissolved by the Minister in the circumstances envisaged by Clause 33, Part 2 of Schedule 2.

21.2 In the event of there being net assets upon dissolution and after realisation of all assets and meeting all liabilities, the net assets will be distributed to the then Constituent Councils on the basis of their current interest in the net assets of the Authority as determined by Clause 15.

21.3 In the event of there being an insolvency of the Authority at the time of dissolution, the then Constituent Councils will be responsible jointly and severally to pay the liabilities of the Authority and between themselves in the proportion of their interest in the net assets last determined under Clause 15.

DEAN GOLLAN, Executive Officer

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# **Appendix 4**

*SHLGA Charter*

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**LOCAL GOVERNMENT ACT 1999****SOUTHERN & HILLS LOCAL GOVERNMENT ASSOCIATION***Notice of Alteration to the Charter*

PURSUANT to Clause 21 of the Charter and Clause 19, Part 2, Schedule 2 of the Local Government Act 1999, the Charter published in the *Gazette* on 10 May 2007 at pages 1909 to 1915 was amended by unanimous resolution of the District Council of Mount Barker on 16 May 2011, City of Victor Harbor on 23 May 2011, District Council of Yankalilla on 19 May 2011, Adelaide Hills Council on 24 May 2011, Alexandrina Council on 1 August 2011, Kangaroo Island Council on 8 June 2011 and The Barossa Council on 17 May 2011.

The Charter, as amended, of the Southern & Hills Local Government Association is set out below:

**1. INTERPRETATION**

'absolute majority' means a majority of the whole number of the members.

'Act' means the Local Government Act 1999.

'Association' means the Southern & Hills Local Government Association.

'Council' means a Council as constituted under the Local Government Act 1999.

'LGA' means the Local Government Association of South Australia.

'S&HLGA' means the Southern & Hills Local Government Association.

**2. ESTABLISHMENT**

The S&HLGA is established by the Constituent Councils as a regional subsidiary pursuant to Section 43 and Schedule 2 ('the Schedule') of the Local Government Act 1999 ('the Act').

This Charter governs the affairs of the S&HLGA.

**3. CONSTITUENT COUNCILS**

The Authority is established by the District Council of Mount Barker, City of Victor Harbor, District Council of Yankalilla, Adelaide Hills Council, Alexandrina Council, Kangaroo Island Council and The Barossa Council ('the Constituent Councils').

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

**4. PURPOSE OF THE ASSOCIATION**

4.1 To work collaboratively with the LGA to achieve the aims and objectives of the LGA.

4.2 To encourage, promote, protect and foster an efficient and effective autonomous, democratic system of local government elected by and responsible to local communities.

4.3 To identify available resources within the region and to co-ordinate or assist in co-ordinating the management of these resources for the betterment of their region's community.

4.4 To encourage, assist, seek out, determine, assess and respond to the needs and aspirations of the region's constituents.

4.5 To develop, encourage, promote, foster and maintain consultation and co-operation between local government authorities, State and Commonwealth Governments and their instrumentalities.

4.6 To develop, encourage, promote, foster and maintain the financial and economic well-being and advancement of the region and if desirable for such purpose to undertake, establish, acquire, conduct or dispose of any business, enterprise, undertaking or venture which in the opinion of S&HLGA is necessary, desirable or convenient.

4.7 To effectively liaise and work with the State and Commonwealth Governments and their instrumentalities on a regional basis for the general enhancement of the region.

**5. POWERS**

S&HLGA will have the following powers (in addition to and without prejudice to any other powers herein expressed or implied or by virtue of any other legislation applicable):

5.1 To subscribe to, become a member of and/or co-operate with any other association or organisation whose objects are altogether or in part similar or complementary to those of S&HLGA and on such terms as S&HLGA deems appropriate.

5.2 To enter into any arrangements with any Government or authority that are incidental or conducive to the attainment of the objects and the exercise of the powers of S&HLGA.

5.3 To raise revenue through subscriptions or levies from Constituent Councils. To apply for grants from Government Agencies and to seek sponsorship from business enterprise.

5.4 To print or publish any newspapers, periodicals, books, leaflets, treatise, or other writing that S&HLGA may think desirable for the promotion of its objects.

- 5.5 To acquire, deal with and dispose of real and personal property (wherever situated) and rights in relation to real and personal property.
- 5.6 To enter into any kind of contract or arrangement.
- 5.7 To invest funds and in doing so to take into account Part 4 of Chapter 9 of the Act.
- 5.8 To establish committees for the following purposes:
  - 5.8.1 inquiring into and reporting on any matter within the terms of reference determined by the Board;
  - 5.8.2 exercising, performing and discharging delegated powers, functions or duties;
  - 5.8.3 investigating opportunities for resource sharing within the region and implementing strategies to take advantage of any such opportunities;
  - 5.8.4 a member of a committee established in accordance with Clause 10.8 holds office at the pleasure of the Board;
  - 5.8.5 the President of the S&HLGA shall be an *ex officio* member of all committees.
- 5.9 To delegate any function or duty except for any of the powers set out in Section 44 of the Local Government Act 1999, (where such powers are applicable to a Subsidiary).
- 5.10 To do anything else necessary or convenient for, or incidental to, the exercise, performance or discharge of its powers, functions or duties.

## 6. SOURCES OF REVENUE

The sources of revenue of the S&HLGA may include:

- 6.1 Subscriptions to be applied equally from Constituent Councils under such terms and conditions determined by the Board.
- 6.2 Service charges for services to Constituent Councils under such terms and conditions determined by the Board.
- 6.3 Grants from Government Agencies and the LGA.
- 6.4 Sponsorship from business enterprise.
- 6.5 Loan funds or overdraft, on such conditions as the S&HLGA sees fit for the purpose of the S&HLGA:
  - 6.5.1 A proposal for borrowing by the S&HLGA must be provided to each Constituent Council.
  - 6.5.2 The proposal to borrow must be approved by an absolute majority of the Constituent Councils in writing before it can be considered by the Board.
  - 6.5.3 An Order to Borrow must be approved an absolute majority of the Board.
- 6.6 Interest from the investment of funds.

## 7. THE BOARD—ROLE AND MEMBERSHIP

- 7.1 The S&HLGA will be governed by a Board.
- 7.2 The Board is responsible for the administration of the affairs of the S&HLGA. The Board must ensure insofar as it is practicable, that the Authority observes the objectives set out in this Charter, that information provided to the Constituent Councils is accurate and that Constituent Councils are kept informed of the solvency of the S&HLGA as well as any material developments which may affect the operating capacity and financial affairs of the S&HLGA.
- 7.3—
  - 7.3.1 Each of the Constituent Councils will appoint two persons to the Board. The Constituent Councils' appointees shall be not less than one elected member of the Constituent Council and the other appointee may be a Council Officer.
  - 7.3.2 Each Constituent Council may appoint either an Elected Member or a Council Officer as Deputy Board Member who may attend Board Meetings in the place of a Council Board Member who is absent.
  - 7.3.3 The Board may appoint observers to the Board. Such appointees will not be entitled to vote at meetings.
  - 7.3.4 Board members shall not be entitled to receive a sitting fee.
- 7.4 A certificate signed by the Chief Executive Officer of the appointing Constituent Council will be sufficient evidence of appointment.
- 7.5 The President shall preside over all meetings of the Board.
- 7.6 In the absence of the President, the Deputy President will preside over meetings of the Board.



7.7 In the absence of the President and Deputy President, the Board will elect a temporary Acting Chairperson from amongst their members.

#### 8. TERM OF OFFICE—THE BOARD

8.1 Subject only to the following subclauses, the term of office of each member of the Board will be as determined by the Constituent Council responsible for the appointment of the member.

8.2 The Board may by a two-thirds majority vote of the members present (excluding the member subject to this Clause):

8.2.1 make a recommendation to the Constituent Council responsible for the appointment of the relevant member, seeking the appointing body's approval to terminate the appointment of the member.

8.3 The Constituent Council which appointed the member whose term of office has become vacant will be responsible to appoint the replacement member.

#### 9. PROCEEDINGS OF THE BOARD

9.1 Subject only to the extent that they are modified by this Clause, the proceedings of the Board will be the same as those for committees of Council as defined in Part 2 of Chapter 6 of the Act and in accordance with the Regulations for 'Other Committees' comprised in Parts 1, 3 and 4 of the Local Government (Proceedings at Meetings) Regulations 2000.

References in Part 2 of Chapter 6 of the Act to 'the Chief Executive Officer' shall be read as if they were references to the Executive Officer of the Authority and references to 'the Council' or 'the committee' shall be read as if they were references to the Authority.

To the extent that this Charter and the Act and its associated Regulations are silent, the Board may determine its own meeting procedures.

9.2 Subject only to the special provisions of this Clause, no meeting of the Board will commence until a quorum of members is present and no meeting may continue unless there is a quorum of members present. A quorum of members will comprise half the members plus one. A time limit of 30 minutes shall apply from the advertised time of the meeting in which to reach a quorum. Failure to reach a quorum within this time limit shall result in a failed meeting.

9.3 At the commencement of a telecommunications meeting, each Board member must announce his/her presence to all other Board members taking part in the meeting. A Board member must not leave a telecommunication meeting by disconnecting his/her, audio-visual or other communication equipment, unless that Board member has previously notified the Chairperson of the meeting.

9.4 In the event that there is not a quorum present at two consecutive meetings of the Board, then an extraordinary meeting of the Board may be convened in the same manner as for a special meeting (see Clause 6.1), at which the business which was on the agendas for the two previous but failed meetings may be transacted at the extraordinary meeting of the Board where the requirement for a quorum is that there be at least one member representing each of the Constituent Councils in attendance. Decisions made at such a meeting will be binding on the subsidiary and all members of the Board and the Constituent Councils.

9.5 Subject only to any specific requirement of this Charter, all matters for decision at a meeting of the Board will be decided by a simple majority of the members present and entitled to vote on the matter. Both members from each Constituent Council present are entitled to vote on a matter. Voting members are entitled only to a deliberative vote. Board members may not vote by proxy.

9.6 In the event of equality of votes, the Chairperson will not have a casting vote and the matter will be deemed to have lapsed and may at some later time be reconsidered.

9.7 Meetings of the Board will be held at such time and such place as the Board decides subject only to the requirement that there will be at least one meeting in every two calendar months.

9.8 A special meeting of the Board may be held at any time and may be called at the request of the Chairperson or at the written request of eight members of the Board representing all of the Constituent Councils.

9.9 Notice of all meetings will be given in accordance with the provisions applicable to a committee meeting under Part 2 of Chapter 6 of the Act and the associated Regulations.

9.10 Meetings of the Board will be open to the public unless the Board so resolves to exclude the public pursuant to section 90 of the Act.

9.11 All members must keep confidential all documents and any information provided to them in confidence for their consideration prior to a meeting of the Board.

9.12 The Board must ensure that accurate written minutes of its proceedings are kept and are produced for verification at the subsequent meeting of the Board.

**10. OFFICES OF THE BOARD**

10.1 The Board shall elect, from the elected member Board members of different Constituent Councils, at the February meeting following the Local Government periodical elections and then every two years thereafter, the following offices for a period of two years:

10.1.1 President, who shall be the Chairperson of the Board;

10.1.2 Deputy President, who shall be the Deputy Chairperson of the Board.

10.3 A Board member cannot be elected to the same office for more than two consecutive terms.

**11. PROPRIETY OF MEMBERS OF THE BOARD**

11.1 The principles regarding conflict of interest prescribed in the Act will apply to all members of the Board as if they were elected members of a Council.

11.2 The members of the Board will not be required to comply with Division 2, Chapter 5 (Register of Interests) of the Act.

11.3 The members of the Board will at all times act in accordance with their duties of confidence and confidentiality and individual fiduciary duties including honesty and the exercise of reasonable care and diligence with respect to the Board as required by Part 4, Division 1, Chapter 5 of the Act and Clause 23 of Part 2 of Schedule 2.

**12. ADMINISTRATIVE MATTERS**

12.1 There will be an Executive Officer of the S&HLGA appointed by the Board on terms and conditions to be determined by the Board.

12.2 The Executive Officer will be responsible to the Board:

12.2.1 to ensure that the policies and lawful decisions of the S&HLGA are implemented in a timely manner;

12.2.2 for the efficient and effective management of the operations and affairs of the S&HLGA;

12.2.3 to provide advice and reports to the Board on the exercise and performance of the S&HLGA powers and functions; and

12.2.4 to give effect to the principles of human resource management generally applicable within the local government industry.

12.3 The Executive Officer has such powers, functions and duties prescribed by this Clause and as determined necessary by the Board from time to time to ensure the efficient and effective management of the operations and affairs of the S&HLGA.

12.4 The Board may employ other officers and it may authorise the Executive Officer to employ such other officers on its behalf as are required for the efficient and effective management of the operations and affairs of the Authority.

12.5 The Board may engage professional consultants and it may authorise the Executive Officer to engage professional consultants to provide services to the S&HLGA to ensure the proper execution of its decisions, the efficient and effective management of the operations and affairs of the S&HLGA and for giving effect to the general management objectives and principles of personal management prescribed by this Charter.

**13. BUSINESS PLAN**

13.1 The S&HLGA shall have a rolling Business Plan in respect of the ensuing four years.

13.2 The Business Plan must:

13.2.1 state the services to be provided by the S&HLGA;

13.2.2 identify how the S&HLGA intends to manage service delivery;

13.2.3 identify the performance targets which the S&HLGA is to pursue;

13.2.4 provide a statement of financial and other resources and internal processes that will be required to achieve the performance targets and objectives of the S&HLGA; and

13.2.5 specify the performance measures that are to be used to monitor and assess performance against targets.

13.3 Prior to setting the draft budget each year the S&HLGA must review the Business Plan in conjunction with the Constituent Councils.

**14. BUDGET**

14.1 The S&HLGA must prepare a budget for the forthcoming financial year.

14.2 The budget must:

14.2.1 deal with each principal activity of the S&HLGA on a separate basis;

- 14.2.2 be consistent with and account for activities and circumstances referred to in the S&HLGA's business plan;
  - 14.2.3 identify the amount of surplus (deficit) brought forward from the previous year;
  - 14.2.4 identify the amount of subscription to be made by each Constituent Council;
  - 14.2.5 be submitted in draft form to each Constituent Council before 30 April for information of its proposed contribution for the ensuing year; and
  - 14.2.6 not be adopted by the Authority until after 31 May but before 30 September.
- 14.3 The adoption of the budget requires a two-thirds majority of the Board members present.
- 14.4 The S&HLGA must provide a copy of its budget to each Constituent Council within five business days after adoption.
- 14.5 The S&HLGA must reconsider its budget in accordance with Regulation 7 of the Local Government (Financial Management) Regulations 1999.
- 14.6 The S&HLGA must submit to each Constituent Council for approval, any proposed amendment to the budget that provides for an additional financial contribution by the Constituent Councils.

#### 15. ACCOUNTING

The S&HLGA must ensure that its accounting records, accounts and financial statements are prepared and maintained in accordance with all relevant Australian Accounting Standards. See Regulations 8 and 9, Local Government (Financial Management) Regulations 1999, in relation to particular accounting practices.

#### 16. FINANCIAL MANAGEMENT

- 16.1 The S&HLGA shall maintain an operations bank account and such other accounts as it may determine from time to time. The operators of all bank accounts shall be the President and Executive Officer and not less than two members appointed at the AGM where any two of the bank operators are required to operate the accounts.
- 16.2 The Executive Officer shall cause adequate and proper books of account to be kept in relation to all affairs of the S&HLGA.
- 16.3 The Executive Officer shall prepare a draft Operations Manual for the Executive Committee and following any amendment, shall adopt the Operations Manual and make recommendations on the implementation of the manual.
- 16.4 The S&HLGA shall give due regard to Chapter 9, Part 4 of the Act when investing funds.
- 16.5 The financial year for the S&HLGA is from 1 July to 30 June.

#### 17. AUDIT

- 17.1 The S&HLGA must appoint an Auditor.
- 17.2 The S&HLGA must provide its audited financial statements to the Chief Executive Officer of each Constituent Council by 30 September. See Part 5, Local Government (Financial Management) Regulations 1999, in relation to the S&HLGA's audit responsibilities.

#### 18. REPORTS AND INFORMATION

- 18.1 The S&HLGA must submit its annual report on its work and operations including its audited financial statements, to each Constituent Council before 30 September.
- 18.2 Within two weeks following each ordinary meeting of the Board the Constituent Councils shall be provided with a Key Outcomes Summary of the meeting that shall include the Achievements Against the Business Plan Report for those meetings that it is received by the Board.
- 18.3 The Board shall report at any other time at the written request of a Constituent Council on matters being undertaken by the S&HLGA. Any such report shall be provided to all Constituent Councils.

#### 19. THE SEAL

- 19.1 The S&HLGA will have a common seal which may be affixed to documents requiring execution under common seal and must be witnessed by the Chairperson of the Board and one other Board member present at the meeting.
- 19.2 The common seal must not be affixed to a document except to give effect to a resolution of the Board. The Executive Officer will maintain a register which records the resolutions of the Board giving authority to affix the common seal and details of the documents to which the common seal has been affixed with particulars of the persons who witnessed the fixing of the seal and the date.
- 19.3 The Board may by instrument under seal authorise a person to execute documents on behalf of the S&HLGA. The Executive Officer will maintain a register of such resolutions and details of any documents executed in this way, together with particulars of the person executing the document.

**20. DISPUTES**

- 20.1 In the event of any dispute or difference between one or more Constituent Councils and the S&HLGA concerning the operations or affairs of the Authority, the dispute process shall be initiated by a Constituent Council serving a notice of dispute on the S&HLGA with a contemporaneous copy being served on all other Constituent Councils. The Constituent Councils:
- 20.1.1 will attempt to settle the dispute or difference by negotiating in good faith;
  - 20.1.2 if good faith negotiations do not settle the dispute or difference within one month of the dispute arising then the dispute shall be referred to an expert for determination. The expert shall be a person with the skills and expertise necessary to resolve the dispute and shall be nominated by the President of the Local Government Association of South Australia. The expert is an expert and not an arbitrator. The expert's determination shall be final and binding on the Constituent Councils. The costs of the expert will be apportioned and payable in accordance with the expert's determination;
  - 20.1.3 if the dispute is unable to be resolved by the expert within six months then any Constituent Council may request the Minister to dissolve the S&HLGA; and
  - 20.1.4 notwithstanding the existence of a dispute or difference, the Constituent Councils will continue to meet their obligations to the S&HLGA.

**21. ALTERATION TO THE CHARTER**

- 21.1 This Charter may be amended by unanimous resolution of the Constituent Councils.
- 21.2 The Executive Officer of the S&HLGA must ensure that the amended Charter is published in the *Gazette*.
- 21.3 Before the Constituent Councils vote on a proposal to alter this Charter they must take into account any recommendations of the Board.

**22. ADDITION OF NEW MEMBER**

- 22.1 The Board may consider the addition of a new member to the S&HLGA.
- 22.2 The Constituent Councils must resolve unanimously to approve the addition of a new member to the S&HLGA and must obtain Ministerial approval.
- 22.3 The Charter shall be amended in accordance with the provisions of this Charter to address any new addition.

**23. WITHDRAWAL OF A CONSTITUENT COUNCIL**

- 23.1 Subject to the approval of the Minister, a Constituent Council may withdraw from the S&HLGA by giving not less than six months notice of its intention to do so to all other Constituent Councils and the Executive Officer.
- 23.2 In any event a withdrawal cannot become effective until 30 June following the expiry of the six months in the preceding subclause. Until withdrawal becomes effective, the Constituent Council proposing withdrawal from the Authority will remain liable for all financial contributions in the remaining period and through its members on the Board, the responsibility of ensuring the continued proper conduct of the affairs of the Authority.
- 23.3 A withdrawing Constituent Council is not entitled to any refunds of any contributions made.

**24. CIRCUMSTANCES NOT PROVIDED FOR**

- 24.1 If any circumstances arise to which this Charter is silent, incapable of taking effect or being implemented according to its strict provisions, S&HLGA will have the power to determine what action may be taken to ensure the effective administration and objectives of S&HLGA provided that such action will be determined at a meeting of S&HLGA.

**25. WINDING UP**

- 25.1 In addition to the provisions of Clause 33 of Schedule 2 of the Act, the S&HLGA may be wound up by the Constituent Councils.
- 25.2 In the event of dissolution and after payment of all expenses any surplus assets shall be returned to Constituent Councils in proportion to the subscription paid in the financial year prior to the passing of the resolution to dissolve.
- 25.3 In the event of dissolution where there are insufficient funds to pay all expenses due by S&HLGA a levy shall be struck to cover the deficiency, such levy being in proportion to the subscription payable in the financial year prior to dissolution.

**26. INSOLVENCY**

In the event of the insolvency of the S&HLGA each Constituent Council shall be responsible for the liabilities of the Association in proportion to the subscription payable in the financial year prior to its insolvency.

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 NOVEMBER 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.9

**Originating Officer:** Steven Watson, Governance and Risk Coordinator

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Review of Confidential Items

**For:** Decision

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**SUMMARY**

Section 91 of the *Local Government Act 1999* requires Council to review confidential orders at least once every year.

A review of the Register of Confidential Items has been undertaken and there is one item that requires a new confidentiality order. Council must determine the period of confidentiality for these items.

**RECOMMENDATION**

**Council resolves:**

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

**SPDPC Meeting 22 April 2014  
Adelaide Hills Regional Waste Management Authority**

**Section 90(3)(b) 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; and would, on balance, be contrary to the public interest; and**

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

**To remain confidential until legal proceedings and deliberations have concluded.**

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## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal                      Organisational Sustainability  
Strategy                 Governance

The review of Council's Confidential Items Register is an important element of Council's commitment to open and transparent decision making which facilitates public accountability.

Section 91(7) of the *Local Government Act 1999* sets out the provisions regarding the making of orders to retain documents and discussions considered at Council and Council Committees in confidence.

Section 91(9) requires that these orders must specify the duration of the order or the circumstances in which the order will cease to apply or must be reviewed. Any order that operates for a period exceeding 12 months must be reviewed at least once in every year.

### ➤ Risk Management Implications

Reviewing confidentiality orders assists with mitigating the risks of:

*Confidential information is released which prejudices Council's and/or third parties' interests.*

Inherent Risk	Residual Risk	Desired Risk
Extreme (3A)	Low (3E)	Low (3E)

*Information scheduled for release under a confidentiality order is not duly released resulting in a breach of legislation and depriving the community of public information.*

Inherent Risk	Residual Risk	Desired Risk
Extreme (3A)	Low (3E)	Low (3E)

Note: there are a number of other controls that assist with managing these risks.

### ➤ Financial and Resource Implications

Not applicable

### ➤ Customer Service and Community/Cultural Implications

Not applicable

### ➤ Environmental Implications

Not applicable

➤ **Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community**

<i>Council Committees:</i>	Not applicable
<i>Council Workshops:</i>	Not applicable
<i>Advisory Groups:</i>	Not applicable
<i>Administration:</i>	Director Development & Regulatory Services Director Community Capacity Executive Manager Organisational Development Manager Waste & Emergency Management
<i>Community:</i>	Not applicable

**2. BACKGROUND**

The Register of Confidential Items is contained on Council's website and is reviewed on a monthly basis. Items that have progressed to the specified point and are no longer of a confidential nature are released in accordance with the respective council resolution. Items that remain in confidence are displayed on the Register as shaded. There is one item from 2014 that has a confidentiality order applied. All remaining items are from 2016, 2017 and 2018.

**3. ANALYSIS**

The Register of Confidential Items has been reviewed and there is one item that requires a new confidentiality order applied at this time. An extract of the register is attached (**Appendix 1**) which provides a summary of all existing confidential orders highlighting those orders that require new confidentiality provisions, as follows:

- **No. 240 – Adelaide Hills Regional Waste Management Authority**

The Period of Confidentiality for this item is currently 12 December 2018.

As the legal proceedings are continuing and it is not certain as to when the judgement will be handed down, it is recommended that a new confidentiality order be applied for a further 12 months and that the item 'Remain confidential until legal proceedings and deliberations have concluded'.

**4. OPTIONS**

Council has the following options:

- I. To extend the period of confidentiality as per the recommendations
- II. Determine an alternative period of confidentiality
- III. Allow the confidentiality order to expire thus releasing the information

If the meeting wishes to discuss the status of any items in a manner that will result in the disclosure of information currently under a s91(7) confidentiality order, it should first consider making a s90 order to go into confidence.

**5. APPENDIX**

- (1) Extract of Current Confidential Register Items

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# **Appendix 1**

*Extract of Current Confidential Register Items*

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# REGISTER OF CONFIDENTIAL ITEMS

No.	Date	Council/ Committee	Item No.	Responsible Officer	Title	LGA 1999 Section	Release date	Original Resolution regarding Period of Confidentiality	New Confidentiality Recommendation or Date Released	Next Review Date
240	22/04/14	Council	18.2.1	Marc Salver	AHRWMA	90(3)(b,d,i)	12-December-2018	Until legal action concluded 22 April 2015	Resolution passed 24 November 2015 to remain confidential until legal action has concluded but no longer than 30 June 2016. Resolution passed 28 June 2016 to remain confidential until legal action has concluded but no longer than 31 December 2016. Resolution passed 13 December 2016 to remain confidential until Legal Action has concluded. Resolution passed 12 December 2017 to remain confidential until legal proceedings and deliberations have concluded.	12-December-2018
290	25/10/16	Council	19.1	Marc Salver	CWMS Expression of Interest	90(3)(d)	31-December-2019	Until 31 December 2017 except public statements which outline the rationale and process for seeking a review of options	Resolution passed 12 December 2017 to remain confidential until 26 September 2018 Resolution passed 26 June 2018 to remain confidential until 31 December 2019	26-June-2019
301	28/02/17	Council	19.1	Marc Salver	Community Wastewater Management Systems Review	90(2)(b)	30-June-2018	Until 30 June 2018	Resolution passed 26 June 2018 to remain confidential until 31 December 2019 Related to 290	31-December-2019
309	22/08/17	Council	19.1	Marc Salver	Adelaide Hills Region Waste Management Authority Tender Landfill Compactor	90(3)(d)	03-August-2019	Until 3 August 2018.	Resolution passed 26 June 2018 to remain confidential until 3 August 2019 Related to 325	26-June-2019
311	26/09/17	Council	19.2	Marc Salver	Community Wastewater Management Systems Review	90(3)(b)	31-December-2019	Until 26 September 2018	Partially released 13 February 2017 (Resolution 3) Resolution passed 26 June 2018 to remain confidential until 31 December 2019 Related to 290 & 301	26-June-2019
321	20/02/2018	Audit Committee	7.2	Lachlan Miller	Appointment of External Auditor	90(3)(d)	20-February-2019	Until the completion of the contract (Agenda Report only - minutes not confidential)		20-February-2019
323	27/02/2018	Council	19.2	Nick Taarnby	Adelaide Hills Swimming Centre Shade Sail	90(3)(i)	27-February-2019	Until matter is determined but not longer than 12 months		27-February-2019
324	27/02/2018	Council	19.3	Lachlan Miller	Appointment of External Auditor	90(3)(d)	27-February-2019	Until the completion of the contract		27-February-2019
325	27/03/18	Council	19.1	Marc Salver	AHRWMA Purchase of Hooklift Truck	90(3)(d)	03-August-2019	Until 3 August 2019	Related to 309	27-March-2019
326	24/04/18	Council	19.1	Terry Crackett	Sale of Land for Non Payment of Rates	90(3)(i)	24-April-2019	Until advertisement published but no longer than 12 months		24-April-2019
327	29/05/18	CEO PRP	10.1.1	Megan Sutherland	Appointment of Consultant to undertake CEO Performance & Remuneration Review	90(3)(d)	07-December-2018	Until 7 December 2018		07-December-2018
328	19/06/18	Special Council	6.1.1	John McArthur	CWMS Expression of Interest Outcomes	90(3)(b)	31-December-2019	Until 31 December 2019	Partially released 05 July 2018 (Resolution 4 and Community Consultation from Report) Resolution passed 19 June 2018 to remain confidential until 31 December 2019 Minute fully Released 9 August 2018 Report remains confidential	19-June-2019
331	01/08/18	Special Council	7.2.1	Terry Crackett	Retirement Village Review	90(3)(b)	31-July-2023	Until settlement with the exception of Clause 8 and Appendix 2 which shall be retained in confidence until 31 July 2023	Partially released 01 August 2018	01-August-2019
335	11/09/18	Special Council	7.11	Peter Bice	Ashton Landfill	90(2)	10-September-2019	Until 10 September 2019.		10-September-2019

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.10

**Originating Officer:** Karen Bennink – Acting Manager Waste and Emergency Management

**Responsible Director:** Peter Bice – Director Infrastructure and Operations

**Subject:** Magarey Road - Emergency Services Access

**For:** Decision

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**SUMMARY**

This report is provided to Council in response to a Motion on Notice (MON) from the 24 July 2018 Ordinary Council meeting.

The MON required the CEO, in consultation with residents and the Bushfire Advisory Committee, to provide a report on possibilities to improve access by fire-fighting appliances and other emergency vehicles to properties of Magarey Road, Mount Torrens. The report was to be provided before the commencement of the 2018/19 Fire Danger Season.

The MON was in response to the potential for emergency services to respond to the wrong end of Magarey Road in an emergency situation leading to delays in response time and as a result presenting a risk to human health and welfare.

This report recommends that Council resolves that the administration begin the process of renaming Magarey Road to prevent confusion and potential time delays for emergency or other services attending properties located on this road.

**RECOMMENDATION**

**Council resolves that:**

- 1. The report be received and noted**
  - 2. The administration undertake the process to rename Magarey Road Mount Torrens in accordance with Council's *Public Place and Road Naming Policy*.**
  - 3. Subject to the *Public Place and Road Naming Policy* requirements being met and there being no objections following public consultation, that the two sections of Magarey Road Mount Torrens (as shown in *Appendix 1*) be renamed Magarey Road North and Magarey Road South.**
-

## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal 1 Prosper  
Strategy 1.12 We will seek opportunities to increase the wellbeing and resilience of our community to withstand, recover and grow in the face of challenges.

Adoption of the report recommendation will commence a process that ultimately aims to remove risks associated with potential Emergency Services confusion when attending to emergencies on Magarey Road resulting in increased wellbeing of Magarey Road residents.

### ➤ Legal Implications

Under section 219 of the *Local Government Act 1999* Council has the power to change the name of a public road.

A road naming process may be initiated if Council resolves that a name change be investigated or Council staff determines it is in the public interest to investigate a change in road name along with other triggers not relevant in this case.

Council's Public Place and Road Naming Policy outlines the process for renaming a road in accordance with the *Local Government Act 1999*.

### ➤ Risk Management Implications

*The renaming of both ends of Magarey Road Mount Torrens will assist in mitigating the risk of:*

*Time delays and confusion for emergency, or other services, when responding to Magarey Road properties requiring urgent assistance leading to potential risks to the wellbeing and safety of Magarey Road residents.*

Inherent Risk	Residual Risk	Target Risk
Extreme (5B)	Medium Risk (3C)	Medium Risk

Renaming both sections of Magarey Road road as recommended in this report is a new mitigation action which will alleviate the potential for confusion that may be caused to emergency or other services when attending properties on Magarey Road.

### ➤ Financial and Resource Implications

Subject to the final resolution of Council in relation to this matter there are a number of financial implications that may arise, these are:

**Option 1** *Construct a new section of road that connects the two ends of Magarey Road together*

The cost estimate for option 1 is \$210,000 or \$359,000 subject to the works carried out.

**Option 2**      *Rename both ends of Magarey Road*

The cost estimate for option 2 is \$1,000

**Option 3**      *Divestment of the unmade portion of Margarey Road to one or more adjoining property owners*

The cost estimate for option 3 is \$10,000 - \$12,000. Generally a road closure is initiated by an adjoining land owner and the costs associated with the road closure process are paid by the purchaser, including the value of the land being closed as road.

Each of the options outlined above are discussed in further detail in the Analysis section of this report.

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

The intent of the report recommendation is to ultimately remove current risks posed by the naming of Magarey Road and potential confusion by Emergency Services when attending to properties on this road. Accordingly, the recommendation aims to have a positive benefit on Magarey Road residents, and in addition responders to emergency situations.

Notwithstanding the above, there may be some inconvenience for residents in having to change their address details.

➤      **Environmental Implications**

Renaming of Magarey Road would not have any impact on the environment. If Council were to resolve to construct a new section of road a biodiversity assessment would be undertaken to identify any native vegetation matters of concern. An initial assessment by the Council's biodiversity team has indicated that there is biodiversity value on the unmade section of road reserve. The assessment also indicates a watercourse that traverses the unmade road reserve which would require consideration if a road was to be constructed.

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

Consultation on the development of this report was as follows:

*Council Committees:*      Not applicable

*Council Workshops:*      Not applicable

*Advisory Groups:*      Bushfire Advisory Committee 24 October 2018

*Administration:*      Manager Waste and Emergency Management  
Manager Property Services  
Director Infrastructure and Operations  
Manager Civil Services  
Biodiversity Officer

*Community:*      Residents of Magarey Road were consulted via a letter asking for feedback on proposal

## 2. BACKGROUND

Magarey Road is located in Mount Torrens and runs from Burton Rd to the north and Cyanide Road from the south. There is a portion of Magarey Road of approximately 900m in length that is an unmade road reserve, preventing the ability of vehicles to drive from one end of the road through to the other. **Appendix 1** provides an outline of Magarey Road and the properties located on it.

There are four properties located on Magarey Road – three to the North of the unmade road reserve and one to the South. There are concerns that if and when emergency or other services are called to a property on this road for assistance, it may be unclear to the service provider which end of Magarey Road the property is located and may be unaware that not all properties are accessible from either end of the road.

In addition there are 2 Crown Land parcels adjacent to the unmade section of Magarey Road which have been dedicated to the Council for water purposes since 1873.

There is the potential for the emergency services to respond to the wrong end of the road and find themselves with no through access to the property seeking assistance. In an emergency situation this could result in a time delay whilst the driver has to turn around and travel, at worst case scenario, an additional 7.3 km to attend the property. This presents a risk to the person seeking assistance and in the case of a bushfire CFS and other emergency crews potentially having to travel additional distances in a live fire ground.

This issue was raised as a Motion on Notice at the Ordinary Council meeting held 24 July 2018, where Council resolved the following:

### 11.3. Magarey Road Access

Moved Cr Malcolm Herrmann  
S/- Cr Linda Green

163/18

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

<b>Carried Unanimously</b>
----------------------------

This report investigates various options identified to manage the risk identified. The following options have been considered and detailed in the analysis section of this report.

- Rename one or both ends of Magarey Road
- Construct a road within the current unmade road reserve
- Close off and sell the southern portion of Magarey Road to an adjoining property owner which would then become an address on Cyanide Road

### 3. ANALYSIS

Feedback was received from two of the four property owners on Magarey Road. Of these, one person provided feedback from themselves and on behalf of an adjoining property owner. In both cases, they were supportive of renaming Magarey Road.

The remaining feedback received related to an informal expression of interest from one property owner to purchase a portion of Magarey Road. This option is discussed in further detail below.

Noting the renaming process outlined in option 2 below, and subject to Council resolving to commence a renaming process, Magarey Road residents will get further opportunity to provide comment and feedback through the formal renaming process.

In accordance with the resolution of Council, the renaming of Magarey Road was discussed at the Bushfire Advisory Group on Wednesday 24 October 2018. As a result of the discussion group members were to provide any concerns or comments relating to Magarey Road to Council staff within a week of the meeting. No feedback was received.

The following options have been identified for Council consideration:

#### **Option 1 - Construct a new section of road that connects the two ends of Magarey Road together**

Option A – Construct a made road through the currently unmade road reserve to connect the two made portions of Magarey Rd. This work would involve a six metre wide carriageway and 150 mm thick pavement. The estimated cost for these works is **\$359,128**.

Option B - Form a fire track only through the currently unmade road reserve to connect the two made portions of Magarey Rd. This work would involve a four metre wide fire track with 100 mm thick rubble base. The estimated cost of these works is **\$210,028**.

In addition to the construction costs for the two options above there would be ongoing maintenance costs to Council which have not been quantified in this report.

#### **Option 2 - Rename one or both ends of Magarey Road**

This option would involve renaming one or both ends of Magarey Road i.e. Magarey Road North and Magarey Road South. Alternatively, only one end of Magarey Road could be renamed which would still result in a distinction between the two separated ends of the road. However, as renaming both ends of Magarey Road as north and south respectively provides the greatest level of distinction between the separate ends it is recommend that this option be progressed.

Renaming of Magarey Road would ensure each of the separate ends of Magarey Road is distinctively named minimising the potential for the Emergency Services to respond to the wrong end of the road.

Under section 219 of the *Local Government Act 1999* Council has the power to change the name of a public road. The process for renaming a road can be commenced if Council resolves that a name change be investigated or Council staff determines it is in the public interest to investigate a change in road name.

Council has adopted the Public Place and Road Naming Policy which sets out the process to undertake a road name change.

The steps involved in this process are set out below.

#### Initiating the Private/ Public Road and Public Place Naming Process

A road or public place naming process may be initiated if:

- Council resolves that a name change be investigated (e.g. a road or public place name is no longer deemed appropriate)
- Council staff determine it is in the public interest to investigate a change in road or public place name

#### Public consultation of naming proposal

Community engagement is to be undertaken in relation to a proposed change in road name as follows:

- Notification to ward councillors in relation to the proposal
- Notification to residents/property owners affected by the name change
- Notice in the local newspaper/s, inviting public comment on the proposal

Consultation would be undertaken in accordance with Council's Public Consultation Policy and Community Engagement Framework.

#### Public notice of name assignment or change

Council will give public notice of approved name changes. This will be by notice in a newspaper circulating within the area of Council and on Council's website.

Public notice will include the date on which the new name takes effect.

#### Advising relevant parties of name change

Council will provide written notice of Council's decision on a new road name change to all relevant parties, including but not limited to:

- Registrar-General, Surveyor-General and Valuer-General
- Owners of surrounding properties affected by the name change
- Geographic Names Unit
- Relevant directories services (e.g. Sensis)
- Australia Post
- Telstra
- SA Water
- SA Power Networks

- SA Police
- SA Ambulance Service
- SA Metropolitan Fire Service and Country Fire Service.

#### Date of effect for name changes

The date of effect of the changed road name will be determined at the time the decision to assign the name is made to allow sufficient time for all stakeholders to make arrangements to ensure a smooth transition.

Council is to ensure road naming signage is in accordance with the relevant Australian Standards. Signage denoting the approved name must be erected within 30 days following the implementation date of the naming proposal.

#### **Option 3 - Divestment of the unmade portion of Magarey Road to one or more adjoining property owners**

During the initial consultation undertaken with Magarey Road residents, one property owner expressed an interest in purchasing a portion of Magarey Road from Council. Whilst this outcome would alleviate the risks currently posed with the naming of Magarey Road, there are matters relating to the purchase of some portions of Magarey Road that make this option prohibitive and not feasible at this time.

**Appendix 1** shows a large unusual shaped parcel of land that runs along the unmade road reserve, and a much smaller parcel on the other side of the unmade road reserve. These two parcels of land are Crown Land under the Council's care, control and management. Council cannot sell this land. The care, control and management of this land would have to be handed back to the Crown at which point the property owner could approach and negotiate with the State Government to purchase the land.

In addition, if the land proposed to be purchased by the property owner was limited to the unmade road reserve, it would render the Crown land landlocked which is prohibited.

The process of a road closure and the State Government freeholding the Crown land to a point where it can be sold would likely be a minimum of 12 months from commencement.

To undertake a divestment process of the unmade road reserve, if required, cost would be in the order of \$10,000 - \$12,000. This cost estimate comprises the following elements:

- Application fee \$1,000
- Land valuation fee \$1,000 - \$1,500
- Public consultation \$1,000
- Survey Costs \$4,000 - \$5,000
- Lands Title Office costs \$2,500
- Conveyancing/legal costs \$500 - \$1,000

It is envisaged, that the costs outlined above would be recovered from the proposed purchaser owner.



In addition, the land owner would be required to pay the value of the unmade road reserve being closed and sold in-line with the Council's *Disposal of Land Policy*. This value is determined by an independent valuer.

The above matters have been discussed with the property owner concerned and as a result they have indicated their support for the road name change to address the immediate safety concerns, however would still like the opportunity to consider purchasing a portion of Magarey road in the future.

It is proposed at this point in time to proceed with the renaming of Magarey Road given the risk posed by the potential for Emergency Services to become confused when responding to incidents on this road. The possibility to freehold and close the unmade section of road by the property owner can then be further investigated.

### **Conclusion**

Of the options presented in this report the option to rename one or both ends of Magarey Road would be the lowest cost and quickest solution to alleviate the risk presented. It is recommended that this approach be pursued to ensure the potential safety issue is rectified in the quickest way possible.

## **4. OPTIONS**

Council has the following options:

- I. Undertake the process to change the name of both ends of Magarey Road (Recommended).

This option is recommended as it will, subject to a name change occurring, alleviate the confusion and risk resulting from the current naming of Magarey Road.

- II. Construct a new section of road that connects the two ends of Magarey Road together (Not Recommended).

This option is not recommended as the construction of a new section of road involves considerable expense which is not justified given the renaming of Magarey Road will alleviate the risks outlined in this report.

- III. Sell a portion of Magarey Road resulting in not having to change road name (Not Recommended).

This option is not recommended as this is a lengthy, complicated process with no guaranteed outcome in the immediate future, leaving uncertainty as to when and if the risks outlined in this report will be alleviated by undertaking this process

- IV. Not do anything (Not Recommended).

This option is not recommended as it will not alleviate the risks posed to Magarey Road residents from potential confusion of Emergency Services leading to delayed response times.

## **5. APPENDIX**

- (1) Magarey Road map

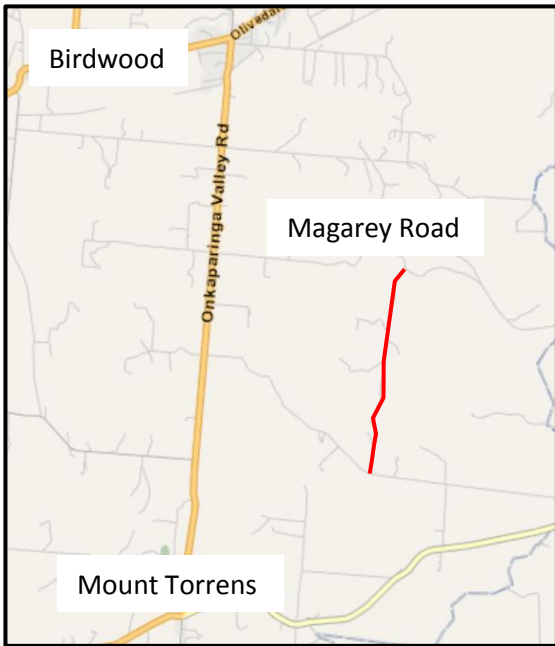
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# **Appendix 1**


*Magarey Road Map*


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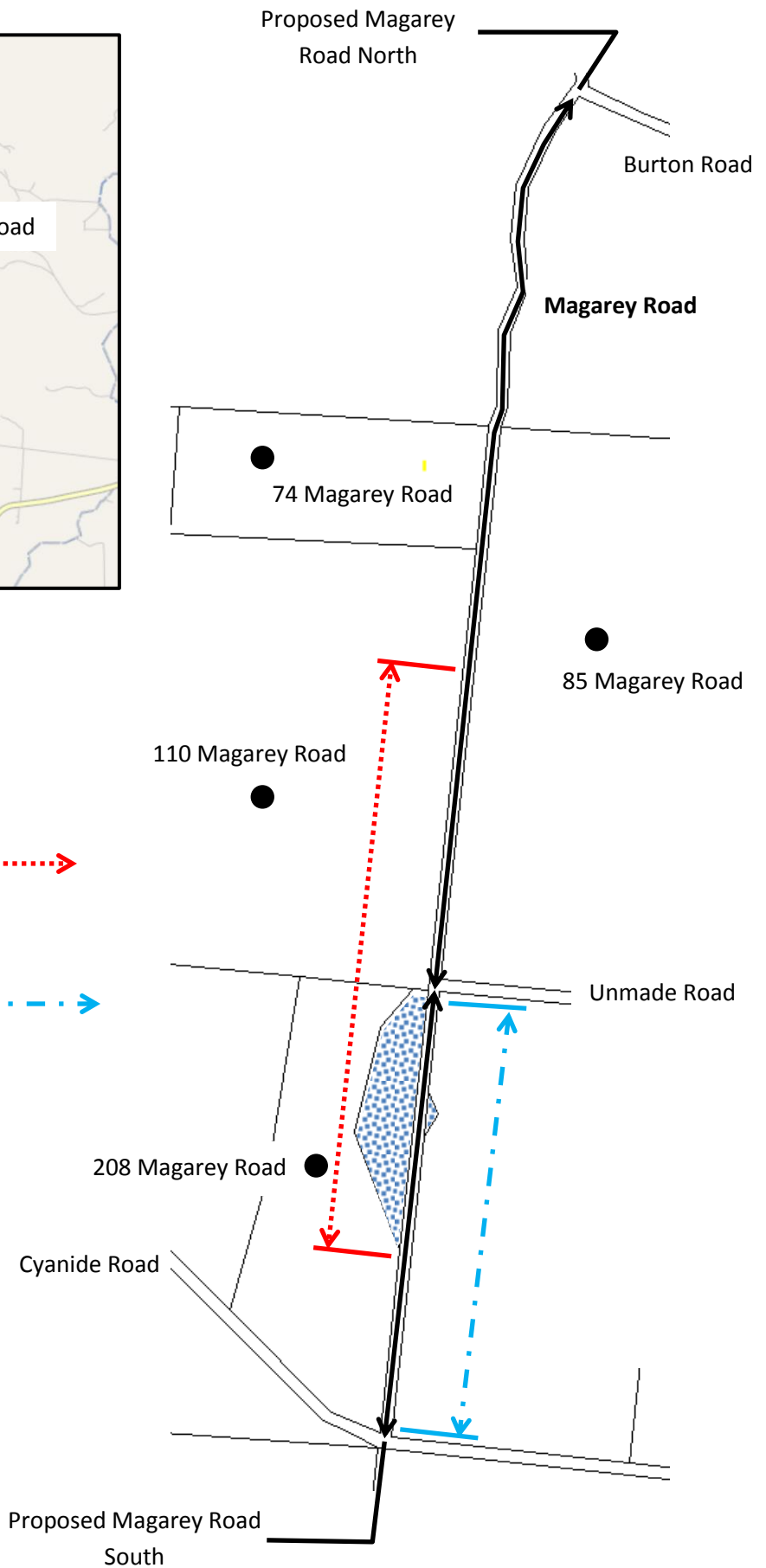
# Magarey Road, Mount Torrens



Crown Land 

Unmade Road Reserve  
(Approximately 900 metres) 

Section of Magarey Road for  
proposed purchase 



**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

<b>Item:</b>	<b>12.11</b>
<b>Originating Officer:</b>	<b>Lachlan Miller, Executive Manager Governance and Performance</b>
<b>Responsible Director:</b>	<b>Andrew Aitken, Chief Executive Officer</b>
<b>Subject:</b>	<b>LGA Submission – Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018</b>
<b>For:</b>	<b>Decision</b>

---

**SUMMARY**

On 24 October 2018, the Hon Claire Scriven MLC introduced a local government reform Bill in the Legislative Council.

The *Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018* passed through the Legislative Council on 14 November 2018 and was read for the first time in the House of Assembly on the same day.

The Bill contains a number of proposed reforms, some of which are consistent with the reform agenda development by the Local Government Association (LGA) earlier in 2018 and other reforms, seemingly in response to adverse media coverage of other councils' practices.

The LGA has requested submissions from its member councils to inform its advocacy position on the Bill.

**RECOMMENDATION**

**Council resolves:**

- 1. That the report be received and noted**
  - 2. To approve the submission in Appendix 2 to the Local Government Association regarding the *Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018*.**
  - 3. To delegate to the Chief Executive Officer to make any minor content changes to reflect discussion on the item and formatting changes for the purpose of finalising the submission to the Local Government Association.**
-

## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal	Organisational Sustainability
Strategy	Collaboration on public policy setting
Strategy	Governance

### ➤ Legal Implications

The *Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018 (Appendix 1)* if passed through Parliament and enacted will change provisions of the *Local Government Act 1999* from the date(s) of effect as proclaimed by the Governor.

### ➤ Risk Management Implications

Seeking to shape proposed legislative changes 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)	Medium (3D)	Medium (3D)

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

### ➤ Financial and Resource Implications

There are no financial implications regarding the making of a submission to the LGA regarding the Bill.

While the details of Regulations are required to make a fulsome assessment of the financial implications of the proposed Bill, it is likely that there will be additional compliance costs associated with the most of the initiatives contained in the Bill.

### ➤ Customer Service and Community/Cultural Implications

There are no customer service implications regarding the making of a submission to the LGA regarding the Bill.

Some of the initiatives proposed in the Bill could have community/cultural implications around perceptions of the accountability and transparency of the Council.

### ➤ Environmental Implications

Not applicable.

### ➤ Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community

*Council Committees:* Not Applicable.

<i>Advisory Groups:</i>	Not Applicable
<i>Administration:</i>	Executive Leadership Team Governance & Risk Coordinator Executive Assistant Mayor & CEO
<i>Community:</i>	Not Applicable

## 2. BACKGROUND

On 24 October 2018, the Hon Claire Scriven MLC introduced a local government reform Bill in the Legislative Council.

The *Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018* (**Appendix 1**) passed through the Legislative Council on 14 November 2018 and was read for the first time in the House of Assembly on the same day.

Some of the key aspects of the Bill include:

- Expanding the role of the Local Government Grants Commission to include a new 'Local Government Commission' with responsibility for monitoring council performance and dealing with code of conduct complaints.
- Introduction of standardized annual performance measures for councils, and the potential for a Local Government Commission to refer any areas of concern to the State Productivity Commission for further review.
- Requiring councils to publish details of certain travel, gifts, credit card expenditure and salaries online, including on social media.
- Changes to the rules about dealing with matters in confidence, including recording how each member voted on a motion to move into confidence.
- New powers for a presiding member to regulate improper or disorderly conduct at council meetings.
- Introducing stronger penalties for breaches of the Code of Conduct, including financial penalties.
- Limiting CEO remuneration packages to salary, super, vehicle and information and communication technology, and requiring CEO contracts to be published online.
- Requiring annual budgets to include forward estimates over the following three financial years, and introducing additional reporting requirements for projects and services that exceed the allocated budget.
- Additional reporting requirements about how new services and projects over a prescribed limit will be funded.
- Fully independent Audit Committees comprised only of people drawn from a list approved by the Auditor General.
- Requiring a Local Government Commission to undertake a full review of the *Local Government Act 1999* and *Local Government (Elections) Act 1999* to address a broad range of listed matters, and provide a report to the Minister on the outcomes of the review.

The (then) LGA President Sue Clearihan wrote to councils in October seeking submissions from councils on the provisions of the Bill to enable the LGA to refine its advocacy position. It is worth noting that the LGA has been working for some time on a proposed reform agenda and has been meeting with many MPs and MLCs to discuss this agenda.

### 3. ANALYSIS

The Bill contains a broad range of initiatives to, seemingly, strengthen the accountability and transparency arrangements around both Council Members and Council Officers.

The key provisions of the Bill have been listed and explained in **Appendix 2** and a proposed AHC submission is provided against each.

### 4. OPTIONS

Council has the following options:

- I. Approve the submission with/without amendment (**Recommended**). Where suggestions are made in the Chamber generally consistent with the proposed submission response, the CEO is seeking the delegation (in Recommendation 3) to be able to make these changes without each change to be specifically resolved.
- II. Determine not to make a submission.

### 5. APPENDICES

- (1) *Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018*
- (2) *AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018*

**House of Assembly—No 59**

As received from the Legislative Council and read a first time, 14 November 2018

South Australia

**Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018**

A BILL FOR

An Act to amend the *Local Government Act 1999*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Local Government Act 1999*

- 4 Amendment of section 4—Interpretation
- 5 Insertion of section 8A
  - 8A Annual review of performance of councils
- 6 Amendment of section 50—Public consultation policies
- 7 Amendment of section 56—General election to be held in special case
- 8 Amendment of section 62—General duties
- 9 Insertion of sections 79A to 79C
  - 79A Publication of credit card expenditure
  - 79B Publication of travel by members
  - 79C Publication of certain gifts funded by council
- 10 Amendment of section 90—Meetings to be held in public except in special circumstances
- 11 Amendment of section 91—Minutes and release of documents
- 12 Amendment of section 95—Conduct at meetings
- 13 Insertion of section 95A
  - 95A Petitions
- 14 Insertion of sections 99A and 99B
  - 99A Remuneration of chief executive officer
  - 99B Publication of employment contract of chief executive officer
- 15 Amendment of section 105—Register of remuneration, salaries and benefits
- 16 Insertion of sections 105A and 105B
  - 105A Publication of credit card expenditure
  - 105B Publication of certain gifts funded by council
- 17 Amendment of section 109—General duty
- 18 Amendment of section 115—Form and content of returns
- 19 Insertion of Chapter 7 Part 4 Division 2A
  - Division 2A—Travel by employees
    - 119A Travel by employees
- 20 Amendment of section 123—Annual business plans and budgets
- 21 Amendment of section 126—Audit committee
- 22 Amendment of section 264—Complaint lodged in District Court
- 23 Amendment of section 265—Hearing by District Court
- 24 Insertion of Chapter 13 Part 1A
  - Part 1A—Conduct—complaints to Local Government Commission
    - 269A Preliminary
    - 269B Local Government Commission may deal with certain complaints relating to members' code of conduct
    - 269C Action that Local Government Commission may take
    - 269D Delegation
- 25 Amendment of Schedule 3—Register of Interests—Form of returns
- 26 Review of *Local Government Act 1999* and *Local Government (Elections) Act 1999*

### Schedule 1—Transitional provision

- 1 Transitional provision
-

**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Local Government (Ratepayer Protection and Related Measures) Amendment Act 2018*.

### **2—Commencement**

- (1) Subject to this section, this Act will come into operation on the day on which it is assented to by the Governor.
- (2) Sections 4, 5, 8 and 22 to 24 (inclusive) will come into operation 3 months after the day on which this Act is assented to by the Governor.

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Local Government Act 1999***

### **4—Amendment of section 4—Interpretation**

Section 4(1), definition of *Commission*—delete the definition and substitute:

*Commission* or *Local Government Commission* means the South Australian Local Government Grants Commission established under the *South Australian Local Government Grants Commission Act 1992*;

### **5—Insertion of section 8A**

After section 8 insert:

#### **8A—Annual review of performance of councils**

- (1) The Local Government Commission must prepare and publish a document to be called the *Annual Review of SA Council Performance* setting out—
  - (a) quantitative performance indicators relating to the delivery of services to the community by councils; and
  - (b) requirements relating to the keeping and provision of information by councils which can be used for cross-council performance comparisons.
- (2) Without limiting subsection (1), the quantitative performance indicators will be based on the following:
  - (a) quality and cost standards for services;
  - (b) equity of service delivery;
  - (c) timeliness of service delivery;

- (d) complaint handling processes (including the timeliness of dealing with and resolving complaints);
- (e) any other indicators considered relevant by the Commission.
- (3) The Commission may from time to time alter the *Annual Review of SA Council Performance* document, or substitute a new *Annual Review of SA Council Performance* document.
- (4) However, before publishing, altering or substituting the *Annual Review of SA Council Performance* document, the Commission must consult with the LGA on the document or alteration and consider any submission made by the LGA within a period (of between 3 and 6 weeks) specified by the Commission.
- (5) A council must provide an annual report to the Commission by a date determined by the Commission that—
- (a) sets out the information required by the Commission in the manner and form required by the Commission; and
- (b) complies with any other requirements of the Commission.
- (6) If, in the opinion of the Commission, the performance indicators provided by a council raise significant concern about the performance of the council, the Commission may refer the matter to the chief executive of the designated administrative unit.
- (7) On a referral under this section, the chief executive of the designated administrative unit must inquire into and provide a report to the Minister on the performance of the council, having regard to the performance indicators provided by the council.
- (8) A report under subsection (7) must be published on a website determined by the chief executive of the designated administrative unit at the same time as it is provided to the Minister.
- (9) In this section—
- designated administrative unit* means—
- (a) the administrative unit of the Public Service known as the *Office of the South Australian Productivity Commission*; or
- (b) if the administrative unit referred to in paragraph (a) ceases to exist—the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of this Act.

## 6—Amendment of section 50—Public consultation policies

Section 50(4)—after paragraph (a) insert:

- (ab) the prominent publication on Internet platforms (such as social media) of notification of—
- (i) the fact of publication of the notice under paragraph (a); and
- (ii) the website address at which the notice is available for inspection; and

### 7—Amendment of section 56—General election to be held in special case

(1) Section 56—after subsection (1) insert:

(1a) If the prescribed number of members of a council, other than an exempt council, pass a resolution of no confidence (however described) in the principal member of the council, the chief executive officer of the council must, by notice in the Gazette, declare that the council is a council to which this Division applies.

(2) Section 56(2)—after "subsection (1)" wherever occurring insert in each case:

or (1a)

(3) Section 56(3)—before the definition of *prescribed number* insert:

*exempt council* means a council constituted on the basis that the principal member is to be chosen by the members of the council;

### 8—Amendment of section 62—General duties

(1) Section 62—after subsection (2) insert:

(2a) If a prescribed authority determines that a complaint lodged with the prescribed authority by a member of a council alleging that another member of the council has contravened or failed to comply with the code of conduct under section 63 is a frivolous or vexatious complaint, the member that made the complaint is guilty of a breach of this subsection.

(2b) Subject to subsection (2c), a member of a council must not undertake overseas travel that is or will be funded in whole or in part by the council, unless the council has, prior to the commencement of the travel, passed a resolution approving the travel.

(2c) It is not a breach of subsection (2b) if a member of a council undertakes overseas travel of a kind referred to in that subsection without prior approval in accordance with subsection (2b) if—

(a) as a result of exceptional circumstances, it was not reasonably practicable for the travel to be approved in accordance with subsection (2b); and

(b) the travel is approved by resolution of the council passed within 7 days of conclusion of the travel.

(2d) If a member of a council undertakes overseas travel that is or will be funded in whole or in part by the council, the member must ensure that a report prepared by the member setting out the actual cost of the travel and the outcomes achieved by the undertaking of the travel is submitted to the council for consideration at a meeting of the council occurring within 2 months of the conclusion of the travel.

(2e) If the period of 7 days referred to in subsection (2c) or 2 months referred to in subsection (2d) would, but for this subsection, expire in a particular case during an election period for a general election, that period will be extended by force of this subsection so as to expire 7 days or 2 months (as the case requires) from the conclusion of the election period.

(2) Section 62—after subsection (7) insert:

(8) In this section—

*cost of the travel* includes accommodation costs and other costs and expenses associated with the travel;

*election period*, for a general election, means the period commencing on the day of the close of nominations for the election and expiring at the conclusion of the election;

*prescribed authority*—each of the following is a prescribed authority:

- (a) the Local Government Commission;
- (b) the Ombudsman;
- (c) the Independent Commissioner Against Corruption;
- (d) the Office of Public Integrity;
- (e) the Minister;
- (f) a council;
- (g) a chief executive officer of a council.

## **9—Insertion of sections 79A to 79C**

After section 79 insert:

### **79A—Publication of credit card expenditure**

(1) A council must, within 14 days after the end of each month, publish in a prominent location on its website the following details in relation to each credit card provided by the council for use by a member of the council:

- (a) the name of each member entitled to use the credit card;
- (b) a statement of expenses for the month incurred using the credit card.

(2) Any details published under subsection (1) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.

(3) A council must ensure that a link to the website address at which the details published under subsection (1) are available for inspection is prominently published on Internet platforms (such as social media).

### 79B—Publication of travel by members

(1) A council must, within 14 days after the end of each month, publish in a prominent location on its website information as to the particulars (including the cost) of any travel beyond the limits of South Australia undertaken by a member of the council during the month that was, or will be, funded in whole or in part by the council, and for the purposes of this section, *cost of travel*—

(a) includes accommodation costs and other costs and expenses associated with the travel; but

(b) does not include land based travel costs.

(2) Any details published under subsection (1) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.

(3) A council must ensure that a link to the website address at which the details published under subsection (1) are available for inspection is prominently published on Internet platforms (such as social media).

(4) In this section—

*land based travel costs* means costs of travel attributable to transportation by road, rail or other means of transport on land.

### 79C—Publication of certain gifts funded by council

(1) A council must, within 14 days after the end of each month, publish in a prominent location on its website information as to the particulars (including the cost) of any gift provided to a member of the council during the month that was, or will be, funded in whole or in part by the council.

(2) Any details published under subsection (1) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.

(3) A council must ensure that a link to the website address at which the details published under subsection (1) are available for inspection is prominently published on Internet platforms (such as social media).

## 10—Amendment of section 90—Meetings to be held in public except in special circumstances

(1) Section 90(3)(b)—delete paragraph (b)

(2) Section 90(3)(d)—delete paragraph (d) and substitute:

(d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—

(i) might reasonably be expected to prejudice the future supply of such information to the council; and

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

(3) Section 90(7)—after paragraph (c) insert:

; and

- (d) the name of each member who voted on the resolution in relation to the making of the order and whether the member voted in favour of or against that resolution.

(4) Section 90—after subsection (7) insert:

(7aa) If a resolution is passed at a meeting while an order is in force under subsection (2), a note must be made in the minutes specifying—

- (a) the fact that the resolution was passed; and  
(b) the name of each member who voted on the resolution and whether the member voted in favour of or against that resolution.

### **11—Amendment of section 91—Minutes and release of documents**

Section 91(8)—after paragraph (c) insert:

; or

- (d) to prevent the disclosure of a note made in minutes for the purposes of section 90(7)(d) or (7aa).

### **12—Amendment of section 95—Conduct at meetings**

Section 95—after its present contents (now to be designated as subsection (1)) insert:

(2) A member of a council or council committee must not, while at a meeting of the council or council committee—

- (a) behave in an improper or disorderly manner; or  
(b) cause an interruption or interrupt another member who is speaking.

(3) Subsection (2)(b) does not apply to a member who is—

- (a) objecting to words used by a member who is speaking; or  
(b) calling attention to a point of order; or  
(c) calling attention to want of a quorum.

(4) If the presiding member considers that a member may have acted in contravention of subsection (2), the member must be allowed to make a personal explanation.

(5) If the presiding member considers that a contravention of subsection (2) has occurred, the presiding member may—

- (a) censure the member; or  
(b) suspend the member for a part, or for the remainder, of the meeting.

(6) A member must not enter a meeting in contravention of a suspension under subsection (5).

### 13—Insertion of section 95A

After section 95 insert:

#### 95A—Petitions

- 5
- (1) A council must not refuse to receive a petition submitted to the council on the basis that the petition does not comply with a requirement of the regulations, unless the council is satisfied that the failure to comply with the requirement was calculated to mislead the council.
- 10
- (2) A council must, within 60 days of receipt of a petition to the council, ensure that—
- (a) the petition is considered at a meeting of the council; and
  - (b) a response to the petition is provided to the petitioner listed first in the petition.

### 14—Insertion of sections 99A and 99B

15 After section 99 insert:

#### 99A—Remuneration of chief executive officer

- 20
- (1) Subject to any relevant Act or industrial instrument, the remuneration of a chief executive officer must only be comprised of 1 or more of the following:
- (a) salary and superannuation contributions;
  - (b) a vehicle (or vehicle allowance);
  - (c) information and communications technology (ICT) equipment reasonably required for the performance of the chief executive officer's functions (or an allowance for reasonably required ICT equipment);
  - (d) in the case of a chief executive officer of a council that is located wholly outside Metropolitan Adelaide (as defined by GRO Plan 639/93)—a place of residence, provided that the land on which the residence is located—
    - 30 (i) was owned by the council on 24 October 2018; and
    - (ii) is owned by the council on the day of appointment or reappointment (as the case may be) of the chief executive officer.
- 35
- (2) Nothing in this section affects a chief executive officer's entitlement to recreation leave, sick leave, long service leave or other leave (or to any payment in lieu of such leave).
- (3) This section only applies to the remuneration of a chief executive officer appointed, or reappointed following the completion of a term of office, after the commencement of this section.



**99B—Publication of employment contract of chief executive officer**

- (1) A council must, within 14 days after entering into or renewing a contract of employment with a chief executive officer, publish the contract in a prominent location on its website .
- (2) A contract published under subsection (1) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.
- (3) A council must ensure that a link to the website address at which a contract published under subsection (1) is available for inspection is prominently published on Internet platforms (such as social media).
- (4) This section applies to a contract of employment with a chief executive officer whether the contract was entered into before or after the commencement of this section.

**15—Amendment of section 105—Register of remuneration, salaries and benefits**

Section 105(3) and (4)—delete subsections (3) and (4) and substitute:

- (3) The chief executive officer must ensure that the Register of Salaries is published in a prominent location on the council's website.

**16—Insertion of sections 105A and 105B**

After section 105 insert:

**105A—Publication of credit card expenditure**

- (1) A council must, within 14 days after the end of each month, publish in a prominent location on its website the following details in relation to each credit card provided by the council for use by an employee of the council:
  - (a) the title of the position of each employee entitled to use the credit card;
  - (b) a statement of expenses for the month incurred using the credit card.
- (2) Any details published under subsection (1) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.
- (3) A council must ensure that a link to the website address at which the details published under subsection (1) are available for inspection is prominently published on Internet platforms (such as social media).

**105B—Publication of certain gifts funded by council**

- 5
- (1) A council must, within 14 days after the end of each month, publish in a prominent location on its website the following details in relation to each gift provided to an employee of the council during the month that was, or will be, funded in whole or in part by the council—
- (a) the title of the position of the employee to whom the gift was given;
- (b) a description (including the cost) of the gift.
- 10
- (2) Any details published under subsection (1) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.
- (3) A council must ensure that a link to the website address at which the details published under subsection (1) are available for inspection is prominently published on Internet platforms (such as social media).
- 15

**17—Amendment of section 109—General duty**

Section 109—after subsection (2) insert:

- (3) Subject to subsection (4), an employee of a council must not undertake overseas travel that is or will be funded in whole or in part by the council, unless the council has, prior to the commencement of the travel, passed a resolution approving the travel.
- 20
- (4) It is not a breach of subsection (3) if an employee of a council undertakes overseas travel of a kind referred to in that subsection without prior approval in accordance with subsection (3) if—
- 25
- (a) as a result of exceptional circumstances, it was not reasonably practicable for the travel to be approved in accordance with subsection (3); and
- (b) the travel is approved by resolution of the council passed within 7 days of conclusion of the travel.
- 30
- (5) If an employee of a council undertakes overseas travel that is or will be funded in whole or in part by the council, the employee must ensure that a report prepared by the employee setting out the actual cost of the travel and the outcomes achieved by the undertaking of the travel is submitted to the council for consideration at a meeting of the council occurring within 2 months of the conclusion of the travel.
- 35
- (6) If the period of 7 days referred to in subsection (4) or 2 months referred to in subsection (5) would, but for this subsection, expire in a particular case during an election period for a general election, that period will be extended by force of this subsection so as to expire 7 days or 2 months (as the case requires) from the conclusion of the election period.
- 40

(7) In this section—

*cost of the travel* includes accommodation costs and other costs and expenses associated with the travel;

*election period*, for a general election, means the period commencing on the day of the close of nominations for the election and expiring at the conclusion of the election.

## 18—Amendment of section 115—Form and content of returns

(1) Section 115(1)—delete "A" and substitute:

Subject to subsection (1a), a

(2) Section 115—after subsection (1) insert:

(1a) A return must include information as to the particulars (including the cost) of any travel beyond the limits of South Australia undertaken by the person submitting the return during the return period that is, or is to be, funded in whole or in part by the council, and for the purposes of this paragraph *cost of travel* includes accommodation costs and other costs and expenses associated with the travel.

## 19—Insertion of Chapter 7 Part 4 Division 2A

Chapter 7 Part 4—after Division 2 insert:

### Division 2A—Travel by employees

#### 119A—Travel by employees

(1) A council must—

- (a) within 14 days after the end of each month, publish in a prominent location on its website information as to the particulars (including the cost) of any travel beyond the limits of South Australia undertaken by an employee of the council during the month that was, or will be, funded in whole or in part by the council; and
- (b) within 3 months after the end of each financial year, publish in a prominent location on its website information as to the particulars (including the cost) of any travel beyond the limits of South Australia undertaken by an employee of the council (other than a person to whom Division 2 applies) during the financial year that was, or will be, funded in whole or in part by the council.

(2) Any details published under subsection (1)—

- (a) must not disclose the name of the employee who undertook the travel, but must instead refer to the title of the position of the employee; and
- (b) must remain available on the website for inspection by members of the public for a period of 5 years from the date of publication.

(3) A council must ensure that a link to the website address at which the details published under subsection (1) are available for inspection is prominently published on Internet platforms (such as social media).

(4) In this section—

*costs of travel*—

(a) includes accommodation costs and other costs and expenses associated with the travel; but

(b) does not include land based travel costs;

*land based travel costs* means costs of travel attributable to transportation by road, rail or other means of transport on land.

## 20—Amendment of section 123—Annual business plans and budgets

(1) Section 123(2)—after paragraph (b) insert:

(ba) identify activities or works relating to the maintenance, replacement or development of infrastructure outlined in 1 or more of the 3 preceding annual business plans or budgets adopted by the council that have not been substantially completed in accordance with the relevant plan or budget; and

(2) Section 123(2)—after paragraph (e) insert:

(ea) include estimates of the revenue and expenses, and the financial position, of the council over the 3 financial years following the financial year to which the annual business plan relates; and

(3) Section 123(2)—after paragraph (f) insert:

(fa) if the council proposes—

(i) to provide a service or facility in the financial year that it has not provided previously the total cost of which (calculated based on the period over which the council estimates the service or facility will be provided) will be \$500 000 or more (a *new service*); or

(ii) to undertake (or commence undertaking) a project in the financial year the total cost of which will be \$1 million or more (a *new project*),

set out, for each new service or new project—

(iii) details of the new service or new project in a prominent position in the annual business plan; and

(iv) an estimate on the impact of the new service or new project on ratepayers, including—

(A) the amount of revenue required to be raised from rates under Chapter 10 to fund the new service or new project; and

(B) if relevant, whether that amount will be recovered—

- from ratepayers as a whole equally; or
- in a greater or lesser proportion from different classes of ratepayers; and

(4) Section 123(4)—before paragraph (a) insert:

5 (aaa) the prominent publication, at least 21 days before the publication of the notice under paragraph (a), on Internet platforms (such as social media) of notification of the fact that the council is preparing its draft annual business plan and calling for members of the community to submit proposals on activities or projects that should be included in the annual business plan for the financial year;

10 (aa) the council to ensure that any proposals submitted are considered at a meeting contemplated by paragraph (a)(i);

(5) Section 123—after subsection (11) insert:

15 (11a) A council must, within 14 days after adopting an annual business plan and a budget, also ensure that a report is published in a prominent location on its website setting out a detailed response to each proposal of a kind referred to in subsection (4)(aaa) submitted by a member of the community.

20 (11b) The council must ensure that a link to the website address at which the report published under subsection (11a) is available for inspection is prominently published on Internet platforms (such as social media).

(6) Section 123(13)—after "required by" insert:

subsection (13a) and

25 (7) Section 123—after subsection (13) insert:

(13a) The chief executive officer of a council must provide a report to the council as soon as is reasonably practicable after a designated event occurs setting out the details of the designated event.

30 (13b) A council must, within 30 days after receiving a report provided by its chief executive officer under subsection (13a), publish the report in a prominent location on its website.

35 (13c) The council must ensure that a link to the website address at which the report published under subsection (13b) is available for inspection is prominently published on Internet platforms (such as social media).

(8) Section 123—after subsection (14) insert:

(15) In this section—

40 ***designated event***—a designated event occurs if the council has incurred expenses during a financial year in respect of a new service or new project (both within the meaning of section 123(2)(fa)) that exceed 110% of the amount allocated in the council's annual business plan or budget for the new service or new project (as the case requires) for that financial year.

## 21—Amendment of section 126—Audit committee

Section 126(2)—delete subsection (2) and substitute:

- 5
- (2) The membership of an audit committee may only be comprised of persons selected from a list of persons established by the Auditor-General for the purposes of this section.
- (3) The list of persons established by the Auditor-General—
- (a) must not include a member or employee of the council; and
- (b) must comply with any other requirements prescribed by the regulations.
- 10
- (3a) Nothing in this section is to be taken to prevent—
- (a) an employee of a council from attending a meeting of the council's audit committee if appropriate; or
- (b) a person (on the list established by the Auditor-General) from being appointed as a member of the audit committee of more than 1 council.
- 15

## 22—Amendment of section 264—Complaint lodged in District Court

- (1) Section 264(1)—delete "A" and substitute:

Subject to this section, a

- (2) Section 264(1)—after paragraph (b) insert:
- 20
- ; or
- (c) the Local Government Commission or a person authorised in writing by the Commission.
- (3) Section 264—after subsection (2) insert:
- 25
- (2a) A complaint alleging a contravention or failure to comply with section 62(2b) or (2d) may only be lodged by the Local Government Commission or a person authorised in writing by the Commission.

## 23—Amendment of section 265—Hearing by District Court

Section 265(2)(a)—after "Corruption" insert:

, the Local Government Commission

## 24—Insertion of Chapter 13 Part 1A

Chapter 13—after Part 1 insert:

### **Part 1A—Conduct—complaints to Local Government Commission**

#### **269A—Preliminary**

In this Part—

*designated behaviour*, in relation to a member of a council, means a failure by the member to observe a prescribed provision of the code of conduct for members under section 63;

*prescribed provision* of the code of conduct for members means—

- (a) if the regulations prescribe provisions, or a class or classes of provisions, of the code of conduct for the purposes of this Part—the provisions so prescribed; or
- (b) if no provisions are prescribed under paragraph (a)—each provision of the code of conduct is a prescribed provision.

#### **269B—Local Government Commission may deal with certain complaints relating to members' code of conduct**

- (1) The Local Government Commission may—
  - (a) investigate and take action in relation to designated behaviour of members of councils; and
  - (b) receive and deal with complaints in relation to designated behaviour of members of councils.
- (2) In connection with subsection (1)—
  - (a) any person may make a complaint to the Commission about designated behaviour of a member of a council; and
  - (b) the Commission may, on its own initiative or on receipt of a complaint, inquire into and investigate designated behaviour of a member of a council (in accordance with section 16 of the *South Australian Local Government Grants Commission Act 1992*).
- (3) Nothing in this section prevents—
  - (a) a person from making a complaint to the Ombudsman; or
  - (b) the Ombudsman from carrying out an investigation, in accordance with section 263A or the *Ombudsman Act 1972*.

- 5 (4) Nothing in this section affects the operation of the *Independent Commissioner Against Corruption Act 2012*, including the obligation to comply with any relevant directions and guidelines issued by the Independent Commissioner Against Corruption under that Act in relation to the reporting of a matter that could raise a potential issue of corruption or serious misconduct or maladministration in public administration.

### 269C—Action that Local Government Commission may take

- 10 (1) The Local Government Commission may, after inquiring into and investigating designated behaviour of a member of a council—
- 15 (a) reprimand the member (including by means of a public statement); or
  - (b) require the member to attend a specified course of training or instruction, to issue an apology in a particular form or to take other steps; or
  - (c) require the member to reimburse the council a specified amount; or
  - 20 (d) if the Commission considers that the designated behaviour of the member involved a serious failure to observe a prescribed provision of the code of conduct for members—
    - (i) suspend the member from any office under this Act for a period determined by the Commission; or
    - (ii) disqualify the member from any office under this Act.
- 25 (2) If the Commission disqualifies a member from an office under this Act under subsection (1)(d)(ii)—
- 30 (a) the office immediately becomes vacant; and
  - (b) the Commission may also prohibit the member from becoming a member of a council, a council committee or a subsidiary of a council for a period not exceeding 5 years.
- 35 (3) If a member of a council fails to comply with a requirement made by the Commission under subsection (1)(a) to (c), the member will be taken to have failed to comply with Chapter 5 Part 4 and a complaint will be lodged (by or on behalf of the Commission) against the member with SACAT.

### 269D—Delegation

- 40 (1) The Local Government Commission may delegate to a person (including a person for the time being performing particular duties or holding or acting in a particular position) a function or power under this Part.
- (2) A delegation—
- (a) must be by instrument in writing; and



- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the delegator to act in a matter; and
- (d) is revocable at will.

5 (3) A delegated function or power may, if the instrument of delegation so provides, be further delegated in accordance with that instrument.

### **25—Amendment of Schedule 3—Register of Interests—Form of returns**

Schedule 3, clause 2(2)—after paragraph (c) insert:

- 10 (ca) particulars (including the cost) of any travel beyond the limits of South Australia undertaken by the member during the return period that is, or is to be, funded in whole or in part by the council, and for the purposes of this paragraph *cost of travel*—
  - (i) includes accommodation costs and other costs and expenses associated with the travel; but
  - 15 (ii) does not include land based travel (as defined in section 79B(4));

### **26—Review of *Local Government Act 1999* and *Local Government (Elections) Act 1999***

- 20 (1) The Local Government Commission must, as soon as practicable after section 24 of this Act comes into operation, conduct a comprehensive review of the *Local Government Act 1999* (as amended by this Act) and the *Local Government (Elections) Act 1999* to be undertaken and submit a report on the results of the review to the Minister.
- (2) Without limiting subsection (1), the review must consider the following:
  - 25 (a) the scheme for reviews and complaints under Chapter 13 of the Act, including amendments that would achieve efficient and effective processes in relation to complaints relating to council members and employees;
  - (b) rebates on and exemptions from rates under Chapter 10 of the Act;
  - (c) amendments required to ensure diversity of representation on councils;
  - 30 (d) the codes of conduct for members and employees;
  - (e) matters connected with the establishment of a register of State-owned land under the care, control and management of councils;
  - (f) the introduction of compulsory voting in council elections;
  - (g) amendments that could be made with a view to the simplification of the Act;
  - 35 (h) efficiencies that may be achieved from cross-council collaboration, including by identifying legislative barriers to such collaboration.
- (3) The review and the report must be completed within 12 months of the day on which section 24 of this Act comes into operation.
- 40 (4) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

(5) In this section—

*Minister* means the Minister to whom the administration of the *Local Government Act 1999* is committed.

## Schedule 1—Transitional provision

### 5 1—Transitional provision

- (1) The requirement under section 126(2) of the *Local Government Act 1999* (as in force immediately after the commencement of section 21 this Act) that the membership of an audit committee of a council may only be comprised of persons selected from a list of persons established by the Auditor-General does not apply until the beginning of the financial year immediately following the year in which that commencement occurs (the *designated day*).
- 10
- (2) A person who, on the designated day—
- (a) holds office as a member of an audit committee of a council; and
  - (b) is not on the list of persons established by the Auditor-General,
- 15 ceases to hold office as a member of the audit committee.

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# **Appendix 1**

*Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018*

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## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
1 – Short Title	If passed, this Act will be called the Local Government (Ratepayer Protection and Related Measures) Amendment Act 2018	As the Bill has already been introduced to Parliament it is a moot point however, given the content of the Bill, nomenclature akin to Local Government (Accountability and Transparency Measures) Amendment Act 2018 or Local Government (Reform and Efficiency Measures) Amendment Act 2018 would have been more accurate and less emotive.
2 – Commencement	The Act will come into operation on the day on which it is assented to by the Governor. Sections of the Act related to performance measures, general duties and a new Local Government Commission would commence three months after assent.	There may be several aspects of these reforms that would benefit from a delayed commencement as it will take time for the State Government and councils to establish the mechanisms needed for efficient and effective operation.
3 – Amendment provisions	Technical drafting matter	No comment
4 – Amendment of section 4 – Interpretation	New definition that established the Local Government Grants Commission as the ‘Commission’ or ‘Local Government Commission’	The Local Government Grants Commission will already take on non-core functions regarding boundary reform from 1 January 2019 arising from the <i>Local Government (Boundary Adjustment) Amendment Act 2017</i> . As with boundary reform, the provisions of the current Bill are most likely to be well outside the skillset and resourcing of the Commission. As such there would need to be a reasonable increase in FTE to ensure outcomes can be achieved.

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
<p>5 – Insertion of section 8A – Annual review of performance of councils</p>	<p>A new Local Government Commission would be responsible for preparing and publishing an Annual Review of SA Council Performance document outlining a series of quantitative indicators for measuring and comparing the performance of councils.</p> <p>Indicators would be based on the quality and cost standards for services, equity of service delivery, timeliness of service delivery and complaint handling processes.</p> <p>Performance indicators can only be published or altered following consultation with the LGA.</p> <p>Councils would be required to provide to the Commission an annual report on performance against the published indicators, in a form determined by the Commission.</p> <p>The Commission would have a discretionary power to refer a matter of concern about a council to the SA Productivity Commission for further review and ask that a report be prepared for the Minister.</p>	<p>Council is generally supportive of a sector –wide benchmarking program, given that a number of councils, including Adelaide Hills Council are already participating in the Local Government Excellence (Benchmarking) Program.</p> <p>There may be synergies to be achieved through amending s123 and requiring reporting against the proposed measures in the Annual Report.</p> <p>Referral to the Productivity Commission, under 8A(6) appears inappropriate due to that agency’s macro-perspective whereas the Auditor-General would be better placed to inquire into individual council performance (from a financial management perspective).</p>
<p>6 – Amendment of section 50 – Public consultation policies</p>	<p>Insertion of a new requirement for council public consultation policies to mandate the use of ‘internet platforms’ (social media) as a consultation and engagement tool.</p>	<p>Council is supportive of this provision as it mirrors the practice of many councils, including Adelaide Hills currently. Some of the small rural councils may have difficulty meeting the technical support demands of these requirements.</p>
<p>7 – Amendment of section 56 – General election to be held in special case</p>	<p>If a council passes a resolution of no confidence in the principal member of the council, a general election for all positions on the council must be called.</p> <p>This provision does not apply to a principal member that is elected from within the council.</p>	<p>The non-performance of a Principal Member, as the catalyst for proposed clause 56(1a), appears to be disproportionate to the need to hold a general election (i.e. cracking a walnut with a sledgehammer). The conduct provisions (both current and proposed) should be sufficient to manage the Principal Member’s conduct.</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
8 – Amendment of section 62 – General duties	<p>It would become a breach of general duties to make a frivolous or vexatious code of conduct complaint against another member.</p> <p>All overseas travel taken by members that is funded by the council must be approved by a resolution of the council prior to the commencement of travel (unless special circumstances apply).</p> <p>A report on the costs and outcomes of overseas travel undertaken by a council member must be submitted to the council within two months of the conclusion of the travel (with special provisions applying to an election period).</p>	<p>Frivolous or vexatious code of conduct complaint – Council supports this provision.</p> <p>Overseas Travel – Council supports this provision and it could also be reasonably expanded to interstate travel.</p> <p>Report on Overseas Travel - Council supports this provision and notes that the proposed timeframe is generous compared to the other reporting timeframes contained in the Bill.</p>
9 – Insertion of sections 79 A to 79 C 79A Publication of credit card	<p>Within 14 days of the end of each month, councils would be required to publish on their website details of each credit card provided by the council for use by council members, including the name of members entitled to use the cards, and a statement of expenses for the month.</p> <p>Each monthly report must remain on the council website for a period of five years.</p> <p>A link to the website must be published on ‘internet platforms’ (social media).</p>	<p>Council does not issue credit cards to Council Members and is not supportive of the practice for any council.</p> <p>The requirement to publish statements has some resource implications as will the resultant responding to queries about credit card expenditure.</p> <p>Aggregated with the other proposed reporting provisions, these measures will increase corporate compliance costs and is likely to divert funds from services and infrastructure.</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
<p>9 – Insertion of sections 79 A and 79 C 79B Publication of travel by members</p>	<p>Within 14 days of the end of each month, councils would be required to publish a report on any interstate travel undertaken by council members that is funded wholly or in part by the council. This report must include accommodation costs and other costs and expenses associated with the travel, excluding ‘land based travel costs’. Each monthly report must remain on the council website for a period of five years. A link to this report must be provided on ‘internet platforms’ (social media).</p>	<p>Council is supportive of the transparency provisions but, as identified above, this measure will increase compliance costs.  Alternatively reporting could occur annually in the Annual Report.</p>
<p>9 – Insertion of sections 79 A and 79 C 79C Publication of certain gifts funded by councils</p>	<p>Within 14 days of the end of each month, councils must publish on their website details of any gifts provided to council members that were wholly or partly funded by the council. Each monthly report must remain on the council website for a period of 5 years. A link to this report must be provided on ‘internet platforms’ (social media).</p>	<p>The provisions seem to extend the current regime through increased frequency and medium or reporting.  As identified above, this measure will increase compliance costs.</p>
<p>10 - Amendment of section 90 – Meetings to be held in public except in special circumstances</p>	<p>This provision proposes changes to the reasons that a council could go into confidence to discuss information of a commercial nature. S.90(b) and (d) would be deleted and replaced with one clause. This provision also introduces a requirement for the name of each member who voted in favour or opposed a motion to go into confidence.</p>	<p>Commercial Information - Council is supportive of the change to the commercial information provision  Recording Names – Council is not supportive of this proposed provision as it is unnecessary given the current requirements of s90(7).</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
11- Amendment of section 91 – Minutes and release of documents	Consequential to clause 10.	No comment
12 – Amendment of section 95 – conduct at meetings	<p>The Presiding Member of a council would be empowered to censure a member or suspend a member for a part, or for the remainder of a meeting if a member is behaving in an improper or disorderly manner or causing interruption.</p> <p>The member must be allowed to make a personal explanation before the Presiding Member considers that this section has been contravened.</p>	Council is supportive of the proposed provisions.
13 – Insertion of 95A – Petitions	<p>This provision limits the circumstances in which a petition can be refused to be received by a council.</p> <p>A council must, within 60 days of receiving a petition, ensure that the petition is considered by the council, and that a response is provided to the person listed first on the petition.</p>	<p>There is conflict between the proposed insertions in that it details within 60 days, yet the Regulations detail to the next meeting of Council. Furthermore the proposed insertion details to a meeting of Council, yet the Regulations details for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.</p> <p>Council’s Petition Policy provides for a response to the head petitioner following Council’s consideration of the petition.</p>
14 – Insertion of sections 99A and 99B 99A Remuneration by CEO	<p>Subject to any relevant Act or industrial instrument, a CEO remuneration package could only be comprised of base salary, super, vehicle and ICT.</p> <p>This provision only applies to the appointment or reappointment of a CEO and would not alter existing contracts during the term of that contract.</p>	Council is generally supportive of the proposed provision, subject to not being in conflict with other employment laws.



## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
<p>14 – Insertion of sections 99A and 99B</p> <p>99B Publication of employment contract of CEO</p>	<p>Within 14 days of entering into or renewing a contract of employment with a CEO, the council must publish the contract on its website in a ‘prominent location’.</p> <p>A contract published under this section must remain on the website for a period of five years.</p> <p>A link to the contract must be provided on ‘internet platforms’ (social media).</p> <p>This provision would apply to any contract entered into before or after the commencement of this Act.</p>	<p>Council does not support this proposed provision as it considers it unnecessary, excessive and may conflict with employment laws.</p> <p>An alternative may be that the contract of employment must be provided to the Council in its entirety prior to the Council resolving its approval. The document would then be managed in accordance with s91.</p>
<p>15 – Amendment of section 105 – register of remuneration, salaries and benefits</p>	<p>A council CEO must ensure that the council register of salaries is published in a prominent location on the council’s website.</p>	<p>Council is supportive of this proposal.</p>
<p>16 – Insertion of section 105A and 105B – 105A</p> <p>Publication of credit card expenditure</p>	<p>Within 14 days of the end of each month, councils would be required to publish on its website details of each credit card provided by the council for use by council employees, including the job title of employees entitled to use the cards, and a statement of expenses for the month.</p> <p>Each monthly report must remain on the council website for a period of five years.</p> <p>A link to the website must be published on ‘internet platforms’ (social media).</p>	<p>Publication of credit cards – The requirement to publish statements has some resource implications as will the resultant responding to queries about credit card expenditure.</p> <p>As identified above, this measure will increase compliance costs.</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
16 – Insertion of section 105A and 105B – Publication of certain gifts funded by council	<p>Within 14 days of the end of each month, councils must publish on their website details of any gifts provided to council employees that were wholly or partly funded by the council.</p> <p>This report must include the job title of the person receiving the gift and a description of the gift, including costs.</p> <p>Each monthly report must remain on the council website for a period of five years.</p> <p>A link to this report must be provided on ‘internet platforms’ (social media).</p>	<p>A reporting regime already exists for gifts and benefits under the Code of Conduct for Council Employees. It may be more efficient to combine the regimes.</p>
17 Amendment of section 109 – General Duty	<p>All overseas travel taken by council employees that is funded by the council must be approved by a resolution of the council prior to the commencement of travel (unless special circumstances apply).</p> <p>A report on the costs and outcomes of overseas travel undertaken by a council member must be submitted to the council within two months of the conclusion of the travel (with special provisions applying to an election period).</p>	<p>Council is supportive of the transparency provisions but, as identified above, this measure will increase compliance costs.</p> <p>Alternatively reporting could occur annually in the Annual Report.</p>
18 – Amendment of section 115 Form and content of returns	<p>This clause inserts a provision requiring that a return under this division would be required to include information about any interstate travel undertaken during the return period.</p>	<p>Council is not supportive of this provision as the purpose of the return to declare specified interests that occurred over the return period, for the CEO to the council and for prescribed officers to the CEO (and not the council). In both cases the recipient(s) of the form would be fully aware of the travel and the disclosure would serve no purpose.</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
<p>19 – Insertion of Chapter 7 Part 4 Division 2A – Travel by employees</p>	<p>Within 14 days of the end of each month, councils would be required to publish a report on any interstate travel undertaken by council employees that is funded wholly or in part by the council.</p> <p>Within three months after the end of the financial year, the council would be required to publish a report on all travel undertaken by employees that was funded in whole or in part by the council during the financial year.</p> <p>This report must include accommodation costs and other costs and expenses associated with the travel, excluding ‘land based travel costs’.</p> <p>Each monthly report must remain on the council website for a period of five years.</p> <p>A link to this report must be provided on ‘internet platforms’ (social media).</p>	<p>Council is supportive of the transparency provisions but, as identified above, this measure will increase compliance costs.</p> <p>Alternatively reporting could occur annually in the Annual Report.</p>
<p>20 – Amendment of section 123 – Annual business plans and budget</p>	<p>An Annual Business Plan and budget would be required to:</p> <ul style="list-style-type: none"> <li>• Identify any infrastructure projects from previous years that have not been completed to plan or budget.</li> <li>• Include forward estimated over the following three financial years.</li> <li>• Provide additional details of how new services (exceeding \$500k) and new projects (exceeding \$1m) will be funded, and the impact on council rates.</li> </ul> <p>In preparing a draft Annual Business Plan, councils would be required to publish a notice on ‘internet platforms’ (social media) calling for proposals from the community about projects that should be included in the plan. A report on the outcomes of this consultation must be provided to council. Following the adoption</p>	<p>Council is supportive in principle of the proposed s123(2)(ba), (ea) and (fa).</p> <p>In relation to proposed s123(aaa) and the resultant s123(11a), the proposed consultation process could result in a raft of proposals that were inconsistent with the Council’s suite of strategic management plans (all of which are already subject to community consultation). As such, the resources required to assess and prepare the required report could be particularly onerous.</p> <p>In relation to proposed s123(13), a threshold of 10% is low. This may lead to an erroneous practice for councils to over-scope projects to build in sufficient contingency. This would not be in</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
	<p>of the Annual Business Plan, councils would be required, within 14 days, to publish a response to each proposal submitted by the community.</p> <p>A CEO would be required to provide a report to council on any new project or service that exceeds the allocated expenditure during the financial year by more than 10%. This report must be published on the council website and social media within 30 days of the report being submitted to council by the CEO.</p>	<p>the best interests of the community.</p>
<p>21 – Amendment of section 126 – Audit Committee</p>	<p>The membership of a council Audit Committee would be limited to independent members chosen from a list of people prepared by the Auditor General.</p> <p>Council members and staff would be excluded from being members of a council Audit Committee.</p>	<p>Council is not supportive of this proposal as it sees benefit in having both Council Members and Independent Members on the Audit Committee.</p> <p>Council is not adverse to the proposal that the Presiding Member be an Independent Member.</p> <p>Insufficient information has been provided on the likely criteria to be used for ‘fit and proper persons’ to be on the Auditor-General’s list to comment on the appropriateness of this arrangement.</p> <p>Council recognises that Audit Committees consider matters well beyond the predominantly finance-based purview of the Auditor-General and question that Office’s ability to pre-qualify potential candidates to suit the range of functions required by council Audit Committees.</p>

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
22- Amendment of section 264 – Complaint Lodged in District Court	This provision would empower the proposed Local Government Commission to lodge a complaint to the District Court (needs to be amended to SACAT).	No comment
23 – Amendment of section 265 – Hearing by District Court	This provision would empower the proposed Local Government Commission to investigate or further investigate a complaint that has been lodged with the District Court (needs to be amended to SACAT).	No comment
24 – Insertion of Chapter 13 Part 1A – Conduct – complaints to Local Government Commission	<p>This section established a role for a new Local Government Commission to receive and investigate complaints about elected member behaviour and conduct.</p> <p>Following an investigation, the Commission may take action including a suspending or disqualifying a member, or requiring a member to reimburse the council's costs.</p> <p>The powers of the Commission under this section may be delegated to another person.</p>	<p>As identified above, the required skillset is outside of the Grant Commission's remit.</p> <p>The Ombudsman or the Office of Public Integrity, subject to resource support, are significantly better placed to conduct the role set out in proposed s269B.</p> <p>Council is supportive of the proposed powers for the Commission (or the body that would assume these powers) as set out in proposed s269C.</p>
25 – Amendment of Schedule 3 – Register of Interest – Form of returns	Consequential to clause 18 regarding the inclusion of travel expenses being included in the Register of Interests.	Refer to comments for clause 18.

## AHC Submission - Local Government (Ratepayer Protection and Related Measures) Amendment Bill 2018

Clause	Explanation	Adelaide Hills Council Submission
<p>26 – Review of Local Government Act 1999 and Local Government (Elections) Act 1999</p>	<p>This clause outlines a number of additional matters that would be reviewed by the Local Government Commission within 12 months of this Act coming into operation. The Commission would be required to provide a report to the Minister making recommendations for further legislated change.</p> <p>Matters for further review include:</p> <ul style="list-style-type: none"> <li>• The scheme for reviews of local government acts, decisions and operations</li> <li>• Rate rebates and exemptions</li> <li>• Diversity of representation on councils</li> <li>• Codes of conduct for members and employees</li> <li>• Establishing a register of state-owned land in the care and control of councils</li> <li>• Compulsory voting in local government elections</li> <li>• Amendments that would simplify the Act</li> <li>• Cross-council collaboration</li> </ul>	<p>Council is generally supportive of the concept of the review and that non-exclusive matters to be considered.</p> <p>The proposed timeframe is ambitious.</p> <p>As previously mentioned, the skillset required to conduct this review is outside of the Grant Commission’s current experience and resourcing.</p>

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## **Appendix 2**

*AHC Submission - Local Government (Ratepayer  
Protection and Related Measures) Amendment  
Bill 2018*

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**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.12

**Originating Officer:** David Collins, Manager Sustainable Assets

**Responsible Director:** Peter Bice, Director Infrastructure and Operations

**Subject:** Milan Terrace Pedestrian Crossing

**For:** Decision

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**SUMMARY**

The purpose of this report is to seek Council's support to undertake a detailed design of a wombat crossing for pedestrian facilities on Milan Terrace adjacent to the Stirling District Hospital. The community has raised concerns for pedestrians crossing at the current pedestrian ramps adjacent to the Stirling District Hospital.

Council staff engaged a traffic management consultant to collect traffic data and review the operation of the site. The consultant provided expert advice regarding the most appropriate treatment at the site and considers the requirements that Council has to installed traffic control devices such as pedestrians crossing in line with the Code of Technical Requirement for the installation of traffic control devices in South Australia.

The recommendation proposes a wombat crossing. This facility will be required to have new street lighting in addition to supplementary flashing warning lights on the crossing. This electrical work is not common works undertaken by Council, and as such it is difficult to estimate the construction of the wombat crossing. Detailed design and external advice on the associated costs of this type of works will be required. The report proposes that detailed design is funded this financial year (2018/19). This will ensure that the final deliberation and decision by Council will have a full understanding of the construction funding requirements.

The wombat pedestrian crossing will require the removal of two car parking spaces adjacent to the Stirling District Hospital and the hospital administration is aware of the need for the reduction in car parking spaces associated with any new pedestrian crossing facility.

A proposed wombat crossing facility must have a 40km/h speed limit installed as part of the approved traffic control device. The 40km/h limit must be located with a certain distance of the wombat crossing to be legal and meet Council's delegated obligations.

The request for a speed limit of 30km/h has been assessed against the Guideline for Speed Limit assessment in South Australia and both the Council officer and the Department concur that the use of 30km/h speed zone at this location is not in line with the guideline and therefore is not supported.



## RECOMMENDATION

### Council resolves:

1. That the report be received and noted.
  2. That funding of \$ 25,000 is allocated in the 2018/19 Capital Budget to complete detailed design and detailed cost estimates of the Wombat crossing.
  3. That the construction of the project be considered as part of the 2019/20 annual business planning process.
  4. That it is acknowledged that a 30km/h speed limit is not supported by the Department of Planning, Transport and Infrastructure
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## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal 1 People and business prosper

Strategy 1.13 We will work with other levels of government to improve safety for road users (including pedestrians and cyclists)

Management of the transport network is a key function of Council. Council has a key role in assisting other levels of government achieve road safety targets and as such the development and implementation of appropriate traffic management devices across the road network is seen as core business of Council.

### ➤ Legal Implications

The Minister of Transport has delegated authority via an Instrument of General Approval or Instrument of Authorisation and Delegation to the Council to undertake the installation of traffic control devices under Section 12, Road Traffic Act 1961. Under the requirements of this authorisation, the traffic control devices installed by Council shall in accordance with The Code of Technical Requirements that form part 2 of the authorisation.

The facility will need to consider Disability Discrimination Act 1992 implications on associated infrastructure attached to the use of this pedestrian crossing device.

### ➤ Risk Management Implications

*The detailed design of the wombat crossing pedestrian facility will assist in mitigating the risk of:*

*Construction being approved without a good understanding of construction costs leading to a high risk of delivery costs that are highly inaccurate and additional public funding required.*

Inherent Risk	Residual Risk	Target Risk
Median (1A)	Low (1C)	Low (1C)

➤ **Financial and Resource Implications**

Currently the project is not in the Annual Business Plan or Long-Term Financial Plan and hence the project would need additional capital expenditure which would be captured in a forthcoming budget review. The funding will increase Council's capital budget expenditure in 2018/19 by \$25,000.

In terms of delivering the project, current project management resources are fully committed to delivering the existing capital program. The inclusion of another project into the program in the 2018/19 Financial Year is unlikely. Subsequently, the detailed design component is proposed to be undertaken by external consultants, and there is currently no detailed plan and hence no detailed cost estimate to implement as yet.

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

In addition to the petition signed by 60 signatories in January 2018, a number of community members have written to Council regarding their concerns in crossing the road at this location.

➤ **Environmental Implications**

Not Applicable

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

The proposed pedestrian facility results in the loss of car parking immediately adjacent to the Stirling District Hospital. The Stirling District Hospital CEO has been consulted with and is supportive of the new pedestrian facility acknowledging the loss of two car parking spaces.

Consultation on the development of this report was as follows:

*Council Committees:* Not Applicable

*Council Workshops:* Not Applicable

*Advisory Groups:* Not Applicable

*Administration:* Chief Executive Officer, Andrew Aitken  
Director Infrastructure and Operations, Peter Bice

*Community:* Stirling District Hospital Administration

## 2. BACKGROUND

Council received a petition with 60 signatures at its Ordinary Council Meeting 23 January 2018. The petition stated:

*We, the undersigned, wish to express the immediate need for a safe pedestrian crossing on Milan Terrace adjacent to the Stirling Hospital. This road is becoming increasingly dangerous for pedestrians who wish to access the Hospital from the carpark opposite and for residents who live in the vicinity and need to cross Milan Terrace.*

The meeting received and noted the petition.

### 8.1.1. Pedestrian Crossing Milan Terrace Stirling

Moved Cr Jan-Claire Wisdom 2/18  
S/- Cr Ian Bailey

Council resolves that the petition with 60 signatories requesting a pedestrian crossing on Milan Terrace Stirling adjacent to the Stirling Hospital, be received and noted.

Carried Unanimously

Further at Council's meeting on 27/03/2018 it resolved the following;

### 12.3. Milan Terrace Pedestrian Safety

Moved Cr John Kemp 68/18  
S/- Cr Lynton Vonow

1. That the report be received and noted
2. That a Traffic Plan concept be developed for a wombat or zebra crossing pedestrian facility
3. That Council undertakes consultation with the community, Stirling Hospital and other relevant stakeholders on the concept plan for a wombat or zebra crossing
4. That Council submits a proposal to the Department of Planning, Transport & Infrastructure to reduce the speed limit on Milan Terrace to 30km/h from a point approximately 80 metres west of the Druid Avenue intersection and approximately 40 metres east of the Johnston Street intersection
5. That a report be brought back to Council to determine whether future budget considerations are applicable including costings for a wombat or zebra crossing.

Carried Unanimously

## 3. ANALYSIS

The installation of a pedestrian facility such as Wombat Crossing (raised platform zebra crossing) is a traffic control device. As a traffic control device, Council has requirements that it must ensure are present before it can install these traffic control devices under Delegation from the Minister of Transport.



Wombat Crossing (typical)

The Code of Technical Requirements (The Code) provides Council with guidance on the requirements that must exist to meet these obligations. Officers of Council must undertake an investigation and collate the relevant information to assess compliance or otherwise with The Code.

In relation to pedestrian crossing facilities, The Code and subsequent referenced guidelines and standards provides warrants based on pedestrian numbers and traffic volumes as a key for determining factors as to the appropriateness of a crossing at that location. Council cannot install devices that do not meet the minimum requirements of The Code.

#### Crossing Type (Wombat Proposed)

A zebra crossing is not considered appropriate at this location given the requirement for these traffic control devices to be within areas that currently have a mean speed of less than 30km/h. The Operational Instruction 10.6 On-street zebra crossing issued by the Department for Planning, Transport and infrastructure provide traffic-engineering practitioners with clear guidance on the requirements to meet The Code.

Where the Zebra Crossing requirements cannot be met, the Operational Instruction indicates that a wombat crossing may be a suitable alternative.

Council sought advice from traffic engineering specialist to determine the appropriate treatment for the site. The consultant's report (Appendix 2) does not support the installation of a Zebra Crossing but indicates that Council would be able to install a wombat crossing at this location and meet its legal obligations on the installation of traffic control devices.

To assist Council in determining if other pedestrian facilities, such as a wombat crossing, can be installed at the site on Milan Terrace, GTA Traffic-Engineering Consultants were engaged to collect up-to-date traffic data and provide an opinion about a wombat crossing at this location.

The traffic count was undertaken on Thursday 15 February 2018 for an 8 hour period between 9am and 5pm. This count determined the number of pedestrians that crossed the road and the number of vehicles that used Milan Terrace during this 8 hour period. Pedestrian traffic counts are broken into 30m zones and in this situation, three adjacent zones (Zone a, B and C) were surveyed during the count period.

The 8 hour count and the 30m zone is the requirement of The Code, standards and guidelines. Based on the above traffic counts under the current situation, Zone A (in the vicinity of the existing crossing area) having 120 pedestrian movements would just fall short of the identified 160 crossing movements with the traffic volumes exceeding 1,600 in 8 hours.

However, in the consultant's opinion, it could be argued that there would readily be a latent or potential demand of pedestrians using the facility. If the number of pedestrian movements within Zones B and Zone A were considered plus the westbound movements within Zone C, the potential number of pedestrian movements would result in 177 crossing movements. Accordingly, this would satisfy the guiding warrant of The Code.

Under this situation above, it is noted that to ensure that the pedestrian utilises any new facility provided it may be necessary to provide a footpath and fencing to guide the pedestrians from the car park area on the northern side of Milan Terrace to the new facility.

The traffic consultant has prepared a concept plan of a wombat crossing. The concept plan is shown in Appendix 1.

Council has not completed any detailed design and costing for the construction of the wombat crossing. Given that the project will require specialist technical design and advice regarding in particular the electrical works associated with street lighting and the flashing warning lights, the ability for Council staff to estimate this type of work is limited due to no recent contract of this nature. It should be noted that the State Government has recently allocated \$200,000 to upgrade the school pedestrian crossing in Kersbrook. Hence, project of this nature that involves lighting and electrical works can result in significant cost. Therefore, detailed design should be undertaken to ensure that the final deliberation and decision by Council can be fully informed regarding the construction funding that is required.

Speed Limit – 30km/h

Council staff assessed the speed limits as per the Speed Limit Guideline for South Australia Document prepared by the Department for Planning, Transport and Infrastructure (DPTI). Council staff did not believe that the road section met the criteria outlined in the Guideline for a 30km/h speed zone. Council staff have consulted with DPTI on the section of road and DPTI agree that 30km/h zone at this location is not supported. DPTI are responsible for approving the speed limits on Council roads.

It should be noted that the installation of a Wombat Crossing requires a 40km/h speed limit to be implemented as part of the legal operation of that type of traffic control device.

#### **4. OPTIONS**

Council has the following options:

- I. To resolve to undertake the detailed design and cost estimates of a wombat crossing and allocate funding of \$25,000 to commence detailed design in 2018/19 financial year (Recommended)
- II. Note and receive the report. Then consider the inclusion of the wombat crossing as part of the 2019/20 annual business planning process. This will delay any improvements to the pedestrian crossing until at least November 2019 given that detail design, tendering would need to occur following the adoption of the budget. (Not Recommended)
- III. Approve funding for the detail design and also the construction this financial year. The current project management resources are fully committed to the delivery of the currently funded capital works program. There is a high risk that the project would not be able to be delivered. In addition, there is no clear cost estimate of the wombat crossing installation with the detailed design works yet to be completed (Not Recommended)

#### **5. APPENDICES**

- (1) Concept – Wombat Pedestrian Facility
- (2) Consultant – Traffic Analysis Report

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# **Appendix 1**

*Concept – Wombat Pedestrian Facility*

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INSTALL 2 x W6-2A

INSTALL 1 x W6-SA2A(L)

DRUID AVENUE

INSTALL 2 x R4-1-40

INSTALL 1 x R4-1-50

ALLOCATE AS SHARED SPACE FOR DISABLED PARKING SPACE

RE-INSTATE KERB RAMPs

INSTALL 2 x R3-1A ON BOTH SIDES OF POST

REMOVE CAR PARKING SPACE (PARKING NOT TO BE PROVIDED WITHIN 5.0m ON THE APPROACH TO CROSSING)

INSTALL LONGER OUTREACH ARM AND TRIM VEGETATION TO IMPROVE LIGHTING AT CROSSING

SUBJECT TO REVIEW BY LIGHTING ENGINEER

INSTALL 2 x R3-1A ON BOTH SIDES OF POST

INSTALL 1 x R4-1-50

INSTALL 2 x R4-1-40






MILAN TERRACE

BILNEY ROAD

INSTALL 1 x W6-SA2A(L)

INSTALL 2 x W6-2A

SIGNAGE SCHEDULE

SIGN	DESCRIPTION	INSTALL
	R3-1 PEDESTRIAN CROSSING	4
	R4-1 40km/h SPEED RESTRICTION	4
	R4-1 50km/h SPEED RESTRICTION	2
	W6-2 PEDESTRIAN CROSSING AHEAD	2
	W6-SA2A(L) PEDESTRIAN CROSSING AHEAD	2



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## **Appendix 2**

*Consultant – Traffic Analysis Report*

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Reference: #S146780

13 June 2018

Adelaide Hills Council  
PO Box 44  
WOODSIDE SA 5244

**Attention: Mr. David Collins**

Dear David

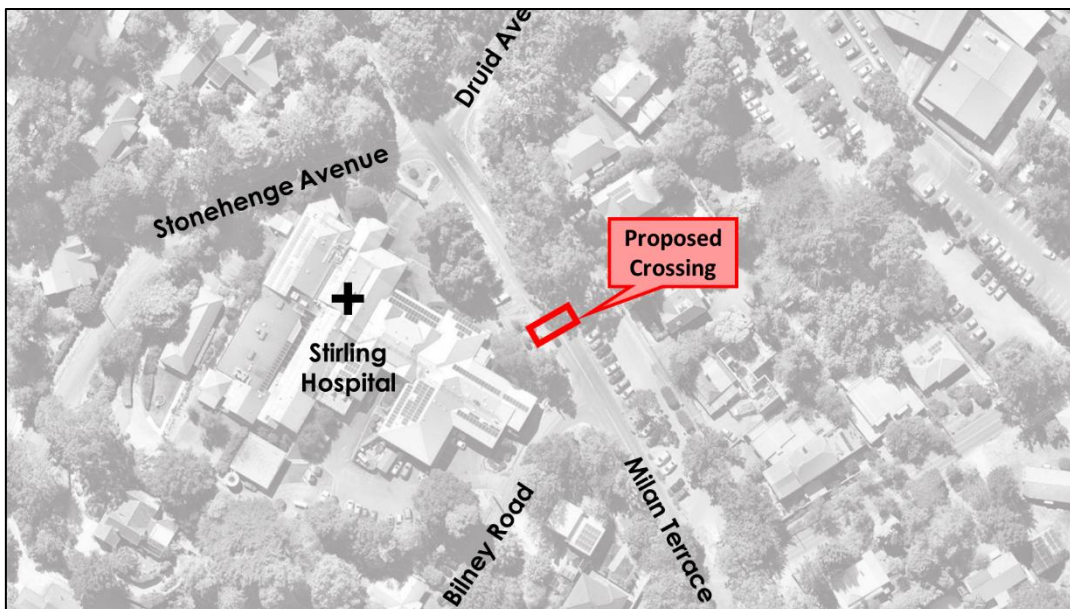
## RE: MILAN TERRACE PEDESTRIAN CROSSING ASSESSMENT

Further to our recent conversation, GTA has undertaken a review of for a possible pedestrian crossing facility either in the form of a Wombat or Zebra crossing located on Milan Terrace adjacent to Stirling Hospital. Our findings are outlined below.

### Background

Adelaide Hills Council has received a request and petition to install a Wombat Crossing at the existing crossing point on Milan Terrace adjacent to Stirling Hospital. The proposed crossing location is located approximately 60 metres south of the intersection with Druid Avenue and is shown in Figure 1 below. There are currently pedestrian kerb ramps provided at this location and a gap in the centre line, however no formal pedestrian protection is provided.

Figure 1: Crossing Location and its Environs



GTA was engaged to provide a site inspection and assessment to determine the suitability of the proposed crossing and location. The assessment specifically examines the suitability of a formalised crossing on Milan Terrace and further consideration should be afforded to provision of a crossing on the adjacent eastern service road.

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A site inspection was undertaken on 7 April 2018 and found that sight distance at the proposed crossing location met the requirements of the AustRoads Guide to Road Design (AGRD) part 4A (2017) – Unsignalised and Signalised Intersections. Views from either side of the proposed crossing are shown in Figures 2 to 5. A site inspection was also undertaken at night and found that the road was poorly lit and street lighting would be required to enable a formal crossing to be provided.

Subsequently GTA was also asked to undertake a feasibility assessment for a possible installation of a Zebra Crossing as an alternative solution to a Wombat Crossing treatment.

**Figure 2: View from East Side Looking South**



**Figure 3: View from East Side Looking North**



**Figure 4: View from West Side Looking North**



**Figure 5: View from West Side Looking South**



## Crossing Warrants

The recommended warrants for pedestrian crossings are outlined in the Department for Transport, Planning and Infrastructure's (DPTI) Code of Technical Requirements (henceforth referred to as The Code) and DPTI Operational Instruction 10.6 – Off Street Zebra Crossings. The warrants are described as follows:

*(a) In two separate one hour periods of any day (including Saturday and Sunday):*

*(i) 40 or more pedestrians per hour actually cross the road and could reasonably be expected to use the crossing; and*

*(ii) 200 or more vehicles per hour pass the site where the pedestrians cross during the same two hours; or*

*(b) During eight hours of any day:*

*(i) An average of 20 or more pedestrians per hour, cross the road (a total of 160 or more in eight hours) and could be reasonably be expected to use the crossing; and*

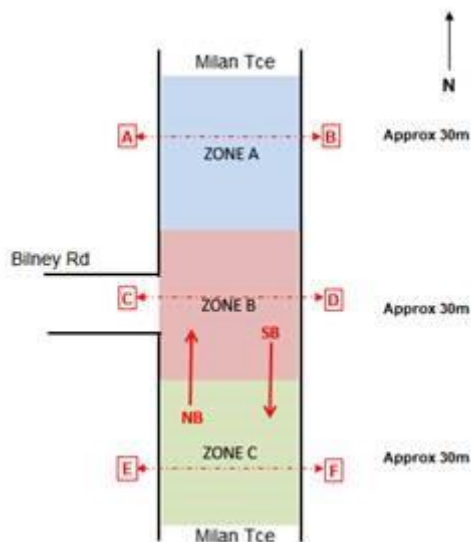
(ii) An average of 200 or more vehicles per hour pass the site during the same eight hours (a total of 1600 or more in eight hours).

It is noted that the installation of either a Zebra or Wombat Crossing will require the lighting to comply with the requirements as set out within the Code and the DPTI Operational Instruction.

### Traffic Survey

In order to understand the existing pedestrian and traffic movements, a pedestrian and traffic survey was undertaken on Milan Terrace on Thursday 15 February 2018 for an 8-hour period between 9am and 5pm. The traffic survey was undertaken in accordance with Appendix D of the Department of Planning, Transport and Infrastructure's (DPTI) Manual of Legal Responsibilities and Technical Requirements for Traffic Control Devices Part 2 - Code of Technical Requirements (The Code). The survey site layout is illustrated in Figure 6.

**Figure 6: Observed Pedestrian Crossing Locations**



The recorded pedestrian crossing movements are summarised in Table 1 while the recorded traffic movements are summarised in Table 2.

**Table 1: Pedestrian Crossing Movement Results:**

	<b>Movement</b>	<b>Children</b>	<b>Adult</b>	<b>Elderly</b>	<b>People with a Disability</b>	<b>TOTAL</b>
<b>Zone A</b>	<b>A-B</b>	0	42	20	0	62
	<b>B-A</b>	0	33	10	0	43
<b>Zone B</b>	<b>C-D</b>	0	1	7	0	8
	<b>D-C</b>	1	11	11	1	24
<b>Zone C</b>	<b>E-F</b>	1	6	3	0	10
	<b>F-E</b>	0	8	13	0	21
	<b>Total</b>	2	101	64	1	168

**Table 2: Recorded Traffic Volumes**

Direction	Vehicles
Northbound	1,125
Southbound	1,193
<b>Total</b>	<b>2,318</b>

The survey results showed that the total two-way pedestrian movements outside the hospital was 105 pedestrians over the survey period with a further 63 pedestrian movements at two observed crossing locations to the south.

The survey also found that the total two-way traffic flow (for the 8-hour period) on Milan Terrace was 2,318 vehicles.

The Code also identifies a weighting factor for children, elderly and people with a disability. After consideration to these weightings, Table 3 summarises the factored pedestrian crossing movements.

**Table 3: Factored Pedestrian Crossing Movement Results**

	Movement	Children	Adult	Elderly	People with a Disability	TOTAL
<b>Zone A</b>	<b>A-B</b>	0	42	30	0	72
	<b>B-A</b>	0	33	15	0	48
<b>Zone B</b>	<b>C-D</b>	0	1	11	0	12
	<b>D-C</b>	2	11	17	2	32
<b>Zone C</b>	<b>E-F</b>	2	6	5	0	13
	<b>F-E</b>	0	8	20	0	28
	<b>Total</b>	4	101	98	2	205

Metrocount surveys were undertaken at the proposed crossing location from 10 April 2018 to 16 April 2018. The Metrocount survey recorded traffic volumes and vehicle speed. The survey recorded an average annual daily traffic volume (AADT) of approximately 3,800 vehicles per day and the 85<sup>th</sup> percentile speed was found to be 48km/h.

### Feasibility of Wombat Crossing

Based on the above, under the current situation, Zone A having 120 pedestrian movements (factored) would just fall short of the identified 160 crossing movements with the traffic volumes exceeding 1,600 in 8 hours.

However, it could be argued that there would readily be a latent or potential demand of pedestrians using the facility. If the number of pedestrian movements within Zones B and Zone A were considered plus the westbound movements within Zone C, the potential number of pedestrian movements would result in 177 crossing movements. Accordingly, this would satisfy the guiding warrant of The Code.

It should also be noted that of the total number of recorded pedestrians, approximately 1/3 of pedestrians crossing Milan Terrace are elderly.

In respect to technical requirements as outlined in The Code, a summary of DPTI's technical requirements and whether they are met for the proposed Wombat Crossing location is provided in Table 4.

**Table 4: DPTI Code of Technical Requirements for Wombat Crossing**

Section	Clause	Requirement	Condition Met	Comments
8.4	a	The crossing shall only be installed on roads with a speed limit of 50 km/h or less.	Yes	
8.4	b	If the crossing is to be installed on a road with a speed limit of 50 km/h, a full-time 40 km/h speed limit shall be signposted in accordance with Figure 8.2. 40 km/h speed limit (R4-1) signs shall be duplicated on each side of the road, on each approach to the crossing. The size of the R4-1 signs shall be in accordance with AS 1742.4 MUTCD: Part 4: Speed controls (2008) table 3.2. 40 km/h speed signs may be omitted where it can be demonstrated that all vehicle speeds at the crossing location are less than 40 km/h.	Addressed in Design	
8.4	c	Wombat crossing ramps shall be positioned at right angles to the direction of approaching vehicles.	Addressed in Design	
8.4	d	Emergency services shall be consulted before installing a wombat crossing. If the crossing is located on an existing or intended bus route, DPTI's Public Transport Operations and Planning section and bus operators shall also be consulted.	Addressed in Design	
8.4	e	The length of the platform, measured parallel to the centreline of the road, shall be no less than 6.6 m. The length of the zebra markings, measured parallel to the centreline of the road, shall be no less than 6.0 m.	No	Based on the current proposed crossing location, a 6.6m wide platform with 1.2m ramps would not be possible due to indented parking on either side. At least one parking space on either side of the crossing would need to be removed to achieve the minimum width requirements.



Section	Clause	Requirement	Condition Met	Comments
8.4	f	The length of the ramp, measured parallel to the centreline of the road, shall be no less than 1.2 m.	No	As clause (e) above.
8.4	g	On bus routes, the length of the ramp, measured parallel to the centreline of the road, shall be 2.0 m, and the length of the platform, measured parallel to the centreline of the road, shall be no less than 7.0 m.	N/A	Not located on a bus route.
8.4	h	The platform and ramps shall be constructed in a material that contrasts in colour with the pavement markings	Addressed in Design	
8.4	i	The leading and trailing edges of the ramps shall be flush with the adjacent pavement.	Addressed in Design	
8.4	J	Continuously operating twin alternating flashing yellow signals may supplement the Pedestrian Crossing (R3-1) signs where: (i) it is necessary to increase the visibility of the crossing, (ii) the AADT is greater than 5000 vehicles, or (iii) the crossing is located near a school and is supervised by monitors.	Addressed in Design	The AADT is approximately 3,800 vehicles per day however due to the road geometry and trees located north of the crossing, warrant (i) may apply.
8.4	k	The Pedestrian Crossing (R3-1) sign shall be placed either side of the carriageway on divided roads.	N/A	Road is not divided.
8.4	l	The pedestrian crossing (zebra) markings shall continue across a median	N/A	Median is not present.

Key issues associated with the installation of a Wombat Crossing include:

- Achieving the minimum crossing width due to indent parking on either side of the proposed location.

The proposal to introduce any formalised crossing at the proposed location will result in the loss of some parking to achieve minimum crossing widths and sight distance requirements. The installation of a wombat crossing however encourages lower speed without the need for additional traffic calming infrastructure since a 40km/h speed restriction is applied on approach and departure from the crossing and the crossing platform acts as a traffic calming device.

### Feasibility of Zebra Crossing

In respect to the warrant for a Zebra crossing, the traffic surveys identified 120 pedestrian movements (factored). On this basis, the crossing movements for the proposed zebra crossing location would result in a minor shortfall for a formalised crossing which requires 160 crossing movements when the traffic volumes exceed 1,600 in 8 hours.

Notwithstanding the above, it is also likely there would be a latent or potential demand of pedestrians using the facility. If the number of pedestrian movements within Zones B and Zone A were considered plus the westbound movements within Zone C, the potential number of

pedestrian movements would result in 177 crossing movements. Accordingly, this would satisfy the guiding warrant of The Code.

It should also be noted that of the total number of recorded pedestrians, approximately 1/3 of pedestrians crossing Milan Terrace are elderly.

DPTI's Operational Instruction 10.6 for On-Street Zebra Crossings outlines many requirements/conditions to consider when installing such a treatment. A summary of the assessment criteria for a Zebra crossing based on the requirements of Section 5 of DPTI's Operations Instruction 10.6 is provided in Table 5.

**Table 5: DPTI Technical Requirements (Operational Instruction 10.6) for On-Street Zebra Crossing**

Section	Clause	Requirement	Condition Met	Comments
5	a	<p>A low speed environment with mean speeds in the order of 30 km/h or less (based on engineering judgement) should occur 30 m to 50 m before the crossing on each approach. This should be created when existing conditions are unsuitable.</p> <p>Where mean speeds prior to the installation of the crossing are greater than 30 km/h, post-installation monitoring shall be conducted to confirm whether speeds have sufficiently reduced to meet this requirement, or identify the need for subsequent measures to reduce speeds.</p>	No	Based on the current geometry of Milan Terrace and the traffic survey, the 85 <sup>th</sup> percentile speed was found to be 48.2km/h. To support 30km/h speed on approach to the crossing, measures would need to be implemented to encourage/create a slower speed environment on approach, otherwise post-installation monitoring would be required.
5	b	A zebra crossing shall not be installed on roads subject to a speed limit greater than 50 km/h.	Yes	
5	c	The crossing should be located where concentrations of pedestrians naturally cross the road, including any latent demand. This may be achieved by redesigning approaches to funnel pedestrians to the crossing.	Yes	Pedestrian and traffic surveys suggest the desire line is within the proposed area of the crossing.
5	d	No more than one lane (unless section 5(f) applies) or one line of traffic in any one direction shall be encountered by a pedestrian using a crossing. This can be achieved by such measures as narrowing the lane (consider widths of 2.7 m or less), blocking a parking lane with a kerb extension, or installing kerbs or other physical devices to prevent drivers passing to the left on unkerbed roads.	Yes	It is recommended that lane widths are decreased to 2.7m to encourage lower speed at the crossing location. This would require build-outs to be constructed at the proposed crossing location.



Section	Clause	Requirement	Condition Met	Comments
5	e	<p>There shall be adequate sight distance between approaching drivers and pedestrians about to use the crossing so that drivers can stop safely to give way to pedestrians on the crossing. Stopping restrictions or kerb extensions may be used to achieve the sight distance. Sight distance requirements are provided in Austroads Guide to Road Design Part 4A: Unsignalised and signalised intersections. Unless parking control signs permit otherwise, the Australian Road Rules prohibits drivers from stopping 20 m before and 10m after the crossing.</p>	Yes	
5	f	<p>Two lanes may be installed in any one direction at a zebra crossing when one of those lanes is a bicycle lane.</p> <p>The line marking of the bicycle lane shall not be marked through the crossing. A gap of 1 m from the parallel white stripes of the crossing shall be provided.</p> <p>The width of the bicycle lane may be a minimum of 1 m on the approach to the zebra crossing, and the other lane 2.7 m wide or less to maintain the low speed environment.</p> <p>Advance warning of the zebra crossing shall be provided in the bicycle lane in the form of pavement marking of the Pedestrian Crossing (R3-1) and Pedestrian Crossing Ahead (W6-2) symbols.</p> <p>The W6-2 pavement marking shall be installed 24 m in advance of the crossing. The R3-1 pavement marking shall be installed 4 m in advance of the crossing. Dimensions of these markings are shown in Figures 5.1 and 5.2 for varying widths of bicycle lane.</p> <p>These pavement markings shall be skid and slip resistant to the requirements of AS 4049 Paint and related materials – Pavement marking materials and the DPTI Pavement Marking Manual so as not to cause a hazard for road users. Pavement marking shall comply with DPTI Master</p>	N/A	

Section	Clause	Requirement	Condition Met	Comments
		<p>Specification Parts R45 and R46.</p> <p>As the pavement marking is intended to replicate the R3-1 and W6-2 warning signs, the colour of the pavement marking should match the AS 1906 Fluorescent Yellow Green sign colour. Pantone 396C is considered to be a suitable match. If the symbol is produced with pavement marking paint in accordance with DPTI Master Specification Part R45, the use of AS 2700 Golden Yellow, Y14 is permissible.</p>		
5	g	<p>The minimum width of the crossing, which is defined by the length of the white stripes, shall be 8 m.</p> <p>If there is a bicycle lane on the approach to the crossing the minimum width shall be 10 m to increase the sight distance between cyclists and pedestrians near the crossing since an adjacent motor vehicle will obstruct the visibility of each other.</p>	<b>No</b>	Based on the current proposed crossing location, an 8m wide crossing would not be possible due to indented parking on either side. At least one parking space on either side of the crossing would need to be removed to achieve the minimum width requirements.
5	h	<p>The ramp from a footpath to the crossing should be located centrally to the crossing. Its minimum width shall be 1.8 m. The outer edge of the ramp (inclusive of any wings) shall terminate at least 1 m from either end of the crossing. The location of the ramp and crossing pavement markings is dependent on the physical site conditions and pedestrian desire lines.</p> <p>The zebra crossing markings indicate the closest point for drivers to stop to give way to pedestrians. If there are safety reasons where it is necessary to further separate drivers from pedestrians, this is achieved by adjusting the width of the crossing relative to the width of the ramp.</p> <p>Fencing or other measures on the roadside to guide pedestrians physically to the ramp may be needed. Where there are no kerbs, these requirements shall apply to the pedestrian path leading to the crossing.</p>	<b>No</b>	The current pedestrian ramp widths are approximately 1m, excluding the wings. Construction of new pedestrian ramps would be required to comply with the code.

Section	Clause	Requirement	Condition Met	Comments
5	i	A Pedestrian Crossing Ahead sign (W6-2) shall be used in advance of zebra crossings where visibility of R3-1 signs are obstructed or a bicycle lane is at the crossing.	<b>Addressed in Design</b>	These would be required due to the geometry of the road and the trees on the north side of the crossing.
5	j	The crossing shall only be used mid-block; not on slip lanes or at intersections.	<b>Yes</b>	
5	k	The crossing should not be installed where drivers may inadvertently queue over the crossing. Consider the impacts between vehicle and pedestrian volumes at the location.	<b>Yes</b>	
5	l	Continuously operating twin alternating flashing yellow signals may supplement the Pedestrian Crossing sign (R3-1) where:  (i) it is necessary to increase the visibility of the crossing, or (ii) the AADT is greater than 5000 vehicles, or (iii) the crossing is located near a school and is supervised by monitors.	<b>Addressed in Design</b>	The AADT is approximately 3,800 vehicles per day however due to the road geometry and trees located north of the crossing, warrant (i) may apply.
5	m	This Operational Instruction applies for a typical two-way road. Where the crossing is to be installed on a one-way road, the above requirements shall apply to that direction, and the traffic control devices not applying to the direction of travel should be omitted.	<b>N/A</b>	

Key issues associated with the installation of a Zebra Crossing include:

- Controlling vehicle speed to achieve 30km/h or lower on approach to the crossing.
- Achieving the minimum crossing width due to indent parking on either side of the proposed location.
- Achieving the minimum width required for the crossing ramps.

While the implementation of a Zebra Crossing may appear to be a comparatively low-cost crossing option, the requirement to provide supporting infrastructure to achieve a target speed of 30km/h or less on approach to the crossing will increase overall project costs.

The implementation of a 30km/h speed zone around the crossing area is unlikely to achieve a high level of compliance since the road environment is not consistent with the speed limit. As a result, simply installing speed restrictions signs alone would not achieve the desired speeds on approach to the crossing and physical measures which alter the road environment to achieve a self-enforcing speed need to be considered. Furthermore, this will very unlikely be supported by DPTI (the approving authority for any speed limit changes).

To achieve low speed on approach to the crossing, Local Area Traffic Management (LATM) measures could be considered such as a series of raised pavements, road humps or slow points (refer to examples in Figures 7 to 9). However, LATM is not necessarily consistent with the nature of the road environment and may not be expected, so adequate warning must also be provided in advance of the treatments. The downhill slope north of the proposed crossing location will present further challenges for the selection and installation of LATM treatments.

**Figure 7: Raised Intersection Pavement**



Source: Google Streets

**Figure 8: Road Humps (Watt's Profile)**



Source: DPTI Code of Technical Requirements

Figure 9: Slow Point



Source: DPTI Code of Technical Requirements

## Conclusion

GTA has reviewed the proposals for a Wombat or Zebra crossing to be installed on Milan Terrace, adjacent to Stirling Hospital and the following conclusions are made:

- Notwithstanding the type of crossing proposed, it will be necessary to remove parking to maintain sight distance and minimum crossing widths.
- The proposals require the upgrade of street lighting.
- Considering the downhill slope and limited sight distance to the north, it is recommended that flashing crossing lamps are considered to improve visibility of the crossing.
- The installation of a Zebra crossing will require LATM devices (and associated warning assigns) to be installed to achieve a speed of 30km/h or less on approach to the crossing.
- The installation of a Wombat crossing provides traffic calming within the crossing. A 40km/h speed zone is applied in conjunction with the Wombat Crossing. Some warning signage would be required.
- Given the nature of the road environment, it is recommended that flashing warning lightings are installed at the proposed crossing irrespective of whether the crossing installed is a Zebra crossing or a Wombat crossing.

Should you have any questions or require any further information, please contact me in our Adelaide office on (08) 8334 3600.

Yours sincerely

**GTA CONSULTANTS**



**David Kwong**  
Associate Director

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 12.13

**Originating Officer:** Steven Watson, Governance and Risk Coordinator

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Council Resolutions Update including 2 year update to outstanding resolutions

**For:** Decision

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**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
23/08/2016	Ordinary Council	163/16	Piccadilly CFS Relocation
7/12/2016	Special Council	272/16	Contract for Sale Portion of AHBTC site
13/12/2016	Ordinary Council	281/16	Piccadilly CFS Relocation
28/11/2017	Ordinary Council	282/17	Rededication of Crown Land - Hender Reserve
1/08/2018	Special Council	183/18	Retirement Village Review
11/09/2018	Special Council	231/18	Exclusion of Community Land – Crafers Retirement Village
11/09/2018	Special Council	235/18	Sale of closed unnamed road off McVitties Road, Birdwood
8/10/2018	Audit Committee	AC19/40	2017-18 Draft General Purpose Financial Statements
23/10/2018	Ordinary Council	264/18	2017-18 General Purpose Financial Statements
23/10/2018	Ordinary Council	265/18	Building Better Regions Fund
5/11/2018	Audit Committee	AC23/18	6.2. 2017-18 End of Year Financial Report
5/11/2018	Audit Committee	AC27/18	Budget Review 1

## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal                      Organisational Sustainability  
 Strategy                Governance

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

➤ **Environmental Implications**

Not applicable

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

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.

In total there are zero (0) uncompleted resolutions for which an update is required for Council.

An update for these resolutions is provided below.

Date	Meeting	Resolution No.	Topic
Nil	Nil	Nil	Nil

**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



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# **Appendix 1**

*Action List*

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Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
28/08/2012	Ordinary Council	214/12	Kersbrook Stone Reserve – Heritage Agreement	Chief Executive Officer, or delegate, be authorised to take all necessary actions to bring the Heritage Agreement into effect	Peter Bice	In Progress	9/11/2018	31/12/2018	Council has recently received correspondence from the Acting Chief Executive of DEW outlining that Crown Solicitor's Office has now completed its review of the 'Memorandum of Agreement' template, and that the agreement documents will be sent to Council shortly for completion.
22/04/2014	Ordinary Council	85	Adelaide Hills Region Waste Management Authority - Period of Confidentiality	That the documents and reports pertaining to this matter, including discussions and considerations, be retained in confidence until the legal action has been concluded, but no longer than 12 months, pursuant to section 91(9).	Peter Bice	In Progress	9/11/2018		Confidentiality order extended to 12 December 2018. Review is required prior to December 2018 Council Meeting.
13/05/2014	SPDPC	30/14	Adelaide Hills Trails Network Strategy	<ol style="list-style-type: none"> <li>1. The Adelaide Hills 20 Year Trail Network Strategy &amp; Action Plan be adopted;</li> <li>2. An implementation plan be prepared by staff in 2014 to inform spending priorities for consideration in future budgets</li> </ol>	Peter Bice	In Progress	8/11/2018	29/03/2019	The outcomes of the Trails Strategy review were discussed at a workshop in May. An update to the strategy is proposed with a framework to assist in the identification of future priorities. The trails strategy update will link with the bike plan and also the State Government current trails strategy. Progress report now scheduled for December 2018 Council Meeting.
27/05/2014	Ordinary Council	95/14	William St Birdwood Street Furniture, plaque	<p>That Council, as a consequence of the SPDPC resolution No 29 dated 13 May 2014, approves:</p> <ol style="list-style-type: none"> <li>1. The construction of a piece of street furniture and installation in William Street Birdwood, in the vicinity of where the trees will be removed, provided suitable timber is available from those trees.</li> <li>2. The erection of a plaque acknowledging the residents who donated funds to plant the initial avenue.</li> <li>3. Place a memorial with names in the Birdwood Institute in consultation with the Friends of the Birdwood Institute.</li> <li>4. Suitable timber to be made available to the Friends of the Birdwood Institute (FBI) to enable the Committee to make some small wood pieces (e.g. bowls) to display in the Institute.</li> <li>5. The CEO investigate a source of funds for the projects.</li> </ol> <p>1 and 2 to be undertaken in consultation with the community.</p>	Peter Bice	In Progress	9/11/2018	28/02/2019	As timber is unsuitable we are currently looking at an alternative solution.
24/03/2015	Ordinary Council	57/15	Confidential Item - Morella Grove	As per confidential minute	Peter Bice	In Progress	12/11/2018	31/03/2019	Report to Council early in 2019.
19/01/2016	Ordinary Council	6a/16	Amy Gillett Bikeway Extension	The CEO investigates all funding options including how the Jack Bobridge Bikeway in the Barossa Valley was funded.	Peter Bice	In Progress	12/11/2018	30/06/2019	Council is working collaboratively with neighbouring Councils as part of a broader Inter-Regional Cycle Network project.
22/03/2016	Ordinary Council	59/16	Sturt Valley Road reconstruction	<ol style="list-style-type: none"> <li>2. That a capital budget allocation of \$160,000 be provided in the 2015/16 financial year for the reconstruction of a 230m section of Sturt Valley Road, Stirling.</li> <li>3. That a further report be presented to Council for consideration regarding the possible placement of a footpath or walking trail along sections of Sturt Valley Road prior to installing any additional safety barriers</li> </ol>	Peter Bice	In Progress	12/11/2018	31/07/2019	Council are in discussions with a key landowner regarding construction of a walking loop along Sturt Valley Rd, through their private property, and connecting to Upper Sturt Rd. A concept plan is being prepared for consultation with affected residents.

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
22/03/2016	Ordinary Council	69/16	Land Acquisition Colonial Drive Norton Summit	Negotiate with the Anglican Church and CFS regarding the proposed boundary realignment and the preparation of preliminary plans	Terry Crackett	In Progress	6/11/2018	31/03/2019	Final plans and valuation are being considered by the Anglican Church State Diocese and upon confirmation from them a report will be presented to Council for consideration. Norton Summit Church has advised on 9/8/18 that the matter is still under consideration by the State Diocese. They have been advised that
26/04/2016	Ordinary Council	83/16	Croft & Harris Road Precinct, Lenswood	2. That the Office for Recreation and Sport and Department of Planning, Transport and Infrastructure be approached to discuss any potential funding opportunities to undertake bituminising works up to where the bicycle access occurs. 3. That a further report be presented on potential road treatments for Croft Road Lenswood and the surrounding road network once additional data has been collected on peak traffic numbers generated through a major event and staff continue negotiations with ForestrySA regarding infrastructure improvements for Cudlee Creek Forest Reserve.	Peter Bice	In Progress	12/11/2018	30/06/2019	A Building Better Regions Fund application was submitted in round 2 (which closed December 19). This was in partnership with Bicycle SA, and Forestry SA. There was also in principle support from DEWNR towards the project. The submission was unsuccessful. Consideration to any future project investment is being discussed with the funding application partners, and may form part of the 2019/20 Capital Program development.
24/05/2016	Ordinary Council	105/16	Land at Houghton Request to Purchase	The acquisition of the land described as CT 5363/842 and CT 5363/452 consisting of two parcels of land, one 819m2 the other 36m2 respectively, and currently owned by R J Day and B E Day for nil consideration. Council to pay all transfer fees, charges and GST that may be applied.  To undertake a Section 210 process for the conversion of private road to public road for the land described as CT 5343/355 of 27m2 currently owned by Marinus Maughan and Alick Stephen Robinson. To negotiate and accept a transfer of the land described as CT 5343/354 of 476m2 from the City of Tea Tree Gully for nil consideration. To negotiate and accept a transfer or vesting of the land described as CT 5421/887 from the Department of Planning, Transport & Infrastructure for nil consideration.	Terry Crackett	In Progress	6/11/2018	30/09/2019	The acquisition from RJ & BE Day has been completed and registered at the Lands Titles Office.  Title for the land held by City of Tea Tree Gully has been reissued in the name of Adelaide Hills Council.  The request to DPTI for the transfer of land has been made and awaiting a response. Follow up to be undertaken and awaiting a response.  The Section 210 process has been commenced with investigations to locate beneficiaries of the deceased owners underway including advertisements.
12/07/2016	SPDPC	29/16	MON - Woodforde Road and Reserve Naming	1. Staff pursue, with the developer, the inclusion of indigenous names within Hamilton Park and in relation to future stages 2. A progress report be made to Council or the Strategic Planning & Development Policy Committee within 3 months	Peter Bice	In Progress	12/11/2018	31/12/2018	Council staff have now received the high level concept designs for the reserve areas a meeting is currently being scheduled with the Kaurna Elders.

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
23/08/2016	Ordinary Council	163/16	Piccadilly CFS Relocation	<p>2. To delegate to the Chief Executive Officer , following consultation with the CFS, to determine the area of the portion of Atkinson Reserve to be used as the site of the Proposed CFS Location</p> <p>3. To commence a community consultation process, for a minimum period of 21 clear days in accordance with AHC's public consultation policy, in relation to the proposed:</p> <p>3.1 amendment of the Community Land Management Plan for that portion of Atkinson Reserve identified as the Proposed CFS Location from the current Category 4 Recreation and Sport to Category 6 – CFS</p> <p>3.2 lease to the CFS for use as a CFS station (the proposed term being 21 years with an option to renew for another 21 years) of the Proposed CFS Location</p> <p>3.3 road closure of an area of unmade road reserve adjacent to Atkinson Reserve as identified in Appendix 2 ("Road Closure Land") to provide overflow car-parking for both the CFS station and users of Atkinson Reserve</p> <p>3.4 the adoption of a community land management plan for the Road Closure Land for use as car parking conditional upon the Council issuing a Road Process Order</p> <p>4. That Council's approval (as land owner) be given to the CFS to submit a Development Application for the construction of a fire station on the Proposed CFS Location noting that a Development Approval is conditional upon:</p> <ul style="list-style-type: none"> <li>• Council resolving to amend the Community Land Management Plan as detailed in 2.1 above</li> <li>• Council resolving to enter into a lease for the Proposed CFS Location</li> </ul>	Terry Crackett	Completed	5/11/2018	31/12/2018	DA granted by DPTI on 15 December 2017. Awaiting final execution copies of the lease from CFS. Road closure process and finalisation of community land management plan to be progressed after the lease is executed.
25/10/2016	Ordinary Council	220	CWMS Expression of Interest – Period of Confidentiality	<p>That the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until 31 December 2017 except public statements which outline the rationale and process for seeking a review of options related to Council's CWMS</p>	Peter Bice	In Progress	9/11/2018	31/12/2019	Retain in confidence. CWMS Request for Tender is underway - Confidentiality period extended on 12/12/17 to remain confidential until 26/09/2018. Further extended to 31 December 2019.
7/12/2016	Special Council	272/16	Contract for Sale Portion of AHBTC site	<p>A Contract for Sale and Purchase for the sale of proposed Lot 301 in the draft community plan attached as Appendix 2 be negotiated and entered into between the Council and Adelaide Hills Craft Brewing Company Pty Ltd for a sale price of ##### subject to the following conditions:</p> <p>Issuance of an approval for the land division application (community title) of the draft community plans attached as Appendices 3a and 3bDeposit by the Registrar-General of the primary and secondary community plans substantially in accordance with the draft community plans attached as Appendices 3a and 3bFinance approval for the purchaser</p>	Terry Crackett	Completed	6/11/2018	31/10/2018	Resolution has been fully released from confidentiality. Contract has been executed with settlement expected by 30 June 2019.

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
7/12/2016	Special Council	267/16	Woorabinda Bushland Reserves Heritage Agreement	<p>2. That the Chief Executive Officer, or delegate, be authorised to commence discussions with DEWNR in regard to entering into individual Heritage Agreements, over the following Council properties:</p> <p>a. Council owned land located at 9 Woorabinda Drive, Stirling (Woorabinda) described in Certificate of Title 5292 Folio 381</p> <p>b. Council owned land located at 9 Ethel Street, Stirling (Stirling Park) described in Certificate of Title 5315 Folio 98</p> <p>c. Council owned land located at 71 Longwood Road, Heathfield (Hender Reserve) Certificate of Title 5753 Folio 715</p> <p>d. Council owned land located at 34 Madurta Avenue, Aldgate (Madurta Reserve) described in Certificate of Title 5902 Folio 219</p> <p>3. That following the assessment by DEWNR, a further report be brought back to Council prior to approval to enter into the Heritage Agreements</p>	Peter Bice	In Progress	9/11/2018	31/12/2018	Applications for the Woorabinda BR Heritage Agreements were completed on the 7th of December 2017. Currently in assessment with DEWNR; Advice 5th of June 2018 from DEWNR - HA application has a revised completion date no later than the 31 December 2018. Mapping component complete, awaiting authorisation from DEW.
13/12/2016	Ordinary Council	281/16	Piccadilly CFS Relocation	<p>2. Pursuant to s202 of the Local Government Act 1999, a lease be granted to the CFS for the portion of Atkinson Reserve identified as "Proposed Lease Area" in the plan attached as Appendix 1 for a term of 21 years with a right of renewal for a further 21 years subject to the following conditions:</p> <p>a. lease terms being substantially in accordance with and consistent with other leases of Council land to the CFS</p> <p>b. receipt of development approval for the construction of a station building substantially in accordance with the building plan attached as Appendix 1</p> <p>c. partial surrender of the existing lease from the Piccadilly Valley Community Recreation Centre (PVCRC)</p> <p>3. Subject to a lease being granted under item 2 above, the Community Land Management Plan for Atkinson Reserve be amended to reflect that the use of that portion of the land identified as Proposed Lease Area in Appendix 1 is changed from Category 4 Recreation &amp; Sport Facilities to Category 6 CFS Purposes.</p> <p>4. The CEO and Mayor be authorised to sign all necessary documentation to give effect to this resolution.</p>	Terry Crackett	Completed	6/11/2018	31/12/2018	Lease executed by Council on 31 October 2018. Community Land Management Plan updated to reflect that a portion of Atkinson Reserve is used for CFS purposes
24/01/2017	Ordinary Council	7/17	Cromer Cemetery Revocation of Community Land	<p>a report be prepared and submitted to the Minister for Local Government seeking approval for the revocation of the community land classification of a portion of the land contained in Certificate of Title Volume 5880 Folio 219 identified in red on the plan attached as Appendix 1.</p>	Terry Crackett	In Progress	6/11/2018	31/12/2019	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.
28/02/2017	Ordinary Council	53/17	Community Wastewater Management Systems Review – Period of Confidentiality	<p>That the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until 30 June 2018.</p>	Peter Bice	In Progress	9/11/2018	31/12/2019	Retain in confidence as the CWMS Request for Tender process is underway extended to 31 December 2019

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25/07/2017	Ordinary Council	155/17	Reserve Gifting Proposal - Dunnfield Estate, Mt Torrens	<p>Subject to the approval of the land division variation application 473/D38/2011 by the Development Assessment Commission and the required Council engineering approvals for the infrastructure, being obtained:</p> <p>1. That council accepts from Paul &amp; Michele Edwards (the Developer), the donation of additional reserve land as described in Appendix 6 – Amended Plan of Division rev K dated 16.06.2017 Agenda Item 14.1, subject to the following conditions:</p> <p>The Council specified construction standards are metThe cost of all works are to be met by the DeveloperThe Developer enters into a legally binding Landscape Maintenance Agreement to agreed maintenance standards for a period of ten (10) yearsThe landscaping works are completed within two (2) years from the date of final approval.</p> <p>2. That, in the event that there is a dispute between the Council and the Developer, the dispute is referred to an Independent Arbitrator for resolution, with costs being shared equally by the parties.</p>	Peter Bice	In Progress	9/11/2018	31/12/2018	<p>The land division variation application 473/D38/2011 has been approved by the Development Assessment Commission. Council staff have drafted a maintenance agreement which we will work through with the Developer.</p> <p>Council staff and the developer have been working through the management of significant and regulated trees on the site, and recent works progressed very well. We are now looking to formally progress the draft maintenance agreement.</p>
25/07/2017	Ordinary Council	159b/17	Lobethal Recreation Ground - Transfer of Land	<p>That the Subject Land be transferred to the Lobethal Recreation Ground Sports Club Inc (LRGSCI) for the consideration of one (1) dollar subject to the following:</p> <p>Each party meeting their own costs and expenses for the transfer</p> <p>LRGSCI granting the Council a first right of refusal to repurchase the land for one (1) dollar should the Subject Land cease to be owned by the LRGSCI and/or used for community recreation purposes</p> <p>LRGSCI be responsible for the day to day maintenance and cleaning of the public toilets and public playground and associated infrastructure to the standard required by Council</p> <p>The LRGSCI, if requested, grant a long term lease to Council for the area identified in Appendix 7 for one (1) dollar per annum</p> <p>The LRGSCI granting the Council a long term licence over the site of the public toilets and public playground for the purposes of structural maintenance, audit and insurance.</p> <p>The Mayor and CEO be authorised to sign all necessary documents to effect the Transfer of the Subject Land.</p>	Terry Crackett	In Progress	6/11/2018	31/12/2018	LRGSCI have received Development Approval for the boundary realignment and transfer will progress in conjunction with the boundary realignment. Final contract terms have been agreed, awaiting receipt of contract for execution
8/08/2017	SPDPC	SP39/17	Update on Primary Production Lands DPA	<p>That as a result of the implementation of the new planning reforms and the introduction of the <i>Planning, Development &amp; Infrastructure Act 2016</i>, Council supports staff working with DPTI to prepare the Rural Planning Policy element of the Planning &amp; Design Code in a manner consistent with the issues and investigations outlined in the second Statement of Intent for the Primary Production Lands DPA</p> <p>That reports be prepared for future SPDPC meetings as milestones are reached and notable work is released for comment.</p>	Marc Salver	In Progress	9/10/2018	21/12/2018	Staff have attended a number of meetings of the P&D Code Primary Production Working Group since May 2018. A further meeting is to be arranged shortly, date of which DPTI is yet to confirm. This Group will progress the development of the Rural Policy Module of the Code. Staff will provide further updates as this work progresses during the year.
8/08/2017	SPDPC	SP42/17	Public Liability Insurance for Community Owned & Managed Halls	<p>That the costs of public liability insurance for community owned and managed halls be referred to the Chief Executive Officer for consideration with the preparation of the Community and Recreation Facilities Framework.</p>	Terry Crackett	In Progress	6/11/2018	30/06/2019	Information from LGRS received on 10/9 and will be incorporated into the framework information to be presented to Council at the Feb 19 workshop

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26/09/2017	Ordinary Council	207a/17	Heritage Agreement Reports - Woorabinda Bushland Reserves	1. That Heritage Agreements be entered into between the Council and the Minister for Sustainability, Environment and Conservation pursuant to section 23(5) of the <i>Native Vegetation Act 1991</i> for the conservation, management and protection of native flora and fauna in relation to the following properties: Council owned land located at 9 Woorabinda Drive, Stirling (Woorabinda) described in Certificate of Title 5292 Folio 381 Council owned land located at 9 Ethel Street, Stirling (Stirling Park) described in Certificate of Title 5315 Folio 98 Council owned land located at 34 Madurta Avenue, Aldgate (Madurta Reserve) described in Certificate of Title 5902 Folio 219	Peter Bice	In Progress	9/11/2018	31/12/2018	Applications for the Woorabinda BR Heritage Agreements were completed on the 7th of December 2017. Currently in assessment with DEWNR; Advice 5th of June 2018 from DEWNR - HA application has a revised completion date no later than the 31 December 2018. Mapping component complete, awaiting authorisation from DEW
26/09/2017	Ordinary Council	207b/17	Heritage Agreement Reports - Woorabinda Bushland Reserves	That the Heritage Agreements retain the existing Dog Access Arrangements currently in place in each of those properties. That the Heritage Agreements be registered with the Lands Titles Office pursuant to section 23b of the <i>Native Vegetation Act 1999</i> .	Peter Bice	In Progress	9/11/2018	31/12/2018	Existing dog access arrangements within a Heritage Agreement are requested in the HA application. The implementation of legislation to sit with Health and Regulatory Services and Lands Title Office registration for AHC Property action. Applications for the Woorabinda BR Heritage Agreements were completed on the 7th of December 2017. Currently in assessment with DEWNR; Advice 5th of June 2018 from DEWNR - HA application has a revised completion date no later than the 31 December 2018. Mapping component complete, awaiting authorisation from DEW.
26/09/2017	Ordinary Council	207c/17	Heritage Agreement Reports - Woorabinda Bushland Reserves	That the Community Land Management Plans for the above properties be reviewed and updated to reflect the provisions of the Heritage Agreements including community consultation (where necessary) as required under section 197 of the <i>Local Government Act 1999</i> . That the Chief Executive Officer be authorised to sign all necessary documentation to effect this resolution.	Peter Bice	In Progress	9/11/2018	31/12/2018	Community Land Management Plan review and update is in readiness. On receipt of Heritage Agreement notification over the Woorabinda Bushland Reserves, we will then initiate the CLMP review and the CEO to then authorise (sign) as required. Applications for the Woorabinda BR Heritage Agreements were completed on the 7th of December 2017. Currently in assessment with DEWNR; Advice 5th of June 2018 from DEWNR - HA application has a revised completion date no later than the 31 December 2018. Mapping component complete, awaiting authorisation from DEW.
26/09/2017	Ordinary Council	207d/17	Heritage Agreement Reports - Woorabinda Bushland Reserves	That a separate report be brought back to Council in relation to a Heritage Agreement for the land under the care, control and management of Council located at 71 Longwood Road, Heathfield (Hender Reserve) in Crown Record 5753 Folio 715 following receipt of further advice from the Land Titles Office and Native Vegetation Branch of the Department of Environment, Water and Natural Resources regarding the dedicated purpose of the land and options for registration of the Heritage Agreement over Crown Land.	Peter Bice	In Progress	9/11/2018	31/12/2018	A separate Council report will be provided following clarification on the Heritage Application process in respect to the Crown Land status of Hender Reserve. Report has been provided to Council and the Heritage Agreement application was completed and sent to DEWNR, receipt date 08/02/18. Currently in assessment with DEWNR. Advice 5th of June 2018 from DEWNR - HA application has a revised completion date no later than the 31 December 2018. Mapping component complete, awaiting authorisation from DEW.
26/09/2017	Ordinary Council	234/17	CWMS Review Update - Period of Confidentiality	An order be made that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until 26 September 2018.	Peter Bice	In Progress	9/11/2018	31/12/2019	Report, related attachments and the minutes of Council held in confidence. Retain in confidence as the CWMS Request for Tender is underway until 31 December 2019.

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
24/10/2017	Ordinary Council	246/17	Road Closure and Disposal – Schapel Road, Lobethal	To make a Road Process Order pursuant to the <i>Roads (Opening &amp; Closing) Act 1991</i> to:close and merge the land identified as "A" in Preliminary Plan No 16/0020 ( <i>Appendix 3</i> ) with Allotment 28 in Filed Plan No 155743 comprised in Certificate of Title Volume 5502 Folio 372create an easement for transmission of electricity in favour of Distribution Lessor Corporationcreate a free and unrestricted right of way in favour of Allotment 13 being the land in CT Volume 5502 Folio 373accept consideration in the amount of \$40,000 (excl. GST) as detailed in <i>Appendix 3</i> of this report.The issuing of the Road Process Order is subject to:Boral Resources (SA) Ltd agreeing to enter into a Land Management Agreement with Council for the preservation of the native vegetation for the protection of native flora and fauna on the areas identified in the report attached as <i>Appendix 7</i> which is to be lodged with the Land Titles Office in conjunction with the Road Process Order.Boral Resources (SA) Ltd paying all fees and charges associated with the road closure process.The closed road be excluded as Community Land pursuant to the <i>Local Government Act 1999</i> .To authorise the Chief Executive Officer (or delegate) to finalise and sign all necessary documentation to close and sell the above portion of closed road pursuant to this resolution.	Terry Crackett	In Progress	7/11/2018	31/03/2019	Surveyor has prepared final plan and road process order. Finla LMA has been agreed on 7.11.18 by Boral and will now be circulated for execution
24/10/2017	Ordinary Council	250/17	DEW Fuel Reduction on Private Lands Program	That DEW's Strategic Fuel Reduction program is approved for the Adelaide Hills Council region	Peter Bice	In Progress	14/11/2018	1/04/2019	2018 spring burns completed on Lobethal Bushland Park and, Yanagin Reserve. Belair (Upper Sturt) site scheduled for Thursday 15 November 2018 and Mylor Oval (recently included in the DEW Burning on Private Lands Program) scheduled for late November 2018. Heathfield Waste Facility site is intended for autumn 2019. Council will collaborate with DEW on post weed management activities. Weed management activities by DEW and AHC were undertaken at Heathfield Stone Reserve on June 28th 2018. More weed management planned for this site. An information report was provided to Council at its 25 September Ordinary Council Meeting.
14/11/2017	Special Council	268/17	Review of Advisory Groups	To cease the Hills Voice Reference Panel Nominations for Australia Day awards to be assessed only by staff and a report for decision to come to Council Any grant applications currently considered by advisory groups will be assessed only by staff and a report for decision to come to Council To 'in principle' retain Council and Community/Independent Members on Advisory Groups That the Chief Executive Officer prepares a report for the Council's consideration at a future meeting regarding the appropriateness of the current governance arrangements for the Advisory Groups including, but not limited to, whether they would benefit from an alternate structure (such as a s41 Committee), a revised Terms of Reference in their current form, or to be ceased.	Andrew Aitken	In Progress	9/10/2018	23/10/2018	HVRP ceased, Australia Day Awards 2018 assessed by staff. Further consultation occurring with Council Members, ELT and AG EOs and AG Membership. Council report scheduled for 23 October 2018 Council meeting.
28/11/2017	Ordinary Council	281/17	LED Streetlight Review	That Council awaits on the outcomes from the LGASA process and for the outcomes of this report to inform a transition to LED street lighting A further report to Council to be provided following the completion of the LGASA process and subsequent review of the most appropriate model for Adelaide Hills Council to adopt.	Peter Bice	In Progress	7/11/2018	30/01/2019	Council has now received the outcome of the LGASA process which states that the LGASA will not be involved in council streetlighting. Council staff need to obtain expert advice as to the best approach and tariff available to proceed to a transition to LED streetlights. A report to Council will be provided identifying the next steps.



Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
28/11/2017	Ordinary Council	282/17	Rededication of Crown Land - Hender Reserve	<p>To apply to the Department of Environment, Water and Natural Resources to revoke the existing dedication of the land contained in Crown Record Volume 5753 Folio 715 described as Section 1527 Hundred of Noarlunga in the area named Heathfield known as Hender Reserve ("Land") for recreation purposes</p> <p>To apply to the Department of Environment, Water and Natural Resources to dedicate the Land for Recreation and Conservation Purposes – Heritage Agreement subject to the draft conditions that are attached as <i>Appendix 2</i></p> <p>To authorise the CEO to finalise the conditions of dedication subject to them being substantially in accordance with the draft conditions attached as <i>Appendix 2</i></p> <p>To authorise the CEO to sign all necessary documents to effect this resolution</p>	Terry Crackett	Completed	12/11/2018	28/02/2019	Application for rededication has been completed and submitted to DEWR. Gazettal for rededication has not yet occurred. Department of Environment and Water advised on 9.11.18 that dedication had been approved that day with gazettal to follow.
23/01/2018	Ordinary Council	4/18	Road Exchange - Mt Torrens Walking Loop	<p>To issue a Road Process Order pursuant to the <i>Roads (Opening &amp; Closing) Act 1991</i> to: Close and merge the land identified as "A" in Preliminary Plan No 17/0041 (<i>Appendix 1</i>) with Allotment comprising pieces 81 &amp; 82 in Filed Plan No. 218134 comprised in Certificate of Title Volume 6025 Folio 732 owned by Brian Bruce Willison</p> <p>Open the land identified as "1" in Preliminary Plan No 17/0041 as public road being portion of Allotment comprising pieces 81 &amp; 82 in Filed Plan No. 218134 comprised in Certificate of Title Volume 6025 Folio 732 owned by Brian Bruce Willison</p> <p>The closed road be excluded as Community Land pursuant to the Local Government Act 1999</p> <p>To undertake the road exchange for nil consideration with the Council to pay all necessary costs to effect this resolution</p> <p>To authorise the Chief executive Officer (or delegate) to finalise and sign all necessary documentation to effect the road exchange and this resolution</p>	Terry Crackett	In Progress	6/11/2018	30/06/2019	Mr Willison passed away in late January prior to documents being signed. The road exchange process will be held pending issue of Grant of Probate of Mr Willison's estate.
20/02/2018	Audit Committee	AC18/4(4)	Appointment of External Auditor - Release of Confidentiality Order	That the report and related attachments of the Committee and the discussion and considerations of the subject matter be retained in confidence until the completion of the contract	Terry Crackett	In Progress	9/10/2018	30/03/2021	Given the commercial in confidence information, the release of the confidentiality order is unlikely to occur for 3-5 years depending on whether the option under the contract is exercised. Nevertheless the cost of Statutory Audit services is reported in the Annual Report.
27/02/2018	Ordinary Council	30/18	Master Plan Woodside Recreation Ground	That the master planning exercise for the Woodside Recreation Ground, as resolved by Council at its 28 November 2017 meeting (275/17), be expanded to include the adjoining recreation and car parking precinct between Tiers Road and Langbein Avenue, Woodside.	Peter Bice	In Progress	7/11/2018	18/02/2019	Associated investigations underway, Water Sensitive Urban Design and Water Reuse potential. The recent announcement of the successful funding in relation to the Mount Barker Swimming Pool, will enable appropriate considerations to be made in regards to the requirements for the Woodside Recreation Ground site. Initial site analysis has been undertaken and information sought from the Woodside Recreation Ground committee. A key stakeholder meeting is planned for Monday 3rd December 2018.

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27/02/2018	Ordinary Council	31/18	Arts & Heritage Hub	That the report be received and noted. That the Business Development Framework for the establishment of an Arts and Heritage Hub in the Old Woollen Mill at Lobethal, contained in Appendix 1, be noted. That the Administration proceeds with the establishment of an Arts and Heritage Hub using the Business Development Framework as a guide. That the development of a Hub Evaluation Framework, as envisaged in the Business Development Framework, occur as early as possible and include key performance and results targets, and mechanisms for review of the implementation by Council to ensure alignment with budget allocations and strategic objectives. That \$50,000 be allocated to the 2017-18 Operating Budget from the Chief Executive Officer's contingency provision to enable the initial actions to be taken. The CEO provides a progress report on the implementation of the Business Development Framework within 6 months from the date of appointment of the Director.	David Waters	In Progress	16/11/2018	31/01/2019	The Hub Director commenced on 23 July.  The progress report is therefore due, and is scheduled for, January 2019.
27/02/2018	Ordinary Council	48/18	Investigation of Speed Limit Jungfer Road Charleston	That the CEO investigate the request for a reduction of the speed limit to a maximum of 60kph on Jungfer Road Charleston and, should the investigation justify a change, make the appropriate submissions to the Department Planning Transport & Infrastructure.	Peter Bice	In Progress	9/11/2018	31/10/2018	Traffic Counters were installed to collect current traffic speeds as part of the assessment process, and we are now seeking an independent review as to whether any speed limit change is justified.
27/02/2018	Ordinary Council	57/18	Confidential Item - AH Swimming Centre Shade Sail	As per confidential minute	Terry Crackett	In Progress	6/11/2018	30/06/2019	Matter being progressed per resolution
27/02/2018	Ordinary Council	58/18	AH Swimming Centre Shade Sail - Period of Confidentiality	that an order be made under the provisions of sections 91(7) and (9) of the <i>Local Government Act 1999</i> that the report and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the matter is determined but not longer than 12 months. Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.	Terry Crackett	In Progress	6/11/2018	30/06/2019	Progressing per confidential minutes
27/03/2018	Ordinary Council	68/18	Milan Terrace Pedestrian Safety	<ol style="list-style-type: none"> <li>That the report be received and noted</li> <li>That a Traffic Plan concept be developed for a wombat or zebra crossing pedestrian facility</li> <li>That Council undertakes consultation with the community, Stirling Hospital and other relevant stakeholders on the concept plan for a wombat or zebra crossing</li> <li>That Council submits a proposal to the Department of Planning, Transport &amp; Infrastructure to reduce the speed limit on Milan Terrace to 30km/h from a point approximately 80 metres west of the Druid Avenue intersection and approximately 40 metres east of the Johnston Street intersection</li> <li>That a report be brought back to Council to determine whether future budget considerations are applicable including costings for a wombat or zebra crossing.</li> </ol>	Peter Bice	In Progress	9/11/2018		Final report has now been received assessing the merits of a potential Zebra or Wombat Crossing, a draft concept plan has been prepared for consultation with stakeholders. Meeting held with Stirling Hospital CEO 19/7/2018 Car parking loss will occur if either a zebra or wombat crossing is installed. The Stirling Hospital are aware of this requirement. The wombat crossing is associated with a 40km/h speed limit. DPTI has indicated that a 30km/h is not supported as it does not meet the speed limit criteria and guidelines. The cost of a crossing will be significant as flashing lights and new public lighting is required. A concept budget amount would be in the range of \$50,000 - 70,000 (construction), however, funding for detailed design of \$10,000 is likely to be required. This will allow officer to gain a better cost estimate of the works.
27/03/2018	Ordinary Council	69/18	Play Space Policy	Implement policy and communicate to staff and/or community if applicable.	Peter Bice	In Progress	8/11/2018		The Play Space Policy is due to come into effect in July 2018. Implications will be communicated to relevant staff & the community where applicable.
24/04/2018	Ordinary Council	102/18	Sale of Land for Non Payment of Rates	Refer to Confidential Minute	Terry Crackett	In Progress	15/11/2018	31/12/2018	Actions continuing in accordance with resolution and anticipate that this will be completed by December 2018

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
19/06/2018	Special Council	132/18	CWMS EOI Outcome - Period of Confidentiality	the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until 31 December 2019.	Peter Bice	In Progress	9/11/2018	31/12/2019	Minutes of this confidential item have been released from confidentiality.
26/06/2018	Ordinary Council	136/18	AHC PLEC Projects	<ol style="list-style-type: none"> <li>That the report be received and noted.</li> <li>That the CEO be authorised to lodge a formal application to the Power Line Environment Committee for stage 1 of undergrounding power lines in the township of Gumeracha to be undertaken in 2019/2020, with stage 2 to be undertaken at a later date.</li> <li>That future allocation and prioritisation of PLEC projects be considered as part of the next review of the LTFP January 2019.</li> </ol>	Peter Bice	In Progress	9/11/2018		AHC submitted the application for undergrounding powerlines on 11 October as per PLEC guidelines. No response has been received yet
17/07/2018	Special Council	156/18	LED Street Lighting Program	That the report be received and notedThat further investigation is undertaken to understand the best approach and tariff structure for transitioning to LED street lighting as soon as practicable.	Peter Bice	Not Started	7/11/2018		As per LED review
24/07/2018	Ordinary Council	161/18	MON Stormwater Henry Street Woodside	I move that the CEO provide a report as part of Budget Review 1, on a request to advance proposed expenditure for "Henry Street Stormwater" scheduled for 2019/20 to 2018/19.	Peter Bice	In Progress	12/11/2018	28/06/2019	A report will be prepared for BR1 with the view to undertaking detailed design for Henry St stormwater in FY 2018/19.
24/07/2018	Ordinary Council	162/18	MON Use of Recycled Material in Capital Works	I move that Council measures, and reports on, the amount and origin of recycled material it uses in Council's Capital works programs, at least annually.	Peter Bice	In Progress	9/11/2018		Council Staff are in the process of identifying, measuring and recording recycled material usage as part of Capital Works projects.
24/07/2018	Ordinary Council	163/18	MON Magarey Road Access	That, before the commencement of the bushfire season, the CEO, in consultation with residents and the Bushfire Advisory Committee, provides a report on possibilities to improve access by fire-fighting appliances and other emergency vehicles to properties on Magarey Road, Mount Torrens.	Peter Bice	In Progress	9/11/2018	30/11/2018	Site inspection undertaken and options identified. Correspondence sent to Magarey Road residents seeking feedback on options resulting in one response received. Agenda item for the Bushfire Advisory Group 24 October meeting. Report to Council at 27 November 2018 Council meeting.
24/07/2018	Ordinary Council	167/18	Road Widening - Edward Avenue Crafrers	That the report be received and notedTo purchase the area of land, being 45m2, identified in red on the plan attached as Appendix 1 ("Land") from Zara Marina Parent and Guy Damien Parent for the consideration of \$9,500 (excl GST) plus all reasonable costs to vest the Land as public road.That the Mayor and CEO be authorised to sign all necessary documentation to effect this resolution.	Peter Bice	In Progress	12/11/2018	31/12/2018	Road Widening plans have been approved by the LTO. Final lodgment expected by end November.
24/07/2018	Ordinary Council	176/18	Mobile Skate Ramp	That the Council considers placing the mobile skate ramp in Lobethal, along with any other requests, at the conclusion of its time in Birdwood.	Peter Bice	In Progress	8/11/2018		Council will begin planning for the the next site for the skate ramp in early 2019, & consider placing it at Lobethal.
1/08/2018	Special Council	181/18	Stonehenge Reserve Masterplan Update	Confidential Item	Peter Bice	In Progress	8/11/2018		Consultation with the community will commence in mid-late November.
1/08/2018	Special Council	181/18	Stonehenge Reserve Masterplan Update	<p>Period of Confidentiality</p> <p>the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until the consultation has concluded.</p>	Andrew Aitken	In Progress	15/11/2018	31/07/2020	Unable to close out as the matter is still in progress.
1/08/2018	Special Council	183/18	Retirement Village Review	Confidential Item	Terry Crackett	Completed	5/11/2018	31/10/2018	Settlement completed on 26 October 2018.
1/08/2018	Special Council	184/18	Retirement Village Review	<p>Period of Confidentiality</p> <p>that the report, related attachments and the minutes of Council and the discussion and considerations of the subject matter be retained in confidence until settlement with the exception of Clause 8 and Appendix 2 which shall be retained in confidence until 31 July 2023</p>	Andrew Aitken	In Progress	17/09/2018	3/07/2023	Most parts have been released, although unable to fully close out due to Council's Resolution which details 'with the exception of Clause 8 and Appendix 2 which shall be retained in confidence until 31 July 2023'.

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
14/08/2018	Special SPDPC	SP18/1	Local Heritage Stage 1 (Public Places) Development Plan Amendment	That the report be received and noted. To approve the attached Summary of Consultations and Proposed Amendments report and the draft Local Heritage – Stage 1 (Public Places) Development Plan Amendment (DPA) for submission to the Minister for Planning for approval, with the exception of those sections of the Kersbrook Hall which do not form part of the original structure. If the aforementioned condition is not possible, then the exception lapses. To recommend to Council that it consider the establishment of a heritage incentive fund in its 2019/20 budgetary process. That the Chief Executive Officer be authorised to make any necessary minor amendments to the DPA as directed by relevant officers of the Department of Planning, Transport and Infrastructure or by the Minister for Planning.	Marc Salver	In Progress	9/10/2018	21/12/2018	The DPA was submitted to the Minister on 20 August 2018 and we are now awaiting his approval. Staff will be attending a meeting of the State Planning Commission (SCP) anticipated to occur at the end of October who will consider the objections to the listings. The SCP will then provide advice to the Minister in this regard before he makes a final decision in relation to the DPA.
28/08/2018	Ordinary Council	193/18	MON Kenton Valley Memorial Park	That the Chief Executive Officer, in consultation with residents and community groups, investigates and provides a report by 31 March 2019, on future management options for the Kenton Valley Memorial Park.	Terry Crackett	In Progress	6/11/2018	31/03/2019	Investigations have commenced to determine trust arrangements to guide options
28/08/2018	Ordinary Council	194/18	MON Randell's Workers' Cottages	I move that the Chief Executive Officer, in consultation with residents and interest groups, investigates and provides a report by 31 March 2019 on future management options for Randell's Workers' Cottages, 1 Beavis Court Gumeracha.	Terry Crackett	In Progress	6/11/2018	31/03/2019	Preliminary investigations have commenced
28/08/2018	Ordinary Council	195/18	Traditional Aboriginal Names of Localities and Places	I move that Council requests that the Administration prepare a report on the potential for dual naming, incorporating traditional Aboriginal place names alongside existing place names, of localities and places in the Adelaide Hills Council district. That, considering the report, resourcing for signage be considered for the 2019-20 budget.	David Waters	In Progress	16/11/2018	28/02/2019	Staff have scoped this exercise and are presently receiving preliminary guidance from an Aboriginal elder. A report back to Council is planned for February 2019.
28/08/2018	Ordinary Council	196/18	Shannons Adelaide Rally Support for Road Closure	That the report be received and noted. That, in relation to the Shannons Adelaide Rally 2018, Council's support of the event is contingent on the organisers, to the satisfaction of the Chief Executive Officer: Providing evidence of satisfactory insurance to cover any damage to 3rd party property caused by the event; Providing confirmation that affected business owners are aware of the road closures; Providing written confirmation to confirm that the concerns raised by affected residents have been addressed and that arrangements for egress and regress from those properties can be managed within the event; Written confirmation from the organisers that they will erect advance notices of road closures on the affected roads, at least 3 weeks prior to the event. That subject to the requirements of 2. being undertaken, Council provides consent for road closure orders in relation to the Shannons Adelaide Rally 2018, to be held between Wednesday 28 November and Saturday 1 December 2018 as follows: (see Minutes for road details)	David Waters	In Progress	16/11/2018	31/12/2018	Staff are working with the event organiser to ensure the conditions are met.

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28/08/2018	Ordinary Council	197/18	Household Hazardous Waste Disposal	That the report be received and noted. That the Council supports, in principle, acceptance of funding from Green Industries SA to establish and operate a Household Chemical and Paint Drop-off Facility at the Heathfield Resource Recovery Centre. That delegation is given to the CEO to negotiate and if to their satisfaction, enter into a funding agreement between Green Industries SA and the Adelaide Hills Region Waste Management Authority and Adelaide Hills Council for a Household Chemical and Paint Drop-off Facility at the Heathfield Resource Recovery Centre. A future report to be provided to Council on the outcome of the negotiation with Green Industries SA, the Adelaide Hills Region Waste Management Authority and Adelaide Hills Council.	Peter Bice	In Progress	9/11/2018	30/06/2019	Development application has been lodged for use of the site as a household chemical and paint drop off facility. Application currently being assessed by Development Services. Agreement currently being reviewed by all parties with a view to executing in the near future.
28/08/2018	Ordinary Council	199/18	Reconciliation Action Plan Working Group	That the report be received and noted. To endorse a regional approach to the establishment of a Reconciliation Action Plan Working Group in partnership with Mount Barker District Council. Subject to a commitment to the same effect by the Mount Barker District Council, adopt the draft Terms of Reference as contained in <i>Appendix 1</i> . To authorise the Chief Executive Officer to make any minor alterations to the Terms of Reference as may be required. To appoint Cr Ian Bailey to the Reconciliation Action Plan Working Group for the remainder of the current term of Council.	David Waters	In Progress	16/11/2018	31/12/2018	Recruitment of community members for this group is currently underway.
28/08/2018	Ordinary Council	200/18	Proposal to enter 11 AHC Reserves into Heritage Agreements 2018	<ol style="list-style-type: none"> <li>That the report be received and noted.</li> <li>That the Biodiversity Officer be authorised to enter: Doris Coulls Reserve, 152 Old Mt Barker Road, Aldgate Heathfield Waste Facility, 32 Scott Creed Road, Heathfield Kiley Reserve, 15 Kiley Road, Aldgate Shanks Reserve, 1 Shanks Road, Aldgate Stock Reserve, Stock Road, Mylor Leslie Creek Reserve, Leslie Creek Road, Mylor Mi Mi Reserve, 125 Aldgate Valley Road, Mylor Aldgate Valley 2 Reserve, 114 Aldgate Valley Road, Mylor Kyle Road Nature Reserve, Kyle Road, Mylor Carey Gully Water Reserve, Deviation Road, Carey Gully Heathfield Stone Reserve, 215 Longwood Road, Heathfield all being of significant biodiversity value, into Heritage Agreements.</li> <li>That the Heritage Agreements retain the existing dog access arrangements in place for each of those reserves.</li> </ol>	Peter Bice	In Progress	6/11/2018	30/06/2021	<p>Heritage Agreement reports currently being prepared for 6 reserves - Mylor Parklands, Kyle Road, Aldgate Valley 2 Reserve and Reserve 41 (Leslie Creek Road), Kiley and Shanks Reserve, due by end of November, and planned to be submitted (by Renae) to State Government in December.</p> <p>We have another \$10,000 budget approved for Heritage Agreement reports in FY 19/20 (item 661 in the AHC Annual Business Plan), so will use that budget on HA reports for:</p> <ol style="list-style-type: none"> <li>Doris Coulls Reserve, 152 Old Mount Barker Rd, Aldgate</li> <li>Heathfield Waste Facility, 32 Scott Creek Road, Heathfield</li> <li>Stock Reserve, Stock Rd, Mylor</li> </ol>

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28/08/2018	Ordinary Council	203/18	Community Wastewater Management Systems Review - Update and Consultation Outcomes	The report be received and noted. The CEO undertakes a request for tender process for the divestment of Council's CWMS assets to inform Council's decision to sell or retain these assets. The resolution to undertake a request for tender process is subject to there being no matters of material impact identified through further due diligence and request for tender preparation activities, as determined by the CEO. Subject to Council resolving to proceed to a request for tender for the divestment of Council's CWMS assets, the CEO be delegated to prepare and approve an evaluation plan for the purposes of assessing responses received including but not limited to the following criteria: CWMS customer pricing and fees. Sale price for CWMS assets. Respondents financial capacity. Respondents operational capacity and capability. Network investment and expansion. That ongoing analysis be undertaken on continued Council ownership of CWMS assets for request for tender comparison purposes to inform future decision making. The Prudential Review Report and the Probity Report be received and noted. The Council acknowledges that whilst S48 of the Local Government Act 1999 does not require a prudential review to be undertaken, the report in relation to this project is consistent with the provisions of S48. The Administration is to continue to work collaboratively with the City of Onkaparinga and Rural City of Murray Bridge for the potential divestment of Council's CWMS. That probity advisory services continue to be maintained throughout the CWMS review process. That a further report be provided to Council detailing the outcomes of the second stage request for tender and evaluation process with recommended next steps.	Peter Bice	In Progress	9/11/2018	30/06/2019	In progress. Currently establishing due diligence requirements and Request for Tender timelines with Joint Working Group. Evaluation underway of current Council management structure to identify most cost efficient ways of providing CWMS services internally.
28/08/2018	Ordinary Council	205/18	Regional Transport Study Funding Request	That the report be received and noted. To endorse the provision of \$10,000 from the Chief Executive Officer's contingency allocation to contribute to the regional transport study into passenger transport linkages between Adelaide and Mount Barker and beyond.	David Waters	In Progress	16/11/2018	31/03/2018	GTA Consultants have been commissioned to undertake the study. Public survey being conducted in November. Council staff are contributing to the study which is due to be completed by March 2019.
28/08/2018	Ordinary Council	207/18	Road Widening Oakwood Road Oakbank	That the report be received and noted. To purchase the area of land, being 104.6m <sup>2</sup> , identified in red on the plan attached as <i>Appendix 2</i> ("Land") from the owners of the adjoining land at 2 Oakwood Road Oakbank in consideration of fencing and asphalt works with an estimated value of \$5,285 plus all reasonable costs to vest the land as public road, including lodgement fees and stamp duty costs totalling approximately \$3,000 (and thus a total value of approximately \$8,285). That the Mayor and CEO be authorised to sign all necessary documentation to effect this resolution.	Terry Crackett	In Progress	9/10/2018	31/12/2018	Currently awaiting road widening plans to be finalised by the Surveyor. Documents being drafted by Conveyancer for lodgement with the Lands Titles Office
28/08/2018	Ordinary Council	213/18	MWN Review of Community Grants Policy	That the community grants policy be reviewed before the next round of community grants.	David Waters	In Progress	16/11/2018	30/04/2019	The review has been earmarked for the first half of 2019, i.e. prior to the next grants round.
11/09/2018	Special Council	223/18	Pomona Road Bike Track Trial	Council support a trial of a BMX facility in Stirling, within the Service Women's War Memorial Reserve (adjacent Pomona Road)	Peter Bice	In Progress	9/11/2018	26/11/2019	A working party was formed with key Stakeholders. The track has been completed, and memorial area refreshed, and the trial is now underway. A number of safety enhancements have also been made in the vicinity.
11/09/2018	Special Council	223/18	Pomona Road Bike Track Trial	A report is prepared to Council by 26 November 2019 on completion of the trial.	Peter Bice	In Progress	9/11/2018	26/11/2019	A report will be prepared for the 26 November 2019 Council Meeting.

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11/09/2018	Special Council	224/18	Draft Gumeracha Main Street Masterplan	Council endorses a broader community engagement process from 11 October to 2 November 2018 to enable the local community to provide feedback on the outcomes within the draft Masterplan. The Chief Executive Officer be authorised to consider and respond to minor changes to the draft Masterplan and to timing, advertisements and extent of the broader community engagement process.	Peter Bice	In Progress	7/11/2018		Community consultation commenced 11 October 2018 and closed 2 November 2018. Feedback forms are currently being summarised and analysed. The outcomes will be presented to Council at a workshop on 11 December 2018.
11/09/2018	Special Council	224/18	Draft Gumeracha Main Street Masterplan	A report is provided back to Council by January 2019.	Peter Bice	In Progress	7/11/2018	29/01/2019	Community consultation to commence on 11 October 2018 Presentation to Council at a workshop on 11 December.
11/09/2018	Special Council	225/18	Draft Gumeracha Precinct Federation Park and Oval Masterplan	Council endorse a broader community engagement process from 11 October to 2 November 2018 to enable the local community to provide feedback on the outcomes within the draft Masterplan. The Chief Executive Officer be authorised to consider and respond to minor changes to the draft Masterplan and to the timing, advertisements and extent of the broader community engagement process.	Peter Bice	In Progress	7/11/2018		Community engagement commenced on 11 October 2018 and closed on 2 November 2018. A summary and analysis is currently being undertaken with the outcomes to be presented to council at a workshop on 11 December 2018.
11/09/2018	Special Council	225/18	Draft Gumeracha Precinct Federation Park and Oval Masterplan	A report is provided back to Council by January 2019.	Peter Bice	In Progress	7/11/2018	29/01/2019	Report scheduled for December 2018 Council Meeting
11/09/2018	Special Council	229/18	Road Exchange McBeath Drive, Skye Horsnell Gully	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 along the new location of McBeath Drive to the south side of pieces 42, 52 and 62 of the proposed residential allotments in accordance with the provisions of the Local Government (Boundary Adjustment) Amendment Act 2017 (to	Terry Crackett	In Progress	6/11/2018	30/06/2019	Council has executed the Agreement for Exchange and Road Process Order. Boundary realignment requirements under the new legislation to commence on 1.1.19 are being reviewed and progressed in conjunction with City of Burnside
11/09/2018	Special Council	230/18	Burials outside Cemeteries Policy	The Burials outside Cemeteries Policy as provided as Appendix 1 is endorsed for community consultation. That the CEO be authorised to consider and respond to minor changes to the draft Policy and to the timing, advertisements and extent of the broader consultation process.	Terry Crackett	In Progress	5/11/2018	31/12/2018	Consultation will commence in the week of 19 November 2018

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11/09/2018	Special Council	231/18	Exclusion of Community Land – Crafers Retirement Village	To exclude the land identified as Allotment 121 on the plan attached as Appendix 1 as Community Land pursuant to the Local Government Act 1999 when the land is vested in the Adelaide Hills Council as a land grant from the Crown	Terry Crackett	Completed	18/10/2018	31/10/2018	Vesting of land occurred on 17.10.18
11/09/2018	Special Council	232/18	Revocation of Community Land – Bridgewater Retirement Village	<p>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.</p> <p>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.</p> <p>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.</p> <p>That a further report be presented to Council for consideration after community consultation and further investigations have been completed</p>	Terry Crackett	In Progress	5/11/2018	31/03/2019	Consultation documentation is being prepared and consultation is expected to commence in November
11/09/2018	Special Council	233/18	Road Closure Glenside Lane, Crafers	<p>Subject to there being no objections lodged during the public notification period, to make a Road Process Order pursuant to the Roads (Opening &amp; Closing) Act 1991 in accordance with the Preliminary Plan attached to this report as Appendix 2 as follows:</p> <p>to close and merge the piece of land identified as "A" in the Preliminary Plan with Allotment 105 in Deposited Plan No 42581 comprised in Certificate of Title Volume 5291 Folio 390;</p> <p>to close and merge the pieces of land identified as "B" and "D" in the Preliminary Plan with Allotment 103 in Deposited Plan No 42581 comprised in Certificate of Title Volume 5291 Folio 388; and</p> <p>to close and merge the pieces of land identified as "C" and "E" in the Preliminary Plan with Allotment comprising pieces 101 and 102 in Deposited Plan No 42581 comprised in Certificate of Title Volume 5281 Folio 387.</p> <p>2. Subject to issue of a Road Process Order in accordance with the Preliminary Plan, that: The closed road be excluded as Community Land pursuant to the Local Government Act 1999; and The piece marked "A" be sold to Mr Ken Lehmann and Mrs Nydia Lehmann, the owners of Certificate of Title Volume 5291 Folio 390 for the amount of \$46,500 plus GST (if applicable) and all fees and charges associated with the road closure process. The pieces marked "B", "C", "D" and "E" be sold to Mr Mark Edward Penfold Jolly, Mr Christopher Rawson Penfold Jolly and Mrs Angela Evelyn Penfold Foley, as Executors for the Estate of the Late Marjorie Anne Patterson Jolly, the owners of Certificates of Title Volume 5291 Foliros 387 and 388 for the amount of \$45,500 plus GST (if applicable) and all fees and charges associated with the road closure</p>	Terry Crackett	In Progress	5/11/2018	31/03/2019	Currently out for consultation with the Surveyor-General's Office



Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
11/09/2018	Special Council	234/18	Sale of closed unnamed road off Burton Road, Mt Torrens	To sell the land comprised in Certificate of Title Volume 6191 Folio 688 known as Closed Road U in Road Plan No. 1793 and identified on the plan attached as Appendix 1 (Land) for the amount of \$9,500 (exclusive of GST) to the adjoining land owner R T & T L Gladigau. To delegate to the Chief Executive Officer to sign all documentation necessary to effect the sale of the Land.	Terry Crackett	In Progress	5/11/2018	30/11/2018	Documents signed by Council on 5.11.18
11/09/2018	Special Council	235/18	Sale of closed unnamed road off McVitties Road, Birdwood	To sell the land comprised in Certificate of Title Volume 6193 Folio 468 known as Closed Road S in Road Plan No. 1793 and identified on the plan attached as Appendix 1 (Land) for the amount of \$8,500 (exclusive of GST) to the adjoining land owner Talunga Pty Ltd. To delegate to the Chief Executive Officer to sign all documentation necessary to effect the sale of the Land.	Terry Crackett	Completed	5/11/2018	30/11/2018	Settlement was completed on 2 November 2018
11/09/2018	Special Council	238/18	Ashton Landfill – Confidential Item	Until 10 September 2019. Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.  Council takes all reasonable actions, including initiating legal proceedings to recover losses associated with an alleged breach of contract by Tonkin Consulting when designing and overseeing slip remediation works they undertook during 2013 and 2014 at the former Ashton Landfill allegedly leading to a further landfill cap slip in 2015. The Chief Executive Officer is delegated to undertake all necessary actions to affect this resolution.	Peter Bice	In Progress	9/11/2018		Council continues to progress the matter.
25/09/2018	Ordinary Council	13.2	Harms Avenue Birdwood	That Council resolves that the report be received and noted. That the CEO provides a further report to Council by the end of March 2019.	Terry Crackett	In Progress	9/10/2018		Consultation with land owners is currently underway. Correspondence was sent out on 19/9/2018 to land owners seeking expressions of interest in road closure.
25/09/2018	Ordinary Council	252/18	Unmade Road Reserves, Charleston Conservation Park	That the CEO provides a report to Council by the end of February 2019 on future options for the unmade road reserves adjacent to the Charleston Conservation Park.	Terry Crackett	In Progress	5/11/2018	28/02/2019	Council are awaiting receipt of a valuation from the Department of Environment and Water

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
8/10/2018	Audit Committee	AC19/40	2017-18 Draft General Purpose Financial Statements	<ol style="list-style-type: none"> <li>1. That the report be received and noted.</li> <li>2. To recommend that Council endorse the early adoption of Australian Accounting Standards AASB15 and AASB1058 for the 2017-18 financial year and pursuant to AASB1058 elect not to recognise Volunteer Services in its financial statements for the 2017-18 financial year.</li> <li>3. That in accordance with Section 126(4)(a) of the <i>Local Government (Financial Management) Regulations 1999</i>, the Audit Committee advises Council that it has reviewed: the General Purpose Financial Statements of the Council for the financial year ended 30 June 2018 as contained in Appendix 1, and the draft External Auditor Galpins' Audit Clearance Letter, and is satisfied that they present fairly the state of affairs of the Council.</li> <li>4. Considers that the Adelaide Hills Council 2017-18 General Purpose Financial Statements, contained in Appendix 1, can be certified by the Chief Executive Officer and the Mayor.</li> <li>5. That it notes the confirmation of Galpins Independence Declaration Statement as tabled and considers that the Auditor Independence Statement contained in Appendix 2 can be certified by the Chief Executive Officer and the Presiding Member of the Audit Committee in accordance with the requirements of Regulation 22(3) of the <i>Local Government (Financial Management) Regulations 2011</i>.</li> </ol>	Terry Crackett	Completed	15/11/2018	24/10/2018	Financial Statements signed off by Mayor & CEO 23 October 2018 and Galpins, our External Auditors 24 October 2018 for inclusion in Annual Report
23/10/2018	Ordinary Council	261/18	Lobethal Primary School Safety Concerns	That the CEO, in consultation with the Governing Council and the Principal of the Lobethal Primary School, provides a report to the February 2019 Council meeting, on opportunities to improve safety for students and parents on streets within the vicinity of the School.	Peter Bice	In Progress	6/11/2018		A previous report was undertaken in 2017 by Tonkin Consulting to look at traffic and pedestrian movements with suggested works.
23/10/2018	Ordinary Council	263/18	Naming the Arts & Heritage Hub	That the report be received and noted. That the Council's arts and heritage hub in the former Lobethal Woollen Mill be called Fabrik. That further development of Fabrik incorporate the naming of specific elements of, or programs run at, the complex. This should include consideration of other suggested names made by the community as part of the current process, including Interwoven and Yarn Space.	David Waters	In Progress	16/11/2018	30/06/2019	The naming of other elements will occur as part of the development of the detailed design for the redevelopment, which will occur in the first half of 2019.
23/10/2018	Ordinary Council	264/18	2017-18 General Purpose Financial Statements	That the report be received and noted. To endorse the early adoption of Australian Accounting Standards AASB15 and AASB1058 for the 2017-18 financial year and pursuant to AASB1058 elect not to recognise Volunteer Services in its financial statements. That, in accordance with Section 127 of the <i>Local Government Act 1999</i> and the <i>Local Government (Financial Management) Regulations 1999</i> , Council adopts the General Purpose Financial Statements for the financial year ended 30 June 2018. To authorise the Mayor and CEO to sign the General Purpose Financial Statements for the financial year ended 30 June 2018.	Terry Crackett	Completed	15/11/2018	24/10/2018	Financial Statements signed off by Mayor & CEO 23 October 2018 and Galpins, our External Auditors 24 October 2018 for inclusion in Annual Report
23/10/2018	Ordinary Council	265/18	Building Better Regions Fund	That the report be received and noted. That an application be made to the Building Better Regions Fund and/or other funds where applicable, for the establishment of the Arts & Heritage Hub at Lobethal with Council's contribution of up to \$1,306,000 as included in the Long Term Financial Plan. That the Chief Executive Officer, or delegate, be authorised to finalise the Council's funding submission(s). That funding offers arising from the applications be referred back to the Council for consideration.	David Waters	Completed	16/11/2018	15/11/2018	At the date of the November Council Meeting, the BBRF submission will already have been made.

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
23/10/2018	Ordinary Council	267/18	Review of Advisory Groups	<p>That the report be received and noted. To recommend the Terms of Reference to the incoming Council for the following Advisory Groups: Bushfire Advisory Group (with revisions to nomenclature and strategic plan references) Biodiversity Advisory Group (with revisions to nomenclature and strategic plan references) Cemetery Advisory Group (with revisions to nomenclature and strategic plan references) Property Advisory Group (with revisions to nomenclature and strategic plan references, removal of the function related to formulating asset management plans and the addition of functions related to road reserve management and management of Crown Land under Council's care and control) Rural Land Management Advisory Group (with revisions to nomenclature and strategic plan references and addition of membership from a representative of the strawberry/berry industry) Sustainability Advisory Group (with revisions to nomenclature and strategic plan references and the refinement of the role and functions to include resilient communities and resource recovery and the removal of conservation and biodiversity)</p> <p>3. To recommend to the incoming Council that the following Advisory Groups be discontinued, and the members thanked for their service: Adelaide Hills Business &amp; Tourism Centre Advisory Group Australia Day Awards Panel Social Planning Advisory Group Sport &amp; Recreation Advisory Group Youth Advisory Committee</p>	Andrew Aitken	Not Started	25/10/2018		
5/11/2018	Audit Committee	AC22/18	6.1. Action Report, 2017 Work Plan Update and Adoption of 2019 Work Plan	The Audit Committee resolves: That the report be received and noted That the status of the Action Report and Work Plan be noted That the 2019 Work Plan be adopted	Andrew Aitken	Not Started	6/11/2018		
5/11/2018	Audit Committee	AC23/18	6.2. 2017-18 End of Year Financial Report	The Audit Committee resolves: That the report be received and noted To note the Audited 2017-18 Financial Results compared to Budget contained within this report	Terry Crackett	Completed	15/11/2018	15/11/2018	Report noted. No further action required
5/11/2018	Audit Committee	AC24/18	Draft Annual Report	The Audit Committee resolves that the: Report be received and noted. Draft 2017-18 Annual Report, as contained in Appendix 1, be endorsed – recognising the need for inclusion of the General Purpose Financial Statements and Council's Regional Subsidiaries Annual Reports.	Terry Crackett	Not Started	6/11/2018		
5/11/2018	Audit Committee	AC27/18	Budget Review 1	The Audit Committee: Resolves that the report be received and noted. Notes that: The Operating Budget variations presented in Budget Review 1 do not impact on the Budgeted Operating Surplus of \$302k for the 2018-19 financial year. The proposed Capital Works amendment of \$15k will increase the total Capital Works Program to \$17.717m. There will be an increased Net Borrowing result of \$4.348m, up from \$4.333m as a result of the proposed Capital Program amendment	Terry Crackett	Completed	6/11/2018	15/11/2018	Report for noting. No further action required
5/11/2018	Audit Committee	AC29/18	Internal Audit Quarterly Update	The Audit Committee resolves: To receive and note the report. To note the implementation status of Internal and External Audit actions.	Andrew Aitken	Not Started	6/11/2018		

Meeting Date	Meeting	Res No.	Item Name	Action Required (Council Resolution)	Responsible Director	Status	Date of Update	Est. Completion	Status (for Council reporting)
5/11/2018	Audit Committee	AC31/18	2019 Audit Committee Meeting Dates	That the report be received and noted.To approve the Audit Committee meeting schedule, timings and locations for 2019 as follows:  Commencement6.00pmMeeting Dates and Locations11 February 2019, 63 Mt Barker Road, Stirling15 April 2019, 63 Mt Barker Road, Stirling12 August 2019, 63 Mt Barker Road, Stirling14 October 2019, 63 Mt Barker Road, Stirling11 November 2019, 63 Mt Barker Road, Stirling	Andrew Aitken	Not Started	6/11/2018		

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 13.1

**Originating Officer:** Lachlan Miller, Executive Manager Governance and Performance

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Audit Committee Presiding Member's Report 2018

**For:** Information

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**SUMMARY**

To provide the Council with the 2018 Audit Committee Presiding Member's Report.

The Audit Committee Terms of Reference provide that 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.

Independent Member, Paula Davies, is the current Presiding Member of the Audit Committee.

**RECOMMENDATION**

**That the report be received and noted.**

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**1. GOVERNANCE**

➤ **Strategic Management Plan/Council Policy**

Goal	Organisational Sustainability
Strategy	Risk and Responsibility
Strategy	Governance

The Audit Committee Presiding Member providing an annual report to the Council of the Committee's business is an important tool in facilitating accountability and transparency with the committee structures.

➤ **Legal Implications**

Section 126 of the *Local Government Act 1999* sets out the functions of an audit committee.

There is no legislative requirement for the Presiding Member of a s41 Committee to report to the Council.

➤ **Risk Management Implications**

The management of action items and the work plan 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)	Medium (3D)	Medium (3D)

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

➤ **Financial and Resource Implications**

Not applicable.

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

Not applicable.

➤ **Environmental Implications**

Not applicable.

➤ **Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community**

*Council Committees:* The Presiding Member presented her Report to the 5 November 2018 Audit Committee meeting.

*Advisory Groups:* Not Applicable

*Administration:* Director Corporate Services  
Executive Manager Governance and Performance

*Community:* Not Applicable

**2. BACKGROUND**

Clause 8.1.2 of the Audit Committee Terms of Reference provides that 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

As identified above, the Presiding Member delivered the Report to the 5 November 2018 Audit Committee meeting. The Committee’s resolution was as follows:

**6.5. Chairperson’s Report**

Moved Peter Brass  
S/- Geoff Purdie

AC26/18

The Audit Committee resolves that the report be received and noted.

Carried
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**3. ANALYSIS**

The Presiding Member has structured her report (**Appendix 1**) in accordance with the key functions of the Audit Committee Terms of Reference. The commentary provided demonstrates the manner in which and the activities undertaken by the Committee to fulfil its role.

**4. OPTIONS**

Council has the following options:

- I. Note and receive the report.
- II. Resolve that other actions are required.

**5. APPENDIX**

- (1) 2018 Audit Committee Presiding Member’s Report

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# **Appendix 1**

*2018 Audit Committee Presiding Member's Report*

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# **REPORT TO THE ADELAIDE HILLS COUNCIL ON THE OPERATIONS OF THE AUDIT COMMITTEE DURING 2018**

## **INTRODUCTION**

As outlined in Clause 8.1.2 of the Terms of Reference for the Audit Committee, 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. This report provides an overview of the Adelaide Hills Council's Audit Committee operations for the 2018 calendar year.

This report includes:

- A summary of the work the Committee performed during the year aligned to the Committee's Terms of Reference;
- Details of meetings, including the number of meetings held during the period, and the number of meetings attended by each member; and
- Advising the future work scheduled for 2019.

The report is intended to invite comment from the Council on all of the above.

## **SUMMARY OF WORK PERFORMED AGAINST THE TERMS OF REFERENCE**

For 2018, as in previous years, the Audit Committee had established a robust framework for the provision of information to meet the objectives established within the Terms of Reference. As a consequence some 45 reports were considered by the Committee for consideration, and where appropriate, recommendations subsequently provided to Council.

The following sections of this report provide a brief summary of the work undertaken by key objective.

### **Financial Reporting and Prudential Requirements**

A review of the Long Term Financial Plan (LTFP) was undertaken during February prior to consideration of the draft Annual Business Plan and Budget. Emphasis of the Committee was on the assumptions that had been used in the development of the LTFP and alignment against previous versions that had been reviewed.

This year saw the significant enhancement of the LTFP to capture the forward costs associated with the delivery of the Strategic Plan and all functional strategies. This improvement increased the assurance of delivery against the Plan, but at the same time required the Audit Committee to give additional focus to both the assumptions and level of savings strategies that had been incorporated.

Consideration of the draft Annual Business Plan and Budget noted that the targets that had been established within the LTFP were met for operating income and expenditure as well as the capital program. The achievement of these targets provided a level of assurance around the ongoing financial sustainability of the Council.

Throughout the year the Committee assessed each quarterly budget review and sought clarification where required. There were no areas of concern for the Committee in relation to these reviews.

At the 8 October 2018 meeting the Committee had an in depth discussion around the draft Annual Financial Statements that had been presented. The review provided assurance that not only had the requirement of the *Local Government Act 1999* had been met, but that the result achieved aligned closely to the forecast projected by Council for the year after accounting for the impacts of an additional provision for remediation and ongoing monitoring of a former waste site. The Committee proposed a number of minor amendments to the Statements that were subsequently incorporated by the administration.

Following the October meeting it was subsequently confirmed that Council received an unqualified Audit Opinion Council's external auditors.

## **Internal Controls and Risk Management Systems**

### Internal Controls

From the start of the 2015-16 financial year, Adelaide Hills Council has had additional obligations regarding the development and maintenance of a system of internal financial controls, consistent with the requirements of the *Local Government (Financial Management) Regulations 2011*. This has required Council's external auditors to provide an opinion on internal controls in accordance with s129(3)(b) of the Act.

As previously reported monitoring against the key risks and controls has been generated from a system called 'Control Track'. This system tracks the recognised 'core' controls and the agreed treatment plans by responsible officers.

An unqualified opinion on the internal controls was provided by Council's Auditors during October 2018.

### Risk Management

Throughout the year the Audit Committee has reviewed updates on the organisation's strategic risks and agreed actions. Whilst the Committee is comfortable with the progress being made in oversight of risk, there is a need for improved reporting of the risk profile of Council to ensure both operational and strategic risks have appropriate controls and mitigation strategies in place.

Given the recruitment of additional resourcing to support the risk management activities of Council during 2018, the Committee is looking forward to receiving improved reporting via the Control Tack system that was demonstrated during 2017.

### Debtors

Quarterly reporting on the level of outstanding debtors was commenced in late 2016 to provide additional focus on this key area of control. The Committee has been very pleased to note the ongoing improvement in the level of debtors outstanding, with the most recent report highlighting that long term debtors have now reduced by almost 90% since additional monitoring commenced.

### New and Revised Strategic Documents

In addition to a new policy that was developed to support the provision of Community Loans, during the year the Committee reviewed the following key policies and strategies and provided input where appropriate:

- ICT & IS Strategic Plan (NEW)
- Corporate Planning and Performance Framework (NEW)

## **Whistleblowing**

A review of the Whistleblower Protection Policy was last undertaken in February 2016 with only minor edits made to the Policy. The next review of this Policy is scheduled for 2019.

## Internal Audit

At its 30 April 2018 meeting the Committee recommended to Council to adopt the draft Strategic Internal Audit Plan 2018/19 – 2021/22 (SIAP). The Council subsequently adopted the SIAP v1.0 at its 22 May 2018 meeting and in doing so established a program of internal audits that has been developed to recognise key areas of risk.

During the current year two key internal audits were completed in relation to:

- Customer Service Standards Reporting, and
- Planning Assessment Processes.

Management responses and agreed actions were prepared for each of the key findings and the Committee provided an opinion on these responses. All agreed actions are captured within the Committee's Audit Actions Implementation Register and reported to the Committee on a quarterly basis to ensure that appropriate actions are being undertaken.

## External Audit

At the 20 February 2018 Audit Committee meeting a report was considered on the contract for the provision of external audit services following the completion of a tender process by the Administration. This report provided details of the tender process to the Audit Committee and sought the Committee's recommendation to Council for the appointment of an external auditor. A recommendation was subsequently provided to Council for the appointment of Galpins Accountants, Auditors and Business Consultants for the provision of external audit services for a period of three (3) years commencing with the audit for the financial year ending 30 June 2018.

The Audit Committee met with Council's External Auditors, Galpins, in the absence of management at the 8 October 2018 meeting. The auditors advised that the financial management and reporting of council activities was of a very good standard. This allowed for the external audit to be completed within the scheduled timetable and supporting documentation was readily available. Galpins ideally would commence a bit earlier next time to allow for more time at the end of the process, though there were a number of factors contributing to time pressure at the end of audit. The audit completion report highlighted some key accounting and audit matters including some internal control deficiencies that were adequately addressed by management. These will be reviewed by external audit during the following year's audit to ensure all items have been appropriately actioned.

The Committee also assessed 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. The Committee is satisfied that for the 2017/18 financial year, there were no relationships between the External Auditor and the Council that compromise audit independence, and this was also confirmed in writing by the external auditor.

## DETAILS OF MEETINGS

During 2017, a total of five (5) Audit Committee meetings were held being:

- 20 February 2018
- 30 April 2018
- 13 August 2018
- 8 October 2018
- 5 November 2018

The above meeting cycle is consistent with the requirements of the Committee's Terms of Reference which requires at least four meetings per year to be held.

The Audit Committee member attendance at meetings during the year was as follows:

<b>Name</b>	<b>Attendance</b>	<b>Comments</b>
Paula Davies	5/5	Presiding Member
Peter Brass	5/5	
Geoff Purdie	4/5	Apology for October meeting
Cr Malcolm Herrmann	5/5	
Cr John Kemp	4/5	Apology for April meeting

### **FUTURE WORK PROGRAM PROPOSAL**

At the 5 November 2018 meeting of the Committee a work plan for 2019 was established. This work plan will ensure that the Committee continues to undertake its principal functions as set out in Section 126(4) of *the Local Government Act 1999* which include:

- reviewing annual 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 or annual business plan; and
- Liaising with the Council's auditor.

### **CONCLUSION**

The body of work undertaken by the Committee is continuing to develop over time and the Committee is striving to ensure that its work is useful in the context of contributing to Adelaide Hills Council strategic objectives.

The Committee has also completed a self-assessment of its own performance for continuous improvement and invites Council's feedback on the opportunities for continuing development of the Committee's operations.

Finally, I would like to thank the other members of the Committee for their ongoing efforts in ensuring that the work undertaken is done so at both a highly professional and robust level. Acknowledging the November 2018 Local Government Elections and therefore the prospect of a change of Elected Member representatives on the Committee, I would like to specifically thank Councillors Malcolm Herrmann and John Kemp for their contribution to the Committee during their term. I would also like to thank those staff involved in preparing the reports and responding to questions at meetings, as their involvement has significantly aided in the review and decisions of the Committee.

#### **Paula Davies**

Presiding Member

Adelaide Hills Council Audit Committee

27 November 2018

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 13.2

**Originating Officer:** Hari Argiro, Coordinator Service Strategy and Innovation

**Responsible Director:** David Waters, Director Community Capacity

**Subject:** Customer Service Standards Report – Quarter 1, 2018-19

**For:** Information

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**SUMMARY**

The purpose of this report is to communicate Council’s performance against the customer service standards for Quarter 1 2018-19. The report provides an overview of the performance results for each of the service standards. The Service Standards Report is contained in **Appendix 1**.

**RECOMMENDATION**

**Council resolves that the report be received and noted.**

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**1. GOVERNANCE**

➤ **Strategic Management Plan/Council Policy**

Goal: Organisational Sustainability  
Strategy: Customer Service Commitment

Measuring and reporting on service standards is a key component of Council’s Customer Service Framework and demonstrates our commitment to customer service as outlined in the Strategic Plan.

➤ **Legal Implications**

Not applicable.

➤ **Risk Management Implications**

Reporting against our service standards will assist in mitigating the risk of:

*Unknown performance against service standards and targets leading to an inability to improve service delivery to the community.*

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

A number of other actions also mitigate against this risk.

➤ **Financial and Resource Implications**

Not applicable.

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

Measuring and reporting on performance against the standards in Council's Customer Service Framework is important to demonstrate how Council is meeting its commitment to customer service. The quarterly report aids in identifying opportunities to improve customer service delivery.

➤ **Environmental Implications**

Not applicable.

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

*Council Committees:* Not applicable

*Council Workshops:* Not applicable

*Advisory Groups:* Not applicable

*Administration:* Executive Leadership Team  
Team Leader Statutory Planning

*Community:* Not applicable.

## 2. **BACKGROUND**

Service standards are a key component of the Customer Service Framework, providing a commitment to specific service targets. The collation and reporting of key identified performance standards demonstrates a commitment to the provision of quality customer service and can be used to identify service improvement opportunities.

It should be noted that service standard reporting is based on service instances completed or closed within the reporting period.

### **Recent audit**

Bentleys SA Pty Ltd was engaged by the Administration to undertake an audit of the Customer Service Standards Reporting. The audit scope included roles and responsibilities, data quality, and monitoring and reporting.

The audit findings, responses and the agreed actions were considered by the Audit Committee in August 2018. The agreed actions are being implemented and include:

- Rollout of a new monthly Customer Service Standard Report and service standard dashboards within the Council’s Customer Relationship Management (CRM) System
- A system check will be added to ensure all data is entered correctly before a customer case can be closed
- Training targeted at functional areas with high errors and anomalies in data entry and case management
- Quarterly review process used to identify data quality and process issues and work with those areas within Council to review current practices and implement service and process improvements.

### 3. ANALYSIS

#### Time based indicators

Of the 16 time-based service standard indicators reported, the target performance was met – or there were no instances – for 15 of them.

Data for ‘answering incoming phone calls’ has not been collected this quarter. Since the introduction of an ‘automated attendant message’ at the beginning of March, data cannot be readily collected. However, since the installation of the new Contact Centre software on 12 September 2018, reporting on the performance of the Contact Centre will re-commence and be reported on next quarter.

Only one of the time-based standards did not meet the target performance this quarter:

- Illegally Dumped Rubbish

This quarter’s result of 70% is below the target of 80%, but an improvement on the last quarter’s result of 57%. The average resolution time this quarter was 1.7 days, compared to an average of five days last quarter. This reflects improved recording and reporting processes that were identified and implemented following last quarter’s results.

#### Other indicators

- Development Applications

The average planning consent time for development applications for the quarter is 16.76 weeks (target 12 weeks) with a median consent time of 11 weeks.

- Low Risk Infrastructure Requests

The number of new low risk infrastructure requests in the quarter was 600, which is a reduction from last quarter. There is a downward trend in the number of requests, especially when compared to the same quarter last year when there were 848 new requests. This may be explained by the less severe weather events this year when compared to the same time last year.

The average cycle time has slightly decreased this quarter to 75 days, compared to 78 days in the last quarter. The median resolution time again reduced from 11 days to 9 days this quarter.

There was also a decrease in the 80<sup>th</sup> percentile resolution time, this quarter (from 92 in Quarter 4 to 81 in Quarter 1, and it is significantly lower than Quarter 1 result of the previous year of 150 days).

There is a continued focus and effort on improving works planning to reduce the time taken to address and rectify these low risk maintenance requests.

#### **Overall volume of requests**

The number of overall requests relating to services with adopted service standards increased by 160 this quarter. Whist requests to investigate and remove wasp nests reduced significantly this quarter (from 307 last quarter to 3 this quarter) there were increases in both requests to update details and bin repair/replacements.

#### **4. OPTIONS**

Council has the following options:

- I. To note the report as presented (Recommended)
- II. To determine any additional actions to be undertaken.

#### **5. APPENDIX**

- (1) Q1 2018-19 Service Standard Report (July – September 2018)



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# **Appendix 1**

*Q1 2018-19 Service Standard Report  
(July – September 2018)*

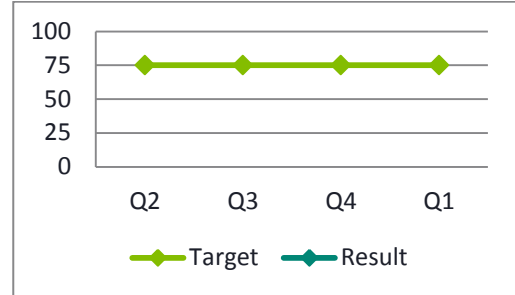
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### General Customer Standards

#### Answering incoming phone calls

We will answer 75% of calls to our contact centre within 30 seconds

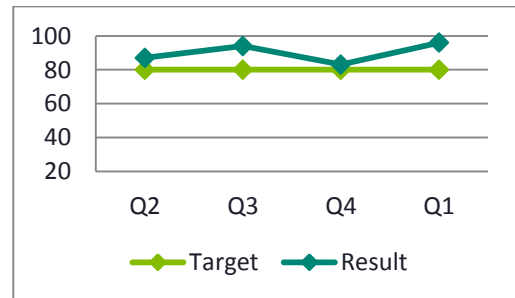
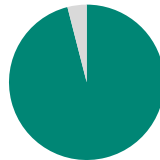
Data has not been collected. The introduction of the 'Automated Attendant Message' has meant that the data for this measure is unreliable.



#### Updating customer details

We will update your contact details within 5 days

Volume	128
Target	80%
Result	96%

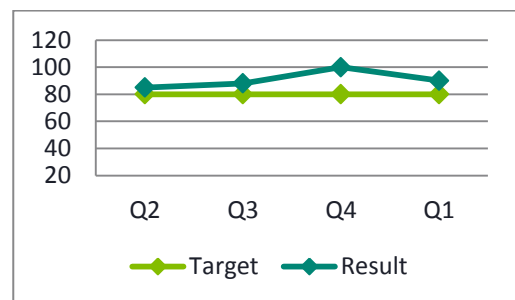
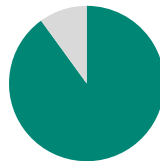


### Service Specific Standards – Time Based Indicators

#### New Event Applications

We will acknowledge receipt of new applications within 5 days

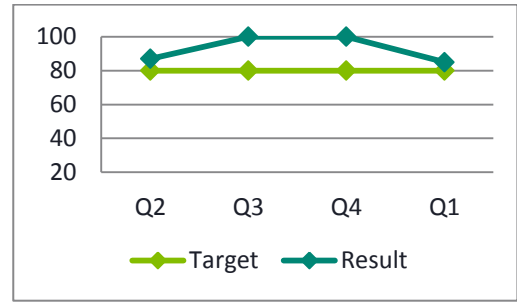
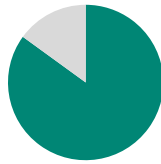
Volume	10
Target	80%
Result	90%



### Illegal Burning Complaints

We will investigate reported illegal burning within 24 hours

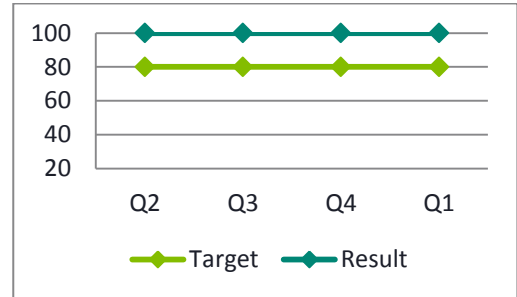
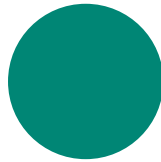
Volume 13  
Target 80%  
Result 85%



### Health Complaints

We will investigate/respond to reported food complaints within 24 hours

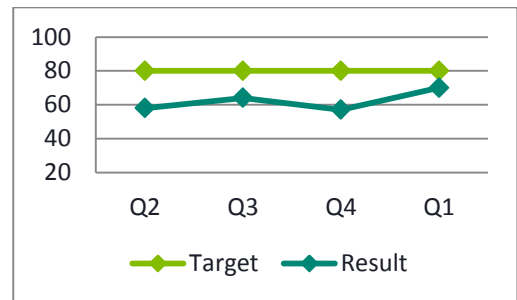
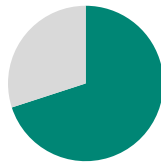
Volume 3  
Target 80%  
Result 100%



### Illegally Dumped Rubbish

We will remove illegally dumped rubbish within 3 days

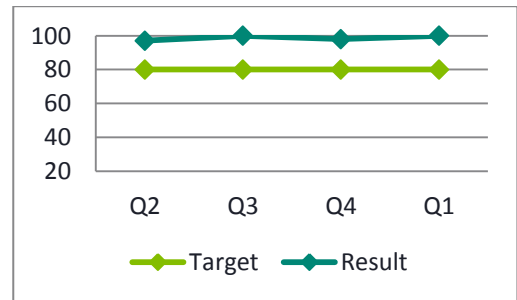
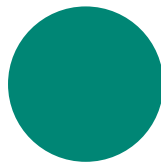
Volume 47  
Target 80%  
Result 70%



### Library Services

We will respond to requests to purchase materials within 10 days

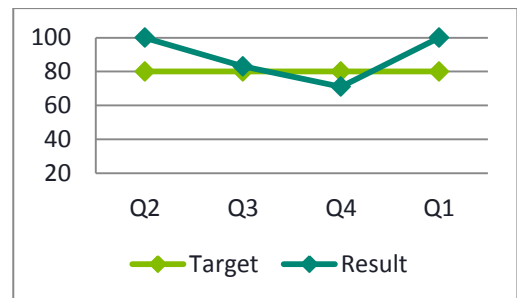
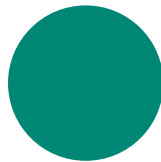
Volume 44  
Target 80%  
Result 100%



### Dog Attacks

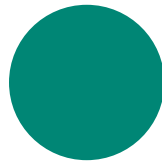
We will respond to reported dog attacks within 24 hours

Volume 6  
Target 80%  
Result 100%

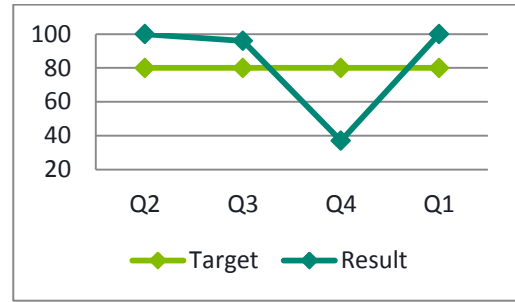


### Wasps

We will investigate and action reported European Wasp nests within 7 days

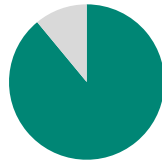


Volume 3  
Target 80%  
Result 100%

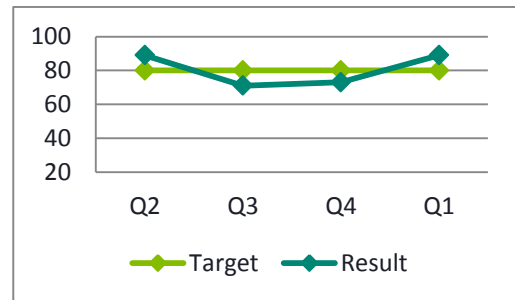


### Development Applications

We will approve fast track Development Applications within 28 days

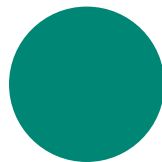


Volume 35  
Target 80%  
Result 89%

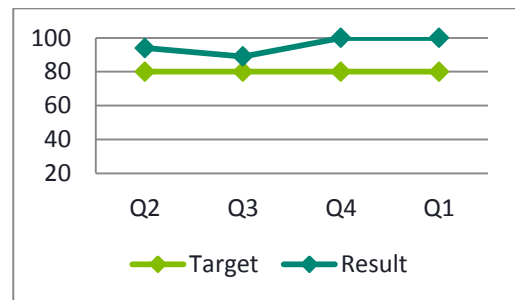


### Missed Bins

We will collect missed domestic bins within 2 days

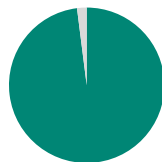


Volume 1  
Target 80%  
Result 100%



### Request for bin repair or replacement

We will action requests for bin repair or replacement within 7 days

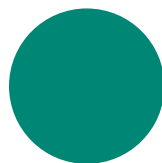


Volume 1195  
Target 80%  
Result 98%



### Footpath Repairs – Hazardous

We will respond and make safe hazardous footpath issues within 24 hours



Volume 1  
Target 80%  
Result 100%



**Road Repairs – Hazardous**

We will respond and make safe hazardous road and pothole issues within 24 hours

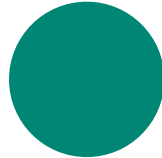
No Incidents

Volume 0  
Target 80%  
Result No incidents

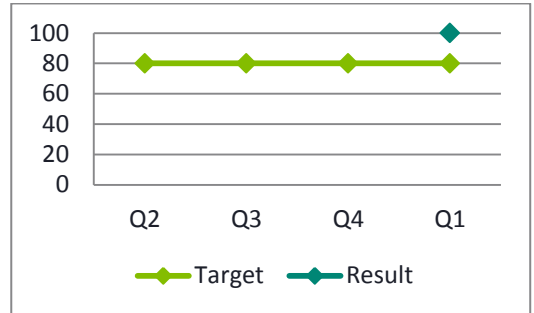


**Stormwater Repairs – Hazardous**

We will respond and make safe hazardous stormwater and flooding issues within 24 hours

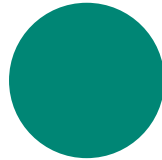


Volume 1  
Target 80%  
Result 100%



**Trees – Hazardous**

We will respond and make safe hazardous tree issues within 24 hours



Volume 4  
Target 80%  
Result 100%

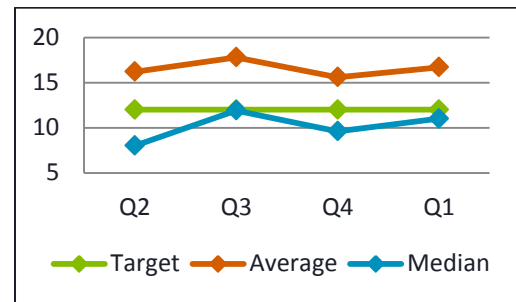


## Service Specific Standards – Other Indicators

### Development Applications

We will, on average, make a decision on planning consent within 12 weeks of receipt of the application

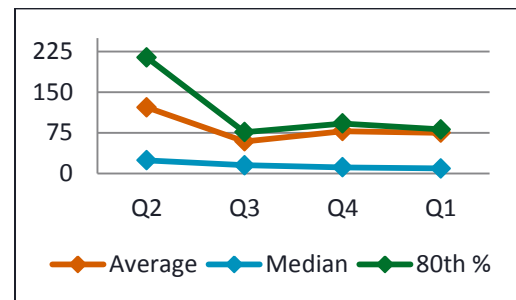
Volume	198
Target	12 weeks
Average Consent Time	16.8 weeks
Median Consent Time	11 weeks



### Low Risk Infrastructure Requests – Average Time to Resolve

We will resolve other footpath, road, stormwater and tree issues in accordance with our general maintenance program

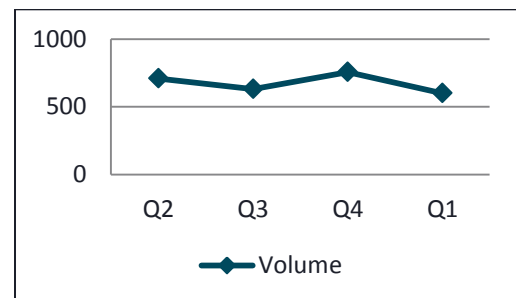
Volume	700
Average Resolution Time	75 days
Median Resolution Time	9 days
80 <sup>th</sup> Percentile Resolution Time	81 days



### Low Risk Infrastructure Requests – Number of New Requests

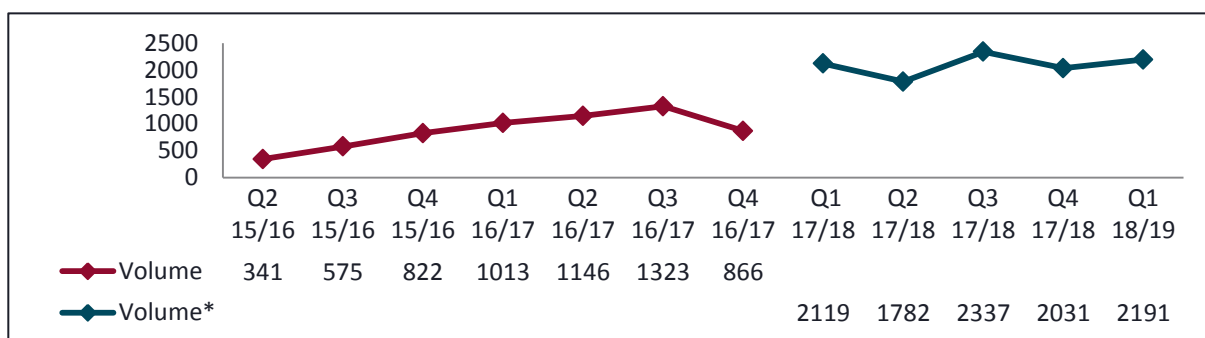
We will resolve other footpath, road, stormwater and tree issues in accordance with our general maintenance program

Number of New Requests	600
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### 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



\* From Q1 17/18 the volume includes requests for bin repair and replacement requests, which were previously not reported

**ADELAIDE HILLS COUNCIL  
ORDINARY COUNCIL MEETING  
Tuesday 27 November 2018  
AGENDA BUSINESS ITEM**

**Item:** 13.3

**Originating Officer:** Lachlan Miller, Executive Manager Governance and Performance

**Responsible Director:** Andrew Aitken, Chief Executive Officer

**Subject:** Designated Administration Contacts for Council Members

**For:** Information

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**SUMMARY**

Effective relations between Council Members, the Chief Executive Officer and Council Officers (the Administration) are facilitated by an understanding of the respective roles and responsibilities of each as set out in legislation.

The purpose of this report is to advise Council of the designated Administration contacts as appointed by the Chief Executive Officer in regards to Section 61(2) of the *Local Government Act 1999* (the Act) and Sections 2.12 and 2.13 of the Code of Conduct for Council Members (as contained in the *Council Member Conduct Policy*)

**RECOMMENDATION**

**Council resolves:**

- 1. That the report be received and noted**
- 2. To note, that under Section 61(2) of the *Local Government Act 1999* and clauses 2.12 and 2.13 of the Code of Conduct for Council Members, the Chief Executive Officer has nominated the following Council Officers (or the Council Officers acting in these positions) as the Designated Administration Contacts for Council Members:**

<b>Office of the CEO</b>	
Chief Executive Officer	Andrew Aitken
Executive Assistant Mayor & CEO	Pam Williams
Executive Manager Governance & Performance	Lachlan Miller
Governance & Risk Coordinator	Steven Watson
Executive Manager Organisational Development	Megan Sutherland
<b>Community Capacity</b>	
Director Community Capacity	David Waters
Executive Assistant Community Capacity	Tara Moyes
Manager Library & Customer Services	Dee O’Loughlin
Manager Community Development	Rebecca Shepherd
Manager Communications, Engagement & Events	Jennifer Blake
Manager Economic Development	Mel Bright
<b>Development &amp; Regulatory Services</b>	
Director Development & Regulatory Services	Marc Salver
Executive Assistant Development & Regulatory Services	Karen Savage
Manager Development Services	Deryn Atkinson
Team Leader Regulatory Services	Dennis Rainsford
Team Leader Environmental Health	Alexis Black
<b>Infrastructure &amp; Operations</b>	
Director Infrastructure & Operations	Peter Bice
Executive Assistant Infrastructure & Operations	Jo Finnie
Manager Open Space	Chris Janssan
Manager Civil Works	Ashley Curtis
Manager Sustainable Assets	David Collins
Manager Waste, CWMS & Emergency Management	John McArthur
<b>Corporate Services</b>	
Director Corporate Services	Terry Crackett
Executive Assistant Corporate Services	Kylie Hopkins
Manager Financial Services	Mike Carey
Manager ICT	James Sinden
Manager Property Services	Natalie Westover

3. To note that the Chief Executive Officer will provide contact and portfolio details of the Designated Administration Contacts for Council Members following the Council meeting.
  4. To note that the Chief Executive Officer may revise the Designated Administration Contacts, during the course of the Council term, with notification provided to Council Members.
  5. To note the provisions of the *Council Member Conduct Policy* and the *One Team – Communication Protocols for Council Members and the Administration*.
-



## 1. GOVERNANCE

### ➤ Strategic Management Plan/Council Policy

Goal	Organisational Sustainability
Strategy	Risk and Responsibility
Strategy	Governance

The legislated Code of Conduct for Council Members (see Legal Implications below) is contained within the *Council Member Conduct Policy*.

### ➤ Legal Implications

Under Section 61(1) of the Act, Council Members are entitled at any reasonable time, in connection to their duties as Members of the Council, to have access to any relevant council documents. Further section 61(2) provides that a request for access to a document must be directed to the Chief Executive Officer (CEO) or another officer as specified.

Section 63(1) of the Act provides that the Governor may, by regulation, prescribe a code of conduct to be observed by the members of all councils. Further section 63(2) requires Council Members to observe the Code of Conduct.

### ➤ Risk Management Implications

Effective communications between Council Members and Council Officers 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)	Medium (3D)	Medium (3D)

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

### ➤ Financial and Resource Implications

Not applicable.

### ➤ Customer Service and Community/Cultural Implications

Not applicable.

### ➤ Environmental Implications

Not applicable.

➤ **Engagement/Consultation with Committee, Regional Subsidiary, Advisory Group and Community**

*Council Committees:* Not Applicable.

*Advisory Groups:* Not Applicable

*Administration:* Executive Leadership Team  
Governance & Risk Coordinator  
Executive Assistant Mayor & CEO

*Community:* Not Applicable

**2. BACKGROUND**

On 29 August 2013, in accordance with Regulation 7 of the Local Government (General) Regulations 1999, the Minister for Planning published the Code of Conduct for Council Members. On 1 September 2013, the Code of Conduct for Council Members was made by Regulation.

The Code contains four parts: Part 1 – Principles, Part 2 – Behavioural Code, Part 3- Misconduct, and Appendix – Criminal Matters.

In contemplating the Code in 2014, Adelaide Hills Council considered that it represented a set of minimum standards that all Members must comply with. In this regard, the Council resolved to create an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct, and adopted a suite of AHC Behavioural Standards for that purpose. These Behavioural Standards, along with the Code of Conduct Complaint Handling Procedure, form the *Council Member Conduct Policy (Appendix 1)*.

Relevant to this report, the Behavioural Code contains the following clauses:

2.12 *Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.*

2.13 *Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.*

This is supported in the Behavioural Standards by the following clause:

*AH17 Utilise appropriate channels established by the Chief Executive Officer under Section 61 of the Local Government Act 1999 for the purposes of obtaining official Council documents or information that is not publicly available.*

In August 2015, the SPDPC, under delegation of Council, adopted the *One Team – Communication Protocols for Council Members and the Administration* (the Protocols) (*Appendix 2*).

The objectives of the Protocols are:

1. To improve the exchange of information between Council Members and the Administration
2. To ensure a greater appreciation of the roles, responsibilities and needs of all parties to this plan
3. To improve the governance, efficiency and impact of communication between the Administration and the elected Council
4. To ensure Council Members and the Administration are kept informed about council operations

### 3. ANALYSIS

Clauses 2.12, 2.13 and AH17, along with the Protocols are aimed at facilitating effective communication in an environment of mutual respect, trust, and acceptance of the different roles of Council staff and Members in achieving the Council's objectives and policies.

For this to occur there is a need for clarity on the appropriate contact points within the Administration that Council Members can direct queries and request for information.

Often these queries arise from matters raised by members of the public which are relatively straightforward and can be most effectively resolved by encouraging the member of the public to contact the Administration directly. Key Intent (g) of the Protocols provides that Council Members should:

*Encourage community members to make service complaints or requests directly to Council's Contact Centre or the website in the first instance*

In other circumstances it is more appropriate for the Council Members to access the provisions of s61 and clauses 2.12, 2.13 and AH17 by contacting the Administration.

To ensure that there is a clear and consistent process for all Council Members, and in accordance with the legislative and Council policy requirements, the Chief Executive Officer has nominated the following Council Officers (or the Council Officers acting in these positions) as Designated Administration Contacts for Council Members:

<b>Office of the CEO</b>	
Chief Executive Officer	Andrew Aitken
Executive Assistant Mayor & CEO	Pam Williams
Executive Manager Governance & Performance	Lachlan Miller
Governance & Risk Coordinator	Steven Watson
Executive Manager Organisational Development	Megan Sutherland
<b>Community Capacity</b>	
Director Community Capacity	David Waters
Executive Assistant Community Capacity	Tara Moyes
Manager Library & Customer Services	Dee O'Loughlin
Manager Community Development	Rebecca Shepherd
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Manager Economic Development	Mel Bright
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Manager Development Services	Deryn Atkinson
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Executive Assistant Infrastructure & Operations	Jo Finnie
Manager Open Space	Chris Janssan
Manager Civil Works	Ashley Curtis
Manager Sustainable Assets	David Collins
Manager Waste, CWMS & Emergency Management	John McArthur
<b>Corporate Services</b>	
Director Corporate Services	Terry Crackett
Executive Assistant Corporate Services	Kylie Hopkins
Manager Financial Services	Mike Carey
Manager ICT	James Sinden
Manager Property Services	Natalie Westover

For clarity, the Designated Administration Contacts for Council Members are the only Council Officers that Members may contact to seek information in accordance with the provisions of s61 and clauses 2.12, 2.13 and AH17. This does not preclude Council Members interacting with any customer-facing staff (Customer Service Officers, Community Centre Staff, etc.) in the same way as members of the public.

The communication interactions themselves should be conducted in accordance with the provisions of the Protocols.

#### 4. **OPTIONS**

Council has the following options:

- I. Note and receive the report (***Recommended***)
- II. Resolve that other actions are required.

#### 5. **APPENDICES**

- (1) Council Member Conduct Policy
- (2) One Team - Communication Protocols for Council Members and the Administration

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# **Appendix 1**

## *Council Member Conduct Policy*

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# *Council Policy*

Council Member Conduct (including  
Mandatory Code of Conduct for  
Council Members)



# COUNCIL POLICY

 <p style="font-size: small; margin: 0;">ADELAIDE HILLS COUNCIL</p>	<h2 style="margin: 0;">COUNCIL MEMBER CONDUCT</h2>
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<b>Policy Number:</b>	<b>CM-04</b>
<b>Responsible Department(s):</b>	<b>Governance &amp; Risk</b>
<b>Relevant Delegations:</b>	<b>None</b>
<b>Other Relevant Policies:</b>	<b>Code of Practice for Meeting Procedures</b> <b>Code of Practice for Access to Council &amp; Council Committee Meetings &amp; Documents</b> <b>Fraud &amp; Corruption Prevention</b> <b>Caretaker</b> <b>Elected Member Allowances and Support</b> <b>Whistleblowers Protection</b>
<b>Relevant Procedure(s):</b>	<b>None</b>
<b>Relevant Legislation:</b>	<b>Local Government Act 1999</b> <b>Local Government (Elections) Act 1999</b>
<b>Policies and Procedures Superseded by this policy on its Adoption:</b>	<b>22.10.02, Item 10.1.1, 281</b> <b>02.12.03, Item 10.3.3, 227</b> <b>21.03.06, Item 9.2.3</b> <b>16.01.07, Item 10.3, 5</b> <b>10.05.11, Item 10.5, 133</b> <b>28.06.11, Item 10.12, 206</b> <b>27.09.11, Item 10.4, 284</b> <b>21.01.14, Item 13.3, 247</b>
<b>Adoption Authority:</b>	<b>Council</b>
<b>Date of Adoption:</b>	<b>24 November 2015</b>
<b>Effective From:</b>	<b>24 November 2015</b>
<b>Minute Reference for Adoption:</b>	<b>Item 14.7, 187</b>
<b>Next Review:</b>	<b>No later than November 2019</b>

## **COUNCIL MEMBER CONDUCT**

### **1. INTRODUCTION**

On 29 August 2013, in accordance with Regulation 6A of the Local Government (General) Regulations 1999, the Minister for Planning published the Code of Conduct for Council Members. On 1 September 2013, the Code of Conduct for Council Members was made by Regulation.

The Code contains provisions for the handling of complaints under Part 2 and requires Council to adopt a process for the handling of alleged breaches under that Part.

Adelaide Hills Council Members acknowledge their obligations to comply with the requirements of the Code of Conduct and consider that it represents a set of minimum standards that all Members must comply with. Adelaide Hills Council Members wish to provide for an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct, and have adopted a suite of AHC Behavioural Standards for that purpose.

Alleged breaches of the AHC Behavioural Standards will also be managed in accordance with the process established to respond to Part 2 of the Code of Conduct.

### **2. SCOPE**

Section 63(2) of the *Local Government Act 1999* provides that Council Members of councils must observe the Code of Conduct.

The AHC Behavioural Standards apply to Members of Adelaide Hills Council in accordance with the requirement of clause 2.6 of the Code of Conduct which requires Council Members to comply with all Council policies, codes and resolutions.

### **3. POLICY ELEMENTS**

The published Code of Conduct for Council Members is at Attachment A.  
The AHC Behavioural Standards are at Attachment B.  
The Code of Conduct Complaint Handling Procedure is at Attachment C.

### **4. FURTHER INFORMATION**

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au).

Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

The AHC Behavioural Standards and the Code of Conduct Complaint Handling Procedure will be reviewed within 12 months after a general Local Government election.

Council may, at any time, alter the AHC Behavioural Standards Code and/or the Code of Conduct Complaint Handling Procedure.



**ATTACHMENT A****CODE OF CONDUCT FOR COUNCIL MEMBERS**

*Published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.*

**This Code of Conduct is to be observed by all Council members.**

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

**PART 1 PRINCIPLES****1. Higher principles—Overarching Statement**

*This part does not constitute separate enforceable standards of conduct.*

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

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## PART 2 BEHAVIOURAL CODE

### 2. Behavioural Code

In line with 'Part 1 - Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

#### **General behaviour**

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

#### **Responsibilities as a member of Council**

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

#### **Relationship with fellow Council Members**

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

**Relationship with Council staff**

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

**Requirement to report breach of Part 3**

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct)— has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

**Complaints**

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.
- 2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
- 2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

**Findings**

- 2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:
- 2.25.1 Take no action;
  - 2.25.2 Pass a censure motion in respect of the Council member;
  - 2.25.3 Request a public apology, whether written or verbal;
  - 2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
  - 2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
  - 2.25.6 Request the member to repay monies to the Council.

**PART 3 MISCONDUCT****3. Misconduct**

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions, that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

**Member duties**

Council members must:

- 3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;

- 3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- 3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

### **Gifts and benefits**

- 3.7 Council members must not:
  - 3.7.1 Seek gifts or benefits of any kind;
  - 3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
  - 3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.
- 3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:
  - 3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
    - 3.9.1.2 Council work related events such as training, education sessions workshops and conferences;
    - 3.9.1.3 Council functions or events;
    - 3.9.1.4 Social functions organised by groups such as Council committees and community organisations.
  - 3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.
- 3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time,, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

*Note: The Minister for Planning in the Government Gazette on 18 August 2013 specified the value to be \$100.*

### **Register of Interests**

- 3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

**Campaign donation returns**

- 3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

**Conflict of interest**

- 3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

**Misuse of Council resources**

- 3.14 Council members using Council resources must do so effectively and prudently.
- 3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
- 3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

**Repeated or sustained breaches of Part 2**

- 3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

**APPENDIX—CRIMINAL MATTERS**

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

***Breaches of the Local Government Act 1999*****Member duties**

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

**Provision of false information**

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

**Restrictions on publication of information from Register of Interests**

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

**Breaches of other Acts**

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.

**ATTACHMENT B****ADELAIDE HILLS COUNCIL MEMBER BEHAVIOURAL STANDARDS****1. INTRODUCTION**

- 1.1 Adelaide Hills Council Members acknowledge their obligations to comply with the requirements of the prescribed Code of Conduct. Adelaide Hills Council Members consider that the Code of Conduct represents a set of minimum standards that all Members must comply with. Adelaide Hills Council Members wish to provide an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct, and have adopted these Standards for that purpose.
- 1.2 The behavioural standards outlined in this document apply to members of Adelaide Hills Council in addition to the standards prescribed in the Code of Conduct, the *Local Government Act 1999* and other relevant Acts and Regulations applicable to Members in the performance of their role, responsibilities, functions and duties.

**2. Part 1: Higher Principles of Member Behaviour**

- 2.1 In addition to the principles outlined in Part 1 of the Code of Conduct, the Members of Adelaide Hills Council have adopted the following additional higher principles of Member behaviour. While these principles do not constitute a standard of separate, enforceable conduct, they do represent the adopted values that Members of Adelaide Hills Council are expected to observe. The additional higher principles are to be read and applied in conjunction with those principles set out in the Code of Conduct.
- 2.2 These principles of expected and agreed behaviour of the Adelaide Hills Council Members are as follows:
- To act fairly and with integrity.
  - To lead by example in working with others to achieve agreed goals in the Adelaide Hills Council Strategic Plan.
  - To communicate clearly, constructively and directly with others in a regular and timely manner.
  - To act in a manner that is respectful, non-discriminatory, fair and that is not aggressive or intimidating.
  - To demonstrate respect for individuals, Council and other Members.
  - To encourage and listen attentively to the opinions and advice of the community, Council staff and other Members and to respond in a manner which best considers the interests of all stakeholders.
  - To be open, flexible and adaptable to change.
  - To demonstrate teamwork and collaboration with Council staff, other Members and the community.
  - To contribute and participate constructively, robustly and open-mindedly in Council debates and decision-making processes.



- To be committed to representing the Council in a manner which encourages long-term trust, respect and confidence in Council staff and other Members.
- To be accountable and responsible for their own behaviour and to be willing to acknowledge mistakes.

### 3. Part 2: Behavioural Code

3.1 In addition to the Behavioural Code requirements outlined in Part 2 of the Code of Conduct, the Members of Adelaide Hills Council have adopted these additional aspirational behavioural standards that Council expects will be observed by all Members.

3.2 For clarity purposes, the requirements of Part 2 of the Code of Conduct are listed alongside the applicable Adelaide Hills Council's Behavioural Standards below.

<b>Behavioural Code in Code of Conduct for Council Members</b>		<b>Adelaide Hills Council Behavioural Standards</b>	
Council members must:		Council members of Adelaide Hills Council will:	
<b>General Behaviour</b>			
2.1	Show commitment and discharge duties conscientiously.	AH1	Act in the long-term best interests of the overall Council area and the community, by balancing the interest of all stakeholders and taking an active interest in local community affairs as well as affairs across the whole Council district.
2.2	Act in a way that generates community trust and confidence in the Council.	AH2	Be objective in reaching Council decisions
2.3	Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.	AH3	Accept the responsibility associated with Council decisions and the collective decision making process.
2.4	Show respect for others if making comments publicly.		
2.5	Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.		
<b>Responsibilities as a member of Council</b>			
2.6	Comply with all Council policies, codes and resolutions.	AH4	Use information received in their capacity as Council members only for the purpose of Council business.

<b>Behavioural Code in Code of Conduct for Council Members</b>	<b>Adelaide Hills Council Behavioural Standards</b>
<p>Council members must:</p> <p>2.7 Deal with information received in their capacity as Council members</p>	<p>Council members of Adelaide Hills Council will:</p> <p>AH5 Follow Council's guidelines for the making of public statements on behalf of Council, as outlined in these Behavioural Standards.</p>
<p>2.8 Endeavour to provide accurate information to the Council and to the public at all times.</p>	<p>AH6 Attend, participate in and aim to facilitate constructive Council, Committee meetings, workshops and advisory groups and apologise or obtain a leave of absence in advance for non-attendance.</p> <p>AH7 Act responsibly in the allocation of and proper and responsible use of Council resources and expenditure.</p> <p>AH8 Be open, approachable and fair in dealings with individuals and organisations and behave in a manner that facilitates constructive and collaborative communication between Council and the community.</p> <p>AH9 Be actively aware of any situation that may create tension between their public and private roles and work towards minimising any tension arising.</p> <p>AH10 Ensure that communication (written, verbal or otherwise) is not offensive or otherwise defamatory to any person.</p>
<b>Relationship with fellow Council members</b>	
<p>2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences or views and opinions</p>	<p>AH11 Use their best endeavours to establish working relationships with fellow Council Members that recognise and respect a diversity of opinion amongst members and actively seek to achieve the best possible outcomes for the community.</p>
<p>2.10 Not bully or harass other Council members</p>	<p>AH12 Promote behaviours with fellow Council Members that are conducive to establishing mature and constructive working relationships.</p> <p>AH13 Respect and encourage that all points of view be heard.</p>

Behavioural Code in Code of Conduct for Council Members		Adelaide Hills Council Behavioural Standards	
Council members must:		Council members of Adelaide Hills Council will:	
Relationship with Council staff			
2.11	Not bully or harass Council staff.	AH14	Seek to achieve a team approach when dealing with Council staff in an environment of mutual respect, trust, and acceptance of the different roles of Council staff and Members in achieving the Council's objectives and policies.
2.12	Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.	AH15	Promote mature and constructive working relationships with the Senior Leadership Team and other Council staff, based on mutual trust and respect.
2.13	Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.	AH16	Respect the role of Council staff in providing professional opinion, guidance and expertise.
2.14	Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.	AH17	Utilise appropriate channels established by the Chief Executive Officer under Section 61 of the <i>Local Government Act 1999</i> for the purposes of obtaining official Council documents or information that is not publicly available.

#### 4. Media Releases, Public Comment & External Communication

- 4.1 The Mayor or Chief Executive Officer (or another person delegated by them) may make statements to the media relating to the policy of Council or its position on particular issues.
- 4.2 Questions on Council business or those of a technical nature should be directed to the Chief Executive Officer or appropriate Director.
- 4.3 In accordance with clause 2.5 of the Code of Conduct, if members of Council make personal statements to the media, they should indicate that the statement reflects their personal view and is not necessarily the policy or position of Council, unless an individual has been specifically authorised by Council to convey a particular position to the media.

#### 5. Gifts and Benefits

- 5.1 Part 3 of the Code of Conduct contains specific guidance regarding Council Member obligations in relation to gifts and benefits. Further, clause 3.10 establishes the

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requirement for gifts and benefits received above a specified value to be recorded in the Council Gifts and Benefits Register.

- 5.2 The Members of the Adelaide Hills Council believe that the principles of open and accountable government can most effectively be promoted in this respect by committing to register all gifts and benefits regardless of value.

**6. Dress Code**

- 6.1 Adelaide Hills Council Members will afford respect to their official role and the community they represent by maintaining a standard of dress equivalent to neat business attire when attending Council meetings.

**7. Breaches of the Behavioural Standards**

- 7.1 Clause 2.6 of the Code of Conduct provides that members of councils must comply with all council policies, codes and resolutions. A breach of the Behavioural Standards is therefore considered by Council to be a breach of Clause 2.6 of the Code of Conduct and will be dealt with accordingly.
- 7.2 Alleged breaches of both the Code of Conduct and the Behavioural Standards are managed through the Code of Conduct Complaint Handling Procedure at Attachment C.

## **ATTACHMENT C**

### **Code of Conduct Complaint Handling Procedure**

#### **1. Introduction**

- 1.1 On 1 September 2013, a new Code of Conduct for Council Members was made by Regulation. The Code of Conduct applies to all Council Members across the Local Government sector and may be the subject of a Council investigation or an Ombudsman investigation, depending on the nature of the issue. The Code of Conduct also contains sanctions which may be imposed by Council on a Council Member where a breach of the Code is found to be sustained.
- 1.2 The preamble to Part 2 of the Code requires each Council to adopt a process for the handling of alleged breaches of Part 2 and that the process will need to be reviewed within 12 months of a general local government election.
- 1.3 On 21 January 2014, the Adelaide Hills Council initially adopted the AHC Behavioural Standards which provide for an additional agreed set of behavioural principles and standards to complement and confirm the requirements of the Code of Conduct.
- 1.4 Clause 2.6 of the Code of Conduct requires Council Members to comply with Council policies, codes and resolutions; therefore a breach of the Behavioural Standards is a breach of Part 2 of the Code of Conduct.

#### **2. Purpose and Scope**

- 2.1 This procedure applies when the Council receives a complaint against a Council Member under the Code of Conduct for Council Members as gazetted on 29 August 2013.

#### **3. Provisions of the Code of Conduct**

- 3.1 The Code of Conduct for Council Members contains the following clauses regarding Complaints and Findings (of alleged breaches under Part 2):
  - 2.17 *Any person may make a complaint about a Council member under the Behavioural Code.*
  - 2.18 *Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.*
  - 2.19 *A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.*
  - 2.20 *A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.*
  - 2.21 *A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.*

- 2.22 *A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.*
- 2.23 *Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.*
- 2.24 *A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.*
- 2.25 *If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:*
- 2.25.1 *Take no action;*
  - 2.25.2 *Pass a censure motion in respect of the Council member;*
  - 2.25.3 *Request a public apology, whether written or verbal;*
  - 2.25.4 *Request the Council member to attend training on the specific topic found to have been breached;*
  - 2.25.5 *Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);*
  - 2.25.6 *Request the member to repay monies to the Council.*

- 3.2 The Complaint Handling Procedure supplements (but does not replace) the requirements of the above clauses of the Code of Conduct.

#### **4. Breaches the Code of Conduct**

- 4.1. Breaches of the Code of Conduct may relate to behaviour (in Part 2 of the Code) or misconduct (in Part 3 of the Code). Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code of Conduct for Council Members but are referred to in the Appendix to the Code. This procedure covers referral of these types of complaints to other agencies.
- 4.2. Where an alleged breach occurs the complainant should report the allegation, in writing, to the Council, addressed to the CEO. The allegation should:
- be specific
  - provide as much supporting evidence as possible to assist an investigation
  - provide the name of the Member who has allegedly breached the Code.
- 4.3. The CEO must acknowledge receipt of the complaint within three (3) clear business days of receiving the complaint.
- 4.4. Complainants can, at any time, take the alternative option of lodging the complaint directly to the Ombudsman or with the Office of Public Integrity (OPI), which will direct the complaint in accordance with the ICAC Act.

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- 4.5. The CEO must advise the Mayor (or if it relates to the Mayor, his/her deputy) of receipt of a complaint within three (3) clear business days. (Hence forth in this procedure reference to the Mayor will be taken as the Mayor or deputy.) The Mayor will determine whether the complaint relates to:
- behavior which falls under Part 2 of the Code
  - misconduct which triggers action under Part 3 of the Code or
  - criminal or corrupt behaviour
- 4.6. Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately. (See below at clauses 8 and 9)
- 4.7. Council maintains jurisdiction where the complaint deals with conduct that falls into Part 2 of the Code. Part 2 deals with conduct that reflects reasonable community expectations of how Council Members should conduct themselves. Robust debate within Council which is conducted in a respectful manner is not a breach of this Part.
- 4.8. Having regard to the seriousness of the allegation and information provided, the Mayor may:
- seek to resolve the matter internally
  - refer the complaint to the Local Government Governance Panel
  - dismiss the allegation.
- 4.9. Within three (3) clear business days of being advised in accordance with clause 4.5, the Mayor must advise the Member, who is the subject of the complaint, of the of the complaint and its substance. The Member will also be advised of the manner in which the Mayor intends to deal with the complaint.
- 4.10. The Mayor must ensure that the principles of procedural fairness and natural justice are observed.
- 4.11. Upon being advised of the complaint, the Mayor must bring the fact of the complaint but not the details of the allegations to the attention of the Council at the next formal meeting of the Council.

## **5. Alleged Breach of Part 2 - Internal response**

- 5.1. Only matters which are determined to be of a minor nature will be dealt with internally and only with the agreement of the parties. The Mayor, may hold meetings with the complainant and the Council Member and may seek mediation and conciliation between the parties in an attempt to resolve the matter to the satisfaction of all parties (this may be appropriate, for example, where the complainant is also a Council Member). An appropriately qualified person may be engaged, in consultation between the Mayor and the CEO, to assist the Mayor in this process.
- 5.2. Where the matter is resolved to the satisfaction of all the parties, the Mayor will send written confirmation to all the parties within three (3) clear business days confirming that the matter has been resolved.

- 5.3. Where the matter cannot be resolved, the Mayor will refer the original complaint to the Local Government Governance Panel. Neither the Mayor nor the CEO will investigate a complaint.

## **6. Alleged Breach of Part 2 – Referral to the Local Government Governance Panel**

- 6.1. Where there has been an allegation that a Council Member has breached Part 2 of the Code, the complaint may be referred to the independent Local Government Governance Panel by the Mayor under this procedure.
- 6.2. Complaints referred to the Governance Panel will specify the ground/s of the complaint, set out the circumstances of the complaint and be accompanied by any other material that is available to support the complaint. A copy of the Governance Panel's procedures is available on the Governance Panel webpage on the LGA's website under *Rules of Engagement*. [[www.lga.sa.gov.au](http://www.lga.sa.gov.au)]
- 6.3. The matter will be assessed initially by the Panel Chairperson who will determine the process to be followed and the person who will deal with the matter. The matter may be dismissed if it is frivolous, vexatious, misconceived or lacking in substance. Where a complaint progresses to an investigation, a report will be prepared by the Panel and will be provided to the Council. The report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct (see below).

## **7. Alleged Breach of Part 2 – Finding Reports to Council**

- 7.1. If, following a resolution to a complaint employing the Internal Response method (clause 5 above) in which no breach of Part 2 of the Code is found, a report will be provided to a public meeting of Council stating the finding but not the details of the allegations.
- 7.2. If, following a resolution to a complaint employing the Internal Response method (clause 5 above) in which a breach of Part 2 of the Code is found, the breach must be the subject of a report to a public meeting of Council (clause 2.24 of the Code). The Council may, by resolution, take any of the following actions:
- Take no action;
  - Pass a censure motion in respect of the Council Member;
  - Request a public apology, whether written or verbal;
  - Request the Council Member to attend training on the specific topic found to have been breached;
  - Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)
  - Request the member to repay monies to the Council.
- 7.3. If, following investigation by the Governance Panel, no breach of the Part 2 of the Code is found, a report will be provided to a public meeting of Council stating the finding but not the details of the allegations.



- 7.4. If, following investigation by the Governance Panel, a breach of the Part 2 of the Code is found, the breach must be the subject of a report to a public meeting of Council (clause 2.24 of the Code). The Council may, by resolution, take any of the following actions:
- Take no action;
  - Pass a censure motion in respect of the Council Member;
  - Request a public apology, whether written or verbal;
  - Request the Council Member to attend training on the specific topic found to have been breached;
  - Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)
  - Request the member to repay monies to the Council.

## **8. Part 3 - Mandatory Code (Misconduct)**

- 8.1. Any person may report an alleged breach of Part 3 of the Code to the Council, the Ombudsman or the Office for Public Integrity. Alleged breaches of this Part made to Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation.
- 8.2. Under the Code of Conduct, a Council Member who is of the opinion that a breach of Part 3 of the Code has occurred, or is currently occurring, must report the breach to the Mayor of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 8.3. A failure to report an alleged or suspected breach of Part 3 of the Code is in itself a breach under Part 2 of the Code.
- 8.4. A failure of a Council Member to co-operate with the Council's process for handling alleged breaches of Part 2 of the Code may be referred for investigation under Part 3.
- 8.5. A failure of a Council Member to comply with a finding of an investigation under Part 2 of the Code, adopted by the Council, may be referred for investigation under Part 3.
- 8.6. Repeated or sustained breaches of Part 2 of the Code by the same Council Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 8.7. A report from the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council.
- 8.8. The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

**9. Criminal Matters – Appendix to the Code of Conduct**

- 9.1. The matters within the Appendix to the Code of Conduct are matters for which a criminal penalty attaches. These matters must be reported to the OPI. In addition, allegations of a breach of any of the offence provisions in the *Local Government Act* must also be reported to the OPI. (See Council's *Fraud and Corruption Prevention Policy* for further information on reporting requirements or the *Directions and Guidelines* issued by the Independent Commissioner Against Corruption).
- 9.2. In compliance with the Independent Commissioner against Corruption Act 2012, referral of such complaints to the OPI will remain confidential.

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## **Appendix 2**

One Team - Communication Protocols for Council  
Members and Administration

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# ONE TEAM

## Communication Protocols for Council Members and the Administration

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*A guide for the Council Members and the Administration of Adelaide Hills Council on agreed communication protocols when communicating with each other*

<b>Version</b>	2
<b>Adoption Authority</b>	Strategic Planning & Development Policy Committee
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<b>Effective From:</b>	24 August 2015
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<b>Next Review:</b>	24 August 2018

## Background

At various times throughout 2013, Council Members and senior staff of AHC workshopped various approaches to communicating and engaging with one another. These workshops included preferred ways or styles of communicating, using a range of example scenarios. Key points were captured at the workshop and used to shape this plan, which serves as a guide for the CEO, staff and Council Members to refer to – and be aware of – to achieve a consistent and constructive approach when communicating and engaging with each other.

## Principles

Governance at AHC is heavily based on the principles of **respect, reputation and risk**. In particular, the principle of *respect* applies to all parties in all moments of communication. The risk of ineffective or a lack of communication can adversely impact on the relationships that exist between Council Members and the Administration – and subsequently Council Members and community members. Further, respect between Council Members and the Administration may be compromised and the reputation of the Administration (in the eyes of the Council Members) and of the organisation (in the eyes of the community) may be adversely affected.

We also recognise that *trust = speed = performance*. In other words, the greater the trust between the Administration and the elected Council, the greater the performance of Council. Communication is a core element to developing that trust.

## Objectives

1. To improve the exchange of information between Council Members and the Administration
2. To ensure a greater appreciation of the roles, responsibilities and needs of all parties to this plan
3. To improve the governance, efficiency and impact of communication between the Administration and the elected Council
4. To ensure Council Members and the Administration are kept informed about council operations

### Links

These protocols are not only the result of an initial workshop in April 2013. There have been a number of workshops and professional development sessions where both Council Members and senior staff participated and interacted, the outcomes of which have strengthened the approaches outlined in this plan. This includes the development of an AHC Behavioural Standards document, the result of two professional development workshops in August and September 2013. These standards, as part of the Council Member Conduct Policy adopted in January 2014, now serve to complement the principles and behavioural standards outlined in the Code of Conduct for Council Members that was gazetted in August 2013.

All of the development sessions in the 2013 - 2015 period have contributed to the shaping of this document.

More specifically, the intent behind these protocols has links with a number of recent and planned initiatives within AHC, all designed to improve the accountability and constructive nature of our communication, including:

- The introduction of the Action List on Council agendas (tracking and reporting the progress of Council and SPDPC resolutions)
- The Council Member Professional Development Program – which includes senior staff in this development process
- The Leadership Development Program for staff
- The development of the Customer Service and Community Engagement frameworks and the Marketing and Communication Plan.

### Key Intent 1: Clarity of Information and Communication

<i>Who</i>	<i>What</i>
Administration	<ul style="list-style-type: none"> <li>a. Use plain English in reports / correspondence (active voice, present tense)</li> <li>b. Use consistent layout and formatting (i.e. templates)</li> <li>c. Use font type and size that is easy to read (consider using Verdana text or similar)</li> <li>d. Place recommendations up-front in Council / SPDPC reports</li> <li>e. Keep reports and information papers brief / succinct while providing sufficient information to enable good decision making</li> <li>f. Consider the implications of recommendations across the various areas of impact (legal, financial, environmental, community, etc)</li> </ul>
Administration & Council Members	<ul style="list-style-type: none"> <li>g. Keep the focus on constructive and respectful language and behaviour in our communication at all times</li> <li>h. Use appropriate (personal and respectful) salutations and sign-offs in all email correspondence. Avoid using bold or capitals.</li> <li>i. Provide the context in subject heading and initial part of the communication</li> <li>j. Advise of relevant outcomes from key seminars or meetings</li> <li>k. Respond to emails within 7 days of receipt</li> </ul>

Key Intent 2: **No Surprises**

<i>Who</i>	<i>What</i>
Administration	<ul style="list-style-type: none"> <li>a. Inform / advise Council Members prior to notices or possible articles / stories appearing in the press</li> <li>b. Make Council Members aware of issues (or potential issues), Ward specific or Council-wide, prior to them being made public</li> </ul>
Council Members	<ul style="list-style-type: none"> <li>c. Provide notice of media and public statements to staff in a timely manner, which may be immediately following the event</li> <li>d. Make staff aware of issues (or potential issues) prior to these issues being made public by anyone (eg at Council meetings or community forums) if the Council Member is aware of the issue</li> <li>e. Provide a 'heads-up' to relevant staff on matters that they intend to raise via MWN or QWN and when they know an issue will be raised during the public forum</li> <li>f. Make staff aware of issues as soon as possible after they are brought to the attention of Council Members by members of the community</li> </ul>



### Key Intent 3: **Timely and Targeted**

<i>Who</i>	<i>What</i>
Administration	<ul style="list-style-type: none"> <li>a. Distribute all agendas at least 5 clear days prior to the meeting</li> <li>b. Provide regular and timely information reporting to Council Members and staff on legislative or regulation updates; progress on key projects / programs; and other items of interest</li> <li>c. Ensure clear communication exists (and is updated) on the EM Portal as to which Director / Manager is responsible for what service</li> <li>d. Invitations to key events are placed in each Council Member's calendar and forward imminent events via scanning and email, where possible</li> <li>e. Regularly review the EM Portal to ensure up-to-date (and ease of access to) information</li> </ul>
Council Members	<ul style="list-style-type: none"> <li>f. Submit any MON and QON 7 clear days prior to the meeting (as per the Meeting procedures)</li> <li>g. Encourage community members to make service complaints or requests directly to Council's Contact Centre or the website in the first instance</li> <li>h. Forward correspondence they receive from the community to staff to enable timely follow-up and for recording in the records management system (the Administration may not have received the same correspondence)</li> <li>i. Speak with staff prior to meeting with community members / groups on Council-related issues.</li> <li>j. Make an appointment time to meet with staff, should the meeting require more than a 5-10 minute discussion</li> </ul>
Administration & Council Members	<ul style="list-style-type: none"> <li>k. Assess prior to sending or responding to emails, precisely who needs to know (who needs to be copied in?)</li> <li>l. Agree staff contact point for each Directorate / Department, including email and phone contact</li> <li>m. Use 'reply all' in emails sparingly</li> <li>n. Communicate with each other in a reasonable, respectful and timely manner. For example, we will respond to written correspondence within 7 days of receipt and we will answer your call straight away in most instances but if we can't we will call you back within 1 day.</li> </ul>

### Key Intent 4: **Input and Updates**

<i>Who</i>	<i>What</i>
Administration	<ul style="list-style-type: none"> <li>a. Where appropriate, Council Members are provided the opportunity to input (via email or a workshop and from a tabled report to Council/SPDPC) when a formal submission/comment is sought on a matter of importance to Council or where relevant to a local issue</li> <li>b. Workshop with Council Members the development of new or substantially changed policy or related policy positions prior to being formally presented for consideration</li> <li>c. Provide a schedule (nature and timing) of planned capital works and programmed maintenance works (including suburbs) on the EM portal and updated at least quarterly</li> <li>d. Provide the regularly updated meeting planner – including upcoming reports, workshop &amp; PD items - on the EM Portal</li> <li>e. Field staff equipped to respond to queries from the community about the works being undertaken</li> </ul>
Council Members	<ul style="list-style-type: none"> <li>f. Advise staff if they believe a formal submission / comment from Council is required in response to a request for feedback (e.g. as a result of an LGA circular)</li> <li>g. Advise staff of suggested items for the meeting planner</li> </ul>

**ADELAIDE HILLS COUNCIL AUDIT COMMITTEE  
MINUTES OF MEETING  
MONDAY 5 NOVEMBER 2018  
63 MT BARKER ROAD STIRLING**

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In Attendance

**Presiding Member:** Paula Davies

**Members:**

Peter Brass	Independent Member
Geoff Purdie	Independent Member
Councillor John Kemp	Council Member
Councillor Malcolm Herrmann	Council Member

In Attendance:

Andrew Aitken	Chief Executive Officer
Terry Crackett	Director Corporate Services
Lachlan Miller	Executive Manager Governance & Performance
Mike Carey	Manager Financial Services
Steven Watson	Governance and Risk Coordinator Minute Secretary

**1. COMMENCEMENT**

The meeting commenced at 6.05pm

**2. APOLOGIES/LEAVE OF ABSENCE**

**2.1. Apology**

Nil

**2.2. Leave of Absence**

Nil

**2.3. Absent**

Nil

**ADELAIDE HILLS COUNCIL AUDIT COMMITTEE  
MINUTES OF MEETING  
MONDAY 5 NOVEMBER 2018  
63 MT BARKER ROAD STIRLING**

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**3. MINUTES OF PREVIOUS MEETINGS**

**3.1. Audit Committee Meeting – 8 October 2018**

Moved Cr Malcolm Herrmann  
S/- Peter Brass

AC21/18

The Audit Committee resolves:

1. That the minutes of the Audit Committee meeting held on 08 October 2018 be amended to record the External Auditors attendance at the meeting.
2. That the minutes of the Audit Committee meeting held on 08 October 2018 as amended, be confirmed as an accurate record of the proceedings of that meeting.

<b>Carried</b>
----------------

**4. Delegation of Authority**

In accordance with the Audit Committee Terms of Reference, the Committee has no delegated decision-making powers. There are no Recommendations arising to be submitted to Council for adoption.

**5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF AUDIT COMMITTEE**

Nil

**6. OFFICER REPORTS – DECISION ITEMS**

**6.1. Action Report, 2017 Work Plan Update and Adoption of 2019 Work Plan**

Moved Cr John Kemp  
S/- Geoff Purdie

AC22/18

The Audit Committee resolves:

1. That the report be received and noted
2. That the status of the Action Report and Work Plan be noted
3. That the 2019 Work Plan be adopted

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL AUDIT COMMITTEE  
MINUTES OF MEETING  
MONDAY 5 NOVEMBER 2018  
63 MT BARKER ROAD STIRLING**

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**6.2. 2017-18 End of Year Financial Report**

Moved Cr John Kemp  
S/- Peter Brass

**AC23/18**

The Audit Committee resolves:

1. That the report be received and noted
2. To note the Audited 2017-18 Financial Results compared to Budget contained within this report

<b>Carried</b>
----------------

**6.3. Draft Annual Report**

Moved Peter Brass  
S/- Geoff Purdie

**AC24/18**

The Audit Committee resolves that the:

1. Report be received and noted.
2. Draft 2017-18 Annual Report, as contained in Appendix 1, be endorsed – recognising the need for inclusion of the General Purpose Financial Statements and Council's Regional Subsidiaries Annual Reports.

<b>Carried</b>
----------------

**6.4. 2017-18 Final Audit Completion Report**

Moved Cr Malcolm Herrmann  
S/- Peter Brass

**AC25/18**

The Audit Committee resolves that the 2017-18 final Audit Completion Report received from Galpins be noted.

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL AUDIT COMMITTEE  
MINUTES OF MEETING  
MONDAY 5 NOVEMBER 2018  
63 MT BARKER ROAD STIRLING**

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**6.5. Chairperson's Report**

Moved Peter Brass AC26/18  
S/- Geoff Purdie

The Audit Committee resolves that the report be received and noted.

<b>Carried</b>
----------------

**6.6. Budget Review 1**

Moved Peter Brass AC27/18  
S/- Cr Malcolm Herrmann

The Audit Committee:

1. Resolves that the report be received and noted.
2. Notes that:
  - a. The Operating Budget variations presented in Budget Review 1 do not impact on the Budgeted Operating Surplus of \$302k for the 2018-19 financial year.
  - b. The proposed Capital Works amendment of \$15k will increase the total Capital Works Program to \$17.717m.
  - c. There will be an increased Net Borrowing result of \$4.348m, up from \$4.333m as a result of the proposed Capital Program amendment

<b>Carried</b>
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**6.7. Risk Management Update**

Moved Peter Brass AC28/18  
S/- Geoff Purdie

The Audit Committee resolves that the report be received and noted.

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL AUDIT COMMITTEE  
MINUTES OF MEETING  
MONDAY 5 NOVEMBER 2018  
63 MT BARKER ROAD STIRLING**

**6.8. Internal Audit Quarterly Update**

Moved Cr John Kemp  
S/- Peter Brass

**AC29/18**

The Audit Committee resolves:

1. To receive and note the report.
2. To note the implementation status of Internal and External Audit actions.

<b>Carried</b>
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**6.9. Quarterly Debtors Report**

Moved Peter Brass  
S/- Cr Malcolm Herrmann

**AC30/18**

The Audit Committee resolves that the report be received and noted.

<b>Carried</b>
----------------

**6.10. 2019 Audit Committee Meeting Dates**

Moved Peter Brass  
S/- Geoff Purdie

**AC31/18**

The Audit Committee resolves:

1. That the report be received and noted.
2. To approve the Audit Committee meeting schedule, timings and locations for 2019 as follows:

Commencement	6.00pm
<b>Meeting Dates and Locations</b>	<b>11 February 2019, 63 Mt Barker Road, Stirling</b>
	<b>15 April 2019, 63 Mt Barker Road, Stirling</b>
	<b>12 August 2019, 63 Mt Barker Road, Stirling</b>
	<b>14 October 2019, 63 Mt Barker Road, Stirling</b>
	<b>11 November 2019, 63 Mt Barker Road, Stirling</b>

<b>Carried</b>
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**ADELAIDE HILLS COUNCIL AUDIT COMMITTEE  
MINUTES OF MEETING  
MONDAY 5 NOVEMBER 2018  
63 MT BARKER ROAD STIRLING**

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**6.11. Audit Committee Self-Assessment Review**

Moved Geoff Purdie  
S/- Peter Brass

AC32/18

The Audit Committee resolves that the report be received and noted.

<b>Carried</b>
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**6.12. The next ordinary meeting of the Audit Committee will be held at 6.00pm on Monday 11 February 2019, at 63 Mount Barker Road, Stirling.**

**7. Close Meeting**

The meeting closed at 7.47pm.



**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

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**Present**

**Presiding Member**

Professor Stephen Hamnett

**Members**

Piers Brissenden

Linda Green

Rob McBryde

**In Attendance**

Marc Salver

Director Development & Regulatory Services

Deryn Atkinson

Assessment Manager

Sam Clements

Team Leader Statutory Planning

Marie Molinaro

Statutory Planner

Susan Hadley

Statutory Planner

Karen Savage

Minute Secretary

**1. Commencement**

The meeting commenced at 6.32pm

**2. Apologies/Leave of Absence**

**2.1 Apologies**

Simon Bradley

**2.2 Leave of Absence**

Nil

**3. Previous Minutes**

3.1 Meeting held 10 October 2018

**The minutes were adopted by consensus of all members**

**(51)**

**That the minutes of the meeting held on 10 October 2018 be confirmed as an accurate record of the proceedings of that meeting.**

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

***[Please Note: These minutes are unconfirmed until 12 December 2018]***

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**4. Delegation of Authority**

Decisions of this Panel were determined under delegated authority as adopted by Council on 26 September 2017.

**5. Presiding Member's Report**

Nil

**6. Declaration of Interest by Members of Panel**

Cr Linda Green declared a personal interest in Item 8.5, Woollen Mills development, as Council has previously considered this matter and she has chaired the AHBTC Advisory Committee, and advised that she would be absenting herself from the meeting for consideration of this item.

**7. Matters Lying on the Table/Matters Deferred**

**7.1 Matters Lying on the Table**

Nil

**7.2 Matters Deferred**

**7.2.1 Development Application 17/710/473 by Service Stream Ltd for telecommunications facility, comprising a lattice tower (maximum height 53.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying) at 1293 Montacute Road, Cherryville**

Deferred from meeting 10 October 2018

*"That a decision on the matter be deferred to allow the applicant to consider alternative locations and alternative structures for the telecommunications facility."*

Refer to Item 8.1 of these Minutes

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

***[Please Note: These minutes are unconfirmed until 12 December 2018]***

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- 7.2.2 Development Application 18/6/473 by Shire Homes for a two storey dwelling, attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks at 4/11 Junction Road, Balhannah**

Deferred from meeting 10 October 2018

*“That a decision on the matter be deferred to allow the applicant to consider possible amendments to the design of the proposal in relation to the boundary encroachment identified, overshadowing and overlooking impacts on the adjoining properties to the south.”*

Refer to Item 8.3 of these Minutes

**8. Development Assessment Applications**

<b>Moved</b>	Piers Brissenden	<b>Carried unanimously</b>
<b>S/-</b>	Rob McBryde	<b>(52)</b>

**That the order of the agenda be changed to allow Item 8.2 to be brought forward on the agenda.**

- 8.2 Development Application 17/710/473 by Service Stream Ltd for telecommunications facility, comprising a lattice tower (maximum height 48.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying) – Amended Proposal at 1293 Montacute Road, Cherryville**

- 8.2.1 Representations**  
Nil

The applicant’s representative, Graeme Lane (Service Stream Planning Consultant), was invited to answer questions from the Panel.

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

8.2.2 Decision of Panel

The following recommendation was adopted by consensus of all members (53)

The Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and seeks the CONCURRENCE of the State Commission Assessment Panel to GRANT Development Plan Consent to Development Application 17/710/473 by Service Stream Ltd for Telecommunications facility, comprising a lattice tower (maximum height 48.95m, including antennae), associated equipment shelter (maximum height 2.75m), security fencing (maximum height 2.4m), retaining walls (maximum height 6m) & associated earthworks (non-complying) at 1293 Montacute Road Cherryville subject to the following conditions:

(1) Development In Accordance With The Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Amended drawing No. S107294, Sheet S1 Overall Site Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S1-1 Site Layout Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S1-2 Antenna Layout Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S3 North East Elevation Plan Issue 3 dated 23 October 2018
- Amended drawing No. S107294, Sheet S3-1 South West Elevation Plan Issue 1 dated 23 October 2018
- Amended drawing No. S107294, Sheet S3-2 East Elevation Plan Issue 1 dated 23 October 2018
- Landscape Plan, 18ADL-0202 Revision 2 dated 5 June 2018
- Sheet A3L Key Plan by CMW Geosciences Revision 1 dated 27 April 2018
- Sheet A3L Long-section and Layout Plan by CMW Geosciences Revision 1 dated 27 April 2018
- Sheet A3 L Typical Section & Specifications by CMW Geosciences Revision 1 dated 27 April 2018

**REASON:** *To ensure the proposed development is undertaken in accordance with the approved plans.*

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

**(2) Commercial Lighting**

Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

*REASON: Lighting shall not detrimentally affect the amenity of the locality.*

**(3) External Finishes**

The external finishes to the building herein approved shall be as follows:

Lattice Tower: Galvanised grey steel or similar

Associated Infrastructure: Grey, brown, green or similar

*REASON: The external materials of buildings should have surfaces which are of a low light-reflective nature and blend with the natural rural landscape and minimise visual intrusion.*

**(4) Prior to Building Rules Consent Being Granted - Requirement for Soil Erosion And Drainage Management Plan (SEDMP)**

Prior to Building Rules Consent being granted the applicant shall prepare and submit to Council a Soil Erosion and Drainage Management Plan (SEDMP) for the site for Council's approval. The SEDMP shall comprise a site plan and design sketches that detail erosion control methods and installation of sediment collection devices that will prevent:

- a. soil moving off the site during periods of rainfall;
- b. erosion and deposition of soil moving into the remaining native vegetation; and
- c. soil transfer onto roadways by vehicles and machinery.

The works contained in the approved SEDMP shall be implemented prior to construction commencing and maintained to the reasonable satisfaction of Council during the construction period.

*REASON: Development should prevent erosion and stormwater pollution before, during and after construction.*

**(5) Timeframe For Landscaping To Be Planted**

Landscaping of semi-mature plant species, as detailed in the approved landscaping plan (Landscape Plan, 18ADL-0202 Revision 2 dated 5 June 2018), shall be planted in the planting season immediately following the completion of the telecommunications facility. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased, in the next planting season.

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

*REASON: To maintain and enhance the visual amenity of the locality in which the subject land is situated and ensure the survival and maintenance of the vegetation.*

**NOTES**

- (1) Development Plan Consent Expiry**  
This Development Plan Consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.
- (2) EPA Information Sheets**  
Any information sheets, guideline documents, codes of practice, technical bulletins, are referenced in this decision can be accessed on the following web site: <http://www.epa.sa.gov.au/pub.html>
- (3) Environment Protection (Water Quality) Policy 2015**  
The applicant is advised that the Environment Protection (Water Quality) Policy 2015 came into effect on 1 January 2016. Therefore, all reasonable and practicable measures must be put in place to prevent or minimise environmental harm during the construction process.
- (4) EPA Environmental Duty**  
The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.
- (5) Erosion Control During Construction**  
Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.
- (6) Native Vegetation Council Requirements**  
The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information visit: [www.environment.sa.gov.au/Conservation/Native\\_Vegetation/Managing\\_native\\_vegetation](http://www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation)

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

***[Please Note: These minutes are unconfirmed until 12 December 2018]***

Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777. This must be sought prior to Full Development Approval being granted by Council.

- 8.1 **Development Application 18/596/473 by Dechellis Homes Pty Ltd for two storey split-level detached dwelling including balcony, combined fencing & retaining walls (maximum height 2.4m) & associated earthworks at 17 Buchanan Drive, Woodforde**

8.1.1 **Representations**

None of the representors who had indicated that they wished to be heard were present at the meeting.

<b>Name of Representor</b>	<b>Address of Representor</b>	<b>Nominated Speaker</b>
Tianyu Ma & Shutong Liu	34 Buchanan Drive Woodforde	Did not Attend
Wei Yang Tan	15 Buchanan Drive Woodforde	Did not Attend
Stefano Deieso	36 Buchanan Drive Woodforde	Advised that he would not be attending the meeting

The applicant's representatives, Adam Williams (Access Planning) and Josh Harris (the landowner), were invited to answer questions from the Panel.

8.1.2 **Decision of Panel**

**The following recommendation was adopted by consensus of all members (54)**

**The Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 18/596/473 by Dechellis Homes Pty Ltd for Two storey, split level detached dwelling including balcony, combined fencing & retaining walls (maximum height 2.4m) & associated earthworks at 17 Buchanan Drive Woodforde subject to the following conditions:**

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

(1) **Development In Accordance With The Plans**

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Site plan by Dechellis Homes (Sheet 1 of 25) dated 6 July 2018
- Lower floor plan by Dechellis Homes (Sheet 2 of 25) dated 6 July 2018
- Amended upper floor & upper split plan by Dechellis Homes (Sheet 3 of 25) dated 6 July 2018
- East & west elevation plan by Dechellis Homes (Sheet 4 of 25) dated 6 July 2018
- Amended north & south elevation plan by Dechellis Homes (Sheet 5 of 25) dated 6 July 2018
- Retaining wall/fencing elevation plan by Dechellis Homes dated 6 July 2018
- Section and levels elevation plan by Dechellis Homes dated 6 July 2018
- Amended shadow diagrams – addressing private open space/windows to main living areas and addressing solar panels by Dechellis Homes, received by Council 16 October 2018
- Site layout plan by Intrax Engineering, revision B, dated 11 July 2018

*REASON: To ensure the proposed development is undertaken in accordance with the approved plans.*

(2) **Vehicle Access Point(s) Line Of Sight**

The vehicle access point(s) and cross-over(s) shall be kept free of any obstructions that may obscure the line of sight of a driver e.g. vegetation, letterboxes, fences.

*REASON: For safe and convenient movement of vehicles.*

(3) **Residential Lighting**

All external lighting shall be directed away from residential development and shielded, if necessary, to prevent light spill causing nuisance to the occupiers of those residential properties.

*REASON: Lighting shall not detrimentally affect the residential amenity of the locality.*



**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

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**(4) External Finishes**

The external finishes to the building herein approved shall be as follows:

**WALLS:** Mixture of exposed Austral brickwork in 'Liquorice' colour and rendered brickwork to match Colorbond® 'Paperbark' or similar

**ROOF:** Colorbond® 'Monument' or similar

*REASON: The external materials of buildings should have surfaces which are of a low light-reflective nature-to minimise visual intrusion.*

**(5) Soil Erosion Control**

Prior to construction of the approved development straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during periods of rainfall.

*REASON: Development should prevent erosion and stormwater pollution before, during and after construction.*

**(6) Stormwater Overflow**

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the Council drainage easement to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area where an on-site waste control system exists.

Overflow from rainwater tanks is to be directed to the street (via a pump if necessary) or managed on-site to the satisfaction of Council using design techniques to the satisfaction of Council.

*REASON: To minimise erosion, protect the environment and to ensure no ponding of stormwater resulting from development occurs on adjacent sites.*

**(7) Window & Balcony Screening**

The north facing upper level windows shall have a sill height of at least 1.5m above finished floor level. Where the sill height is less than 1.5m above finished floor level, the window shall be fixed, unable to be opened and provided with obscure glazing to a height of 1.5m above finished floor level.

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

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In addition, the upper level west facing window and balcony balustrade shall be fitted with fixed screening comprising obscure glazing, or similar solid materials, to a minimum height of 1.5m above floor level to minimise overlooking to adjoining properties to the reasonable satisfaction of Council. The screening shall be installed prior to occupation of the dwelling, and thereafter maintained in good condition and repair at all times.

**Note:** Other forms of privacy screening may be a suitable alternative to the above, provided it can be demonstrated to Council that the alternative screening solution will prevent overlooking.

**REASON:** *Buildings should be designed to not cause potential for overlooking of adjoining properties.*

**NOTES**

**(1) Development Plan Consent Expiry**

This Development Plan Consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

**(2) Requirement For Retaining Wall To Be Constructed Prior To Works Commencing**

The retaining walls on the side boundaries of the property, as described on the site plan stamped as part of this authorisation, shall be constructed prior to the commencement of the construction of the dwelling.

**(3) Stability of Adjoining Land**

If you (the building owner) are undertaking building work that affects the stability of other land or premises, namely:

- an excavation which intersects a notional plane extending downwards at a slope of 1 vertical to 2 horizontal from a point 600mm below natural ground level at a boundary with an adjoining site, or

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

- an excavation which intersects any notional plan extending downwards at a slope of 1 vertical to 2 horizontal from a point at natural ground level at any boundary between 2 sites (not being a boundary with the site of the excavation), where the boundary is within a distance equal to twice the depth of the excavation, or
- any fill which is within 600mm of an adjoining site, other than where the fill is not greater than 200 millimetres in depth (or height) and is for landscaping, gardening or other similar purposes:

Then you (the building owner) must, at least 28 days before the building work is commenced:

- a) serve on the owner of the affected land or premises a notice of intention to perform the building work and describing the nature of that work; and
- b) you must take such precautions as may be prescribed to protect the affected land or premises and must, at the request of the owner of the affected land or premises, carry out such other building work in relation to that land or premises as that adjoining owner is authorised by the regulations to require.

**(4) Public Utility Services**

Public utility services including light poles and conduits may be present in the road reserve area and it is the property owner's responsibility to ensure these services are not damaged as a result of the development. It is the property owner's responsibility to negotiate the alteration of services in the road reserve. All services within the road reserve should be located prior to any excavation.

**(5) Works On Boundary**

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This necessitates a boundary identification survey being carried out by a licensed land surveyor prior to the work commencing.

**(6) Land Subject To Encumbrance**

The development herein approved involves work on land subject to an encumbrance not associated with the Council. The onus of ensuring development is in accordance with the encumbrance is the responsibility of the land owner/applicant.

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

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8.3 Development Application 18/6/473 by Shire Homes for two storey dwelling, attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks – Amended Proposal at 4/11 Junction Road, Balhannah

8.3.1 Representations

Nil

8.3.2 Decision of Panel

The following recommendation was adopted by consensus of all members (55)

The Council Assessment Panel considers that the proposal in its amended form is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 18/6/473 by Shire Homes for Two storey dwelling, verandahs and attached deck (maximum height 2.4m), carport (freestanding) & associated earthworks at 4/ 11 Junction Road Balhannah subject to the following conditions:

(1) Development In Accordance With The Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

Plans prepared by Shire Homes Pty Ltd:

- Amended floor plan (sheet 1 of 5, Amended 08.11.18) received by Council 9 November 2018
- Carport elevations & floor plan (sheet 1A of 5, Amended 08.11.18) received by Council 9 November 2018
- Amended southern side, rear and front elevation plan (sheet 2 of 5, Amended 08.11.18) received by Council 9 November 2018
- Amended northern side elevation plan (sheet 3 of 5, Amended 08.11.18) received by Council 9 November 2018
- Amended site plan (sheet 4 of 5, Amended 08.11.18) received by Council 9 November 2018
- Landscape plan received by Council 29 September 2018

**REASON:** *To ensure the proposed development is undertaken in accordance with the approved plans.*

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

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---

**(2) Verandah/Courtyard/Balcony Screening**

The verandah, courtyard and balcony of the dwelling shall be fitted with fixed screening as shown on the southern, northern and rear elevation plans to a minimum height of 1.5 metres above the finished floor level. The screening shall be installed prior to occupation of the approved dwelling and maintained in good condition at all times.

*REASON: Buildings should be designed to not cause potential for overlooking of adjoining properties.*

**(3) Obscure Glazing To Windows**

The southern elevation windows of the dwelling shall be glazed with fixed obscure glass to a minimum height of 1.5 metres above finished floor level, prior to occupation of the approved dwelling. The glazing in these windows shall be maintained in good condition at all times.

*REASON: Buildings should be designed to not cause potential for overlooking of adjoining properties.*

**(4) External Materials And Finishes**

All external materials and finishes shall be of subdued colours which blend with the natural features of the landscape and are of a low-light reflective nature.

**NOTE:** Browns, greys, greens and beige are suitable and galvanised iron and zinalume are not suitable.

*REASON: The external materials of buildings should have surfaces which are of a low light-reflective nature to minimise visual intrusion.*

**(5) Enclosing Of Under Floor Area**

The space between floor and natural/existing ground level reflected on elevations drawing (amended northern side elevation plan (sheet 3 of 5, Amended 26.10.18) received by Council 29 October 2018 and amended southern side, rear and front elevation plan (sheet 2 of 5, Amended 26.10.18) received by Council 1 November 2018) shall be enclosed prior to occupation of the approved dwelling with the same external cladding as for the walls of the dwelling.

*REASON: To maintain the residential amenity of the locality, buildings raised above ground level on poles or other supports should have the space below floor level enclosed in fire resistant material.*

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

**(6) Timeframe For Landscaping To Be Planted**

Landscaping detailed in the landscaping plan received by Council on 29 September 2018 shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased in the next planting season.

*REASON: To maintain and enhance the visual amenity of the locality in which the subject land is situated and ensure the survival and maintenance of the vegetation.*

**(7) Firefighting Water Supply - Mains Water Supply Available**

A supply of water independent of reticulated mains supply shall be available at all times for fire fighting purposes:

- a minimum supply of 2,000 (two thousand) litres of water shall be available for fighting purposes at all times; and
- the water supply shall be located such that it provides the required water; and
- the water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and
- the water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and
- a water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and
- where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.

*REASON: To minimise the threat and impact of fire on life and property as your property is located in a MEDIUM Bushfire Risk Area.*

**(8) Stormwater Directed To Council Stormwater Point**

All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the stormwater headwall in the Reserve at the rear of the allotment (via a pump if necessary) to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties.

*REASON: To minimise erosion, protect the environment and to ensure no ponding of stormwater resulting from development occurs on adjacent sites.*

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

**NOTES**

**(1) Works On Boundary**

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.

**(2) Sewer Connection**

The dwelling shall be connected to SA Water mains sewer supply in accordance with the approval granted by SA Water. All work shall be to the satisfaction of SA Water.

**(3) Development Plan Consent Expiry**

This Development Plan Consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

**(4) EPA Environmental Duty**

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

8.4 **Development Application 15/1014/473 (15/D44/473) by Reginald Fiora for land division (1 into 2 allotments) and boundary realignment (3 into 2 allotments) (non-complying) (SCAP decision authority) at Lot 45 Gallasch Road, 83 & 143 Beaumont Road, 34 Ambulance Road, 19 & 39 Grivell Road and Lot 1 Onkaparinga Road, Verdun**

8.4.1 **Representations**

Nil

The applicant, Reginald Fiora, and his representative, Jeff Smith (Planning Chambers), were invited to answer questions from the Panel.

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

8.4.2 **Decision of Panel**

The following was adopted by consensus of all members (56)

The Council Assessment Panel considers that the proposal is not seriously at variance with the provisions of the Adelaide Hills Council Development Plan, and advises the State Commission Assessment Panel that it **SUPPORTS** the proposal in Development Application 15/1014/473 (15/D044/473) by Reginald Fiora for Land division: 1 into 2 allotments and Boundary Realignment: 3 into 2 allotments (non-complying) (SCAP decision authority) at Lot 45 Gallasch Road, 83 & 143 Beaumont Road, 34 Ambulance Road, 19 & 39 Grivell Road, and Lot 1 Onkaparinga Road Verdun subject to the CFS recommended requirements relating to vegetation management and the widening of the access to proposed Lots 205 & 206 achieving compliance with the Minister's Code Undertaking development in Bushfire Protection Areas December 2009, and the following condition:

(1) Development in Accordance with the Plans

The development herein approved shall be undertaken in accordance with the following plans unless varied by a separate condition:

- Plan of Division Drawing 27405DU1-R1 Rev 1 prepared by Fyfe Surveying dated 7 August 2018
- Plan of Proposed Access Drawing prepared by Planning Chambers Pty Ltd dated November 2014

8:40pm Linda Green withdrew from the meeting due to her declared personal interest, and did not return

8.5 **Development Application 17/5/473 (16/C51/473) by Adelaide Hills Council for community title land division (1 allotment into 3) with associated common property and building alterations for fire safety upgrade at Buildings 2, 3, 4, 5 & 7 – 1 Main Street, Lobethal**

8.5.1 **Representations**

Nil



**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

8.5.2 Decision of Panel

The following recommendation was adopted by consensus of all members (57)

The Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent and Land Division Consent to Development Application 17/5/473 (16/C51/473) by Adelaide Hills Council for Community title land division (1 Allotment into 3) with associated common property and building alterations for fire safety upgrade at Buildings 2, 3, 4, 5 & 7 at 1 Main Street, Lobethal subject to the following conditions:

Planning Conditions

(1) Development in Accordance with the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Amended plan of Division (Ref. GB2199/PL7597, Drawing No. GB2199DA CP1), Sheets 1-4 of 4 by Bartlett Drafting & Design dated 23 July 2018.
- Floor plan existing, drawing SD100 by Nielsen Architects, dated 08 2018
- Fire services proposed site layout plan, drawing B7025-1-F01 by Secon Consulting Engineers, dated August 2018
- Fire services specification & details plan, drawing B7025-1-F02 by Secon Consulting Engineers, dated August 2018
- Hydraulic services existing site layout plan, drawing B7025-1-H01 by Secon Consulting Engineers, dated August 2018
- Hydraulic services, proposed site layout plan, drawing B7025-1-H02 by Secon Consulting Engineers, dated August 2018

*REASON: To ensure the proposed development is undertaken in accordance with the approved plans.*

(2) Vehicle Movement

All vehicles must enter and exit Lobethal Road and Main Street in a forward direction.

*REASON: For safe and convenient traffic movement.*

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

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**(3) Heritage South Australia**

Prior to Building Rules Consent being issued, the location, orientation and paint colour of the proposed hydrant booster cabinet (adjacent Building 5) shall be agreed upon to the reasonable satisfaction of Heritage South Australia of the Department for Environment and Water.

*REASON: Booster cabinet to be located to minimise visual impact on the setting of the State Heritage Place.*

**(4) Heritage South Australia**

Prior to Development Approval being issued, the final paint colours for externally surface mounted pipework, DB cabinets, conduits and services shall be confirmed, to the reasonable satisfaction of Heritage South Australia of the Department for Environment and Water.

*REASON: To reduce the visual impact on the setting of the State Heritage place.*

**Planning Notes**

**(1) Development Plan Consent**

This Development Plan Consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision (or if an appeal has been commenced the date on which it is determined, whichever is later). Building Rules Consent must be applied for prior to the expiry of the DPC, or a fresh development application will be required. The twelve (12) month time period may be further extended by Council agreement following written request and payment of the relevant fee.

**(2) State Heritage Unit**

Any changes to the proposal as assessed by the State Heritage Unit may give rise to heritage impacts requiring further consultation with the Department of Environment, Water and Natural Resources, or an additional referral to the Minister for Sustainability, Environment and Conservation. Such changes would include for example:

- a) an application to vary the Development Plan Consent, or
- b) Building Rules documentation that differs from the planning documentation.

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

**(3) Requirements Under the Heritage Places Act (1993)**

Please note the following requirements under the Heritage Places Act (1993):

- a) If an archaeological artefact believed to be of heritage significance is encountered during excavation works, disturbance in the vicinity shall cease and the SA Heritage Council shall be notified.
- b) Where it is known in advance (or there is reasonable cause to suspect) that significant archaeological artefacts may be encountered, a permit is required prior to commencing excavation works.

**(4) Requirement Under the Aboriginal Heritage Act (1988)**

Please note the following requirements of the Aboriginal Heritage Act (1988):

If Aboriginal sites, objects or remains are discovered during excavation works, the Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as delegate of the Minister) should be notified under Section 20 of the Aboriginal Heritage Act (1988).

**Council Land Division Statement of Requirements**

Nil

**Council Land Division Notes**

Nil

**SCAP Land Division Statement of Requirements**

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. (S A Water H0054503).**

SA Water Corporation further advise that an investigation will be carried out to determine if the water and/or sewer connection/s to your development will be costed as standard or non-standard.

- (2) Payment of \$13352 into the Planning and Development Fund (2 allotment/s @ \$6676/allotment). Payment may be made by credit card via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au) or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor,101 Grenfell Street, Adelaide.**
- (3) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.**

**ADELAIDE HILLS COUNCIL  
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING  
WEDNESDAY 14 NOVEMBER 2018  
63 MOUNT BARKER ROAD, STIRLING**

*[Please Note: These minutes are unconfirmed until 12 December 2018]*

---

**SCAP Land Division Notes**

Nil

**9. Policy Issues for Advice to Council**

Stephen Hamnett flagged a possible future discussion on whether a minimum height for privacy screening of 1.5 metres would always be appropriate. It was noted, though, that this is now a Statewide Policy.

**10. Other Business**

**10.1 Update on Local Heritage DPA**

Deryn Atkinson and Marc Salver provided the Panel with an update regarding the Local Heritage DPA. It was noted that the interim list of 41 Local Heritage places consolidated into the Plan twelve months ago no longer has interim effect protection and have been removed from the Development Plan. These places are predominantly church, community or council owned properties. It is anticipated that a determination on the DPA will be received from the Minister early in the New Year.

**11. Order for Exclusion of the Public from the Meeting to debate Confidential Matters**

Nil

**12. Confidential Item**

Nil

**13. Next Meeting**

The next ordinary Development Assessment Panel meeting will be held on Wednesday 12 December 2018.

**14. Close meeting**

The meeting closed at 8.55pm.