



ORDINARY COUNCIL MEETING

NOTICE OF MEETING

To: Mayor Jan-Claire Wisdom

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

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

Tuesday 29 November 2022

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.

David Waters
Chief Executive Officer
24 November 2022



ORDINARY COUNCIL MEETING

AGENDA FOR MEETING
Tuesday 29 November 2022
6.30pm
63 Mt Barker Road Stirling

ORDER OF BUSINESS

1. COMMENCEMENT

2. OPENING STATEMENT

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

3. APOLOGIES/LEAVE OF ABSENCE

- 3.1. Apology
Apologies were received from
- 3.2. Leave of Absence
Cr Malcolm Herrmann 16 December to 22 December 2022
- 3.3. Absent

4. MINUTES OF PREVIOUS MEETINGS

Council Meeting – 25 October 2022
That the minutes of the ordinary meeting held on 25 October 2022 as supplied, be confirmed as an accurate record of the proceedings of that meeting.

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

6. MAYOR'S OPENING REMARKS

7. QUESTIONS ADJOURNED/LYING ON THE TABLE

- 7.1. Questions Adjourned
 - 7.1.1. Options to reduce traffic congestion Bridgewater Primary School – Traffic Study
To be considered by Council in January 2023
- 7.2. Questions Lying on the Table
Nil

8. PETITIONS / DEPUTATIONS / PUBLIC FORUM

- 8.1. Petitions
 - 8.1.1 Water Storage Tank – Upper Hermitage
- 8.2. Deputations
Nil
- 8.3. Public Forum

9. PRESENTATIONS (by exception)

Nil

10. QUESTIONS ON NOTICE

- 10.1. Property Losses from Bushfires (Cr Pauline Gill)

11. MOTIONS ON NOTICE

- 11.1. Speed Limit on North-East Road, Inglewood (Cr Malcolm Herrmann)

That the Acting CEO requests the Chief Executive, Department of Infrastructure and Transport, to investigate the reduction of the 80kph speed limit on the Adelaide side of North East Road, Inglewood to past the intersection of Range Road South and North East Road Houghton to the existing 60kph limit sign.

12. ADMINISTRATION REPORTS – DECISION ITEMS

- 12.1. Time and Place of Meetings
 - 1. *The report be received and noted.*
 - 2. *For the Council Term 2022-2026, Ordinary Council Meetings are scheduled to commence at 6.30pm on the fourth Tuesday of the month, except for December where they will be held on the third Tuesday, at 63 Mt Barker Road, Stirling.*
 - 3. *The Chief Executive Officer be authorised to adjust the Ordinary Council Meeting schedule, including time and place of the meeting, where matters necessitate a change such as a meeting date occurring on a public holiday, catastrophic fire danger day or other valid reason.*
 - 4. *For the Council Term 2022-2026, times and venues for Special Council Meetings, requested in accordance with the legislative provisions, are to be determined by the Chief Executive Officer.*

5. *For the Council Term 2022-2026, Information or Briefing Sessions are scheduled as follows:*
 - a. *Workshops scheduled ordinarily at 6.30pm on the second Tuesday of each month, held at 36 Nairne Road, Woodside, except for January.*
 - b. *Professional Development Sessions scheduled ordinarily at 6.30pm on the third Tuesday of each month, held at 63 Mt Barker Road, Stirling, except for December and January.*
 6. *The Chief Executive Officer be authorised to schedule additional Information or Briefing sessions where workload dictates, or adjust the Information or Briefing Sessions schedule, including time and place of the sessions, where matters necessitate a change such as an Information of Briefing session date occurring on a public holiday, catastrophic fire danger day or other valid reason.*
 7. *The Chief Executive Officer is authorised to adjust any Policy which is impacted by the setting of the Time and Place of Meetings.*
- 12.2. Deputy Mayor Position Creation and Appointment
- Refer to Agenda*
- 12.3. Annual Report Adoption
1. *That the report be received and noted.*
 2. *The 2021-22 Annual Report, as contained in Appendix 1, be adopted.*
 3. *That the Acting Chief Executive Officer be authorised to make minor content, formatting or design changes necessary for publication purposes.*
- 12.4. Audit Committee Membership – Council Member and Presiding Member Appointment
- Refer to Agenda*
- 12.5. CEO PRP Membership - Council Member and Presiding Member Appointment
- Refer to Agenda*
- 12.6. Boundary Change Committee - Council Member and Presiding Member Appointment
- Refer to Agenda*
- 12.7. S43 Subsidiary Membership – East Waste
- Refer to Agenda*
- 12.8. S43 Subsidiary Membership – Adelaide Hills Region Waste Management Authority
- Refer to Agenda*
- 12.9. S43 Subsidiary Membership – Gawler River Floodplain Management Authority
- Refer to Agenda*

- 12.10. S43 Subsidiary Membership – Southern & Hills Local Government Association
Refer to Agenda
- 12.11. Appointment of Council Member & Deputy Council Member to the Council Assessment Panel
Refer to Agenda
- 12.12. Policy Review – Council Member Allowances and Support 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 30 November 2022, to revoke the 22 September 2020 Council Member Allowances and Support Policy and to adopt the draft 29 November 2022 Council Member Allowances and Support Policy, as contained in Appendix 3.*
 4. *That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the draft 29 November 2022 Council Member Allowances and Support Policy as per Appendix 3 prior to the date of effect.*
- 12.13. Legislative Change – Member Integrity & Behaviour
1. *That the report be received and noted.*
 2. *To note the Member Integrity and Behaviour provisions of the Local Government Act 1999 that came into effect on 17 November 2022.*
 3. *To note the Behavioural Management Policy, as contained in Appendix 6, which has been set by the Minister for Local Government and will have effect until Council adopts a replacement policy.*
- 12.14. Status Report – Council Resolutions Update
Refer to Agenda

13. ADMINISTRATION REPORTS – INFORMATION ITEMS

Nil

14. QUESTIONS WITHOUT NOTICE

15. MOTIONS WITHOUT NOTICE

16. REPORTS

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

17. REPORTS OF COMMITTEES

- 17.1. Council Assessment Panel – 9 November 2022
That the minutes of the CAP meeting held on 9 November 2022 as supplied, be received and noted.

- 17.2. Audit Committee
Nil

- 17.3. CEO Performance Review Panel
Nil

- 17.4. Boundary Change Committee
Nil

18. CONFIDENTIAL ITEMS

Nil

19. NEXT MEETING

Tuesday 20 December 2022, 6.30pm, 63 Mt Barker Road, Stirling

20. CLOSE MEETING

Council Meeting & Workshops 2023

DATE	TYPE	LOCATION	MINUTE TAKER
DECEMBER 2022			
Tues 6 December	Workshop	Nairne Road Woodside	N/A
Mon 12 December	Audit Committee	Stirling	TBA
Tues 13 December	Professional Development	Stirling	N/A
Wed 14 December	Council Assessment Panel (CAP)	TBA	Karen Savage
Tues 20 December	Council	Stirling	Pam Williams
JANUARY 2023			
Tues 11 January	CAP	TBA	Karen Savage
Tues 17 January	Workshop	Stirling	N/A
Tues 24 January	Council	Stirling	Pam Williams
FEBRUARY 2023			
Wed 8 February	CAP	TBA	Karen Savage
Tues 14 February	Workshop	Nairne Road Woodside	N/A
Tues 21 February	Professional Development	Stirling	N/A
Tues 28 February	Council	Stirling	N/A

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

Community Forums 2023

6.00 for 6.30pm

(dates and venues to be confirmed)

DATE	LOCATION
Tues 30 May	TBA
Tues 29 August	TBA
Tues 31 October	TBA

8. DEPUTATIONS

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

1. A request to make a deputation should be made by submitting a Deputation Request Form, (available on Council's website and at Service and Community Centres) to the CEO seven clear days prior to the Council meeting for inclusion in the agenda.
2. Each deputation is to be no longer than ten (10) minutes, excluding questions from Members.
3. Deputations will be limited to a maximum of two per meeting.
4. In determining whether a deputation is allowed, the following considerations will be taken into account:
 - the number of deputations that have already been granted for the meeting
 - the subject matter of the proposed deputation
 - relevance to the Council agenda nominated – and if not, relevance to the Council's powers or purpose
 - the integrity of the request (i.e. whether it is considered to be frivolous and/or vexatious)
 - the size and extent of the agenda for the particular meeting and
 - the number of times the deputee has addressed Council (either in a deputation or public forum) on the subject matter or a similar subject matter.

8.3 PUBLIC FORUM

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

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

Item 4 Minutes of Council

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 25 OCTOBER 2022
63 MT BARKER ROAD STIRLING**

In Attendance

Presiding Member: Mayor Jan-Claire Wisdom

Members:

Councillor Ian Bailey
Councillor Kirrilee Boyd
Councillor Nathan Daniell
Councillor Pauline Gill
Councillor Chris Grant (6.07pm)
Councillor Linda Green
Councillor Malcolm Herrmann
Councillor John Kemp
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Andrew Stratford

In Attendance:

David Waters	Acting Chief Executive Officer
Terry Crackett	Director Corporate Services
Peter Bice	Director Infrastructure & Operations
Natalie Armstrong (via electronic means)	Director Development & Regulatory Services
Jess Charlton	A/Director Community Capacity
Lachlan Miller	Executive Manager Governance & Performance
Rebecca Shepherd	Manager Community Development
Kira-marie Laverty	Corporate Planning & Performance Coordinator
Steven Watson	Governance & Risk Coordinator
Pam Williams	Minute Secretary

1. COMMENCEMENT

The meeting commenced at 6.01pm.

2. OPENING STATEMENT

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

**ADELAIDE HILLS COUNCIL
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TUESDAY 25 OCTOBER 2022
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3. Apology

Nil

3.1 Leave of Absence

Nil

3.2 Absent

Nil

4. MINUTES OF PREVIOUS MEETINGS**4.1 Council Meeting – 27 September 2022**

Moved Cr Ian Bailey

S/- Cr Linda Green

271/22

That the minutes of the Ordinary Council meeting held on 27 September 2022 as supplied, be confirmed as an accurate record of the proceedings of that meeting with Item 12.1 being amended to include Cr Green's conflict of interest declaration and the voting of Cr Green and the majority of members on that item.

Carried Unanimously

5. DECLARATION OF CONFLICT OF INTEREST BY MEMBERS OF COUNCIL

Nil

6. PRESIDING MEMBER'S OPENING REMARKS

Mayor Jan-Claire Wisdom welcomed the gallery to the last meeting of 2018-2022 Council. The Mayor advised that three of the current Council Members are retiring and there will be a new Council in November 2022, with the first meeting being 29 November 2022. The Mayor extended her thanks to all the Council Members stating that they have worked well together all term and achieved many good results.

The Mayor stated that the retiring members, Cr Linda Green, Cr Andrew Stratford and Cr Ian Bailey, have a total of over 50 years' service to Council and were thanked for their commitment with acclamation. The Mayor welcomed Acting Chief Executive Officer, David Waters, to his first meeting in this role and advised that she looked forward to seeing many of the Council Members back in this Chamber for the 2022 – 2026 term of Council.

Mayor Wisdom advised that the Local Government Association has appointed a new President, Mayor Erica Vickery of Naracoorte Lucindale, and looks forward to working with her over the next 2 years.

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7. QUESTIONS ADJOURNED/LYING ON THE TABLE

7.1 Questions Adjourned

7.1.1 Options to reduce traffic congestion Bridgewater Primary School – Traffic Study

To be considered by Council in January 2023

6.07pm Cr Chris Grant attended the Chamber

7.2 Questions Lying on the Table

Nil

8. PETITIONS/DEPUTATIONS/PUBLIC FORUM

8.1 Petitions

8.1.1 Speed Limit and Drainage, Charleston

Moved Cr Malcolm Herrmann

S/- Cr Linda Green

272/22

Council resolves:

- 1. That the petition signed by 41 signatories requesting the lowering of the speed limit on Onkaparinga Valley Road, Charleston, plus installation of guttering and drainage, be received and noted.**
- 2. That the matter be referred to the Department for Infrastructure and Transport for consideration, with advocacy and support provided by Council as required.**
- 3. That the CEO advise the principal signatory of the Council's noting of the petition and of any resolutions relating to the matter.**

Carried Unanimously

8.2 Deputations

8.2.1 Greg Russell, Rotary Stirling, and Assoc Prof Danielle Clode, Flinders University, re Bushfire Preparedness, Recovery & Potential Role of Council

8.3 Public Forum

Nil

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9. PRESENTATIONS

Nil

10. QUESTIONS ON NOTICE

10.1 Reducing Rabbit Population in Council area (Cr John Kemp)

What measures will be taken to reduce rabbit populations in Council reserves and conservation parks this Spring and Summer?

Response

Council staff work closely with multiple agencies including the Hills and Fleurieu Landscape Board to mitigate the effects of pest plants and animals. Due to the risk of off-target impacts to both domestic and native animals Council does not participate in baiting programs. When requested by the Landscape Board Council has participated in the fumigation and destruction of rabbit warrens in Council reserves and roadsides. Council administration is in talks with the Landscape Board regarding the next Calicivirus release which is expected to occur in February 2023.

In the Adelaide Hills region, the natural environment faces a number of key threatening processes, primarily weed invasion, habitat fragmentation and Phytophthora, feral animals, bushfire, and a changing climate. All of these threaten our natural environment. Ecological restoration is therefore a central component to biodiversity management in assisting the recovery of an ecosystem and helping to sustain and enhance ecological communities and the species they support.

Council's role in driving restoration across the district is dependent on its long-term commitment to site management as well as sustaining, and building on strong partnerships and collaborations. Council's primary activities in this space and its resources commitment are directed primarily toward managing weed invasion, reducing clearance of native vegetation, containing the spread of Phytophthora and educating and supporting the public regarding the significance of biodiversity management, threatened species, wildlife habitat, recovery following natural disasters and unauthorised / inappropriate activities (pollution of waterways, illegal rubbish dumping, firewood connection etc).

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11. MOTIONS ON NOTICE

11.1 Parking and Road Safety, Wattle Tree Road, Bridgewater

Moved Cr Kirsty Parkin
S/- Cr Leith Mudge

273/22

I move that a report be presented back to Council by January 2023 covering the following:

1. The current safety of Wattle Tree Road for motorists, and what could be done to improve safety in the long term.
2. Possible solutions for on-street parking in Wattle Tree Road.

Carried Unanimously

12. OFFICER REPORTS – DECISION ITEMS

12.1 2021 – 22 General Purpose Financial Statements

Moved Cr Malcolm Herrmann
S/- Cr Leith Mudge

274/22

Council resolves:

1. That the report be received and noted.
2. 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 2022.
3. To authorise the Mayor and CEO to sign the General Purpose Financial Statements for the financial year ended 30 June 2022.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
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12.2 2021 – 22 End of Year Financial Report

Moved Cr Pauline Gill

S/- Cr Ian Bailey

275/22

Council resolves:

1. That the report be received and noted.
2. The 2021-22 End of Year Financial Results in comparison to budget have been considered by Council.

Carried Unanimously

7.03pm Cr Osterstock left the Chamber

7.05pm Cr Osterstock returned to the Chamber

12.3 Electricity Tender Post 2022

Moved Cr John Kemp

S/- Cr Chris Grant

276/22

Council resolves:

1. That the report be received and noted.
2. That the Acting Chief Executive Officer is, until 31 January 2023, delegated (without financial limitation) the power to enter into contracts on behalf of the Council with tenderers selected by Local Government Association Procurement for the supply of electricity for:
 - I. sites above 160 MWh per annum; and
 - II. sites below 160 MWh per annum; and
 - III. 12 hour and 24 hour unmetered lighting.
3. That the above delegation be conditional on the Acting Chief Executive Officer consulting with the Mayor in considering power plan options and that, in-principle, the Council desires 100% accredited renewable electricity, but with a maximum limit of 50% premium in additional cost compared with standard electricity.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
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12.4 Naming of Parks and Reserves

Moved Cr Pauline Gill

S/- Cr John Kemp

277/22

Council resolves:

- 1. That the report be received and noted.**
- 2. That Council does not proceed with a program to name all reserves without a formal name but continues to consider opportunities which may arise from time to time, either through community driven requests, park upgrades or through the Aboriginal Place Naming Action Plan.**
- 3. Council continues to renew pre-existing signs that are in poor condition within existing budgets.**

Carried

DIVISION

Cr Malcolm Herrmann called for a division.

The Mayor set aside the ruling.

In the affirmative (10)

Councillors Bailey, Boyd, Daniell, Gill, Grant, Green, Kemp, Osterstock, Parkin, Stratford

In the negative (2)

Councillors Herrmann, Mudge

On the basis of the results of the division, the Mayor declared the motion CARRIED.

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12.5 Service Review Brief – Development Services

Moved Cr Linda Green

S/- Cr Ian Bailey

278/22

Council resolves:

1. That the report be received and noted.
2. To adopt the draft *Service Review Brief – Development Services* as contained in *Appendix 1*.
3. That the Chief Executive Officer be authorised to make minor changes to the draft *Service Review Brief – Development Services* arising from the Council's consideration of the matter.
4. That the Chief Executive Officer be authorised to make amendments to the scope of the *Service Review Brief – Development Services* in response to the proposals received in the "request for quote" (RFQ) if required to meet budget.

Carried Unanimously

12.6 Status Report – Council Resolutions Update

Moved Cr Ian Bailey

S/- Cr Nathan Daniell

279/22

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

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
17/09/2019	Special Council	239/19	Circular Procurement Pilot Project	Nil
26/10/2021	Ordinary Council	221/21	Single Use Plastic MON Response	Nil
22/03/2022	Ordinary Council	56/22	CEO Performance Review Process and Schedule	Nil

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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
24/05/2022	Ordinary Council	124/22	Local Heritage Grant Fund 2021-22 Project Approvals	Nil
20/06/2022	Special Council	244/22	Appointment of Acting CEO - Confidential Item	Nil
28/06/2022	Ordinary Council	156/22	East Waste Charter Amendment - Duration of Confidentiality	Nil
28/06/2022	Ordinary Council	170/22	Santos Tour Down under Event Opportunity - Duration of Confidentiality	Nil
26/07/2022	Ordinary Council	179/22	MON CCC Boundary Reform Oversight by S41 Committee - Cr Osterstock	Nil
23/08/2022	Ordinary Council	229/22	East Waste Recycling Contract – Confidential Item	Nil
23/08/2022	Ordinary Council	233/22	Revised East Waste 2022-23 Annual Plan & Budget – Confidential Item	refer to Confidential Minute
20/09/2022	Special Council	239/22	Accession of His Majesty King Charles III	Nil
20/09/2022	Special Council	240/22	Election of East Regional Grouping Representative GAROC	Material - Mayor Wisdom
20/09/2022	Special Council	241/22	Election of LGA President	Nil
20/09/2022	Special Council	242/22	Elections for LGFA Board of Trustees	Nil
20/09/2022	Special Council	243/22	Use of Boundary Change Committee delegation	Nil
20/09/2022	Special Council	247/22	Appointment of Acting CEO - Duration of Confidentiality	Nil

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Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
27/09/2022	Ordinary Council	255/22	Council Submissions on Miscellaneous Technical Enhancement Code Amendment	Perceived - Cr Green
27/09/2022	Ordinary Council	258/22	Confidential Items Review	Nil
27/09/2022	Ordinary Council	259/22	Confidential Items Review Decision 3	Nil
27/09/2022	Ordinary Council	260/22	Acting CEO - Appt to SHLGA and declaration of COI	Nil
27/09/2022	Ordinary Council	262/22	SA Water Hydrant Locations	Nil
27/09/2022	Ordinary Council	265/22	Audit Committee Recommendation to Council	Nil
27/09/2022	Ordinary Council	267/22	CEO PRP Independent Member	Nil
27/09/2022	Ordinary Council	268/22	CEO Performance Review Panel Independent Member Duration of Confidential item	Nil

Carried Unanimously

13. OFFICER REPORTS - INFORMATION ITEMS

13.1 Quarterly Council Performance Report Q1 2022-23

**Moved Cr Andrew Stratford
S/- Cr John Kemp**

280/22

Council resolves that the report be received and noted.

Carried Unanimously

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13.2 Withdrawal of *Code of Conduct for Council Members* Complaint

Moved Cr Chris Grant
S/- Cr Kirrilee Boyd

281/22

Council resolves that the report be received and noted.

Carried Unanimously

13.3 Disability Access & Inclusion Plan – Annual Progress Report 2021-22

Moved Cr Leith Mudge
S/- Cr Kirrilee Boyd

282/22

Council resolves that the report be received and noted.

Carried Unanimously

13.4 Finalisation of Boundary Change Inquiry Plan

Moved Cr Kirsty Parkin
S/- Cr Nathan Daniell

283/22

Council resolves that the report be received and noted.

Carried Unanimously

7.52pm Cr John Kemp left the Chamber

7.52pm Cr Leith Mudge left the Chamber

7.54pm Cr John Kemp returned to the Chamber

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14. QUESTIONS WITHOUT NOTICE

- Cr Mark Osterstock – status of OTR development Heathfield
- Cr Malcolm Herrmann – outcome of review of speed limit Gorge Road Cudlee Creek
Response: Council received written advice from Mr Jon Whelan, Chief Executive Officer for Department for Infrastructure and Transport, outlining the outcome of the speed limit and safety review in the vicinity of the Gorge Road, Redden Drive junction. The speed limit at this location will be lowered to 50km/h to further improve safety. In addition, the Stop bar will also be moved forward to improve sightlines. It is anticipated these works will be completed by end of November 2022.

15. MOTIONS WITHOUT NOTICE

Nil

7.58pm Cr Leith Mudge returned to the Chamber

15.1 Thank you to retiring Council Members

**Moved Cr Nathan Daniell
S/- Cr John Kemp**

284/22

That Council thanks Cr Ian Bailey, Cr Linda Green and Cr Andrew Stratford for their dedication as Elected Members, and for having a positive and meaningful impact on the Adelaide Hills Council and our community.

Carried Unanimously

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16. REPORTS

16.1 Council Member Function or Activity on the Business of Council

Cr Malcolm Herrmann

- 23 October, Top of the Torrens Gallery exhibition launch

Cr Andrew Stratford

- 14 October, Adelaide Hills Hawks Presentation Night, Hahndorf

Cr Ian Bailey

- 9 October, RSL Annual Dinner, Stirling

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

Cr Malcolm Herrmann

- 20 October, GRFMA meeting

16.3 CEO Report

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

- Amy Gillett Bikeway funding update
Council has received confirmation from the Federal Government that the funding commitment made by the previous government for the extension of the Amy Gillett Bikeway to Birdwood will be honoured. The State Government's Department for Infrastructure and Transport is presently working on the design and cost estimates for the project.
- Compliance issues with property in hand
- Footpaths & drainage
- Last meeting for 2018 – 2022 Council, we acknowledge and appreciate the support of the Chamber

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17. REPORTS OF COMMITTEES

17.1 Council Assessment Panel

Nil

17.2 Audit Committee – 17 October 2022

Moved Cr Leith Mudge

S/- Cr Malcolm Herrmann

285/22

That the minutes of the Audit Committee meeting of 17 October 2022 as distributed, be received and noted.

Carried Unanimously

17.2.1 Audit Committee Presiding Member's Report 2022

Moved Cr Malcolm Herrmann

S/- Cr Kirrilee Boyd

286/22

Council resolves that the report be received and noted.

Carried Unanimously

17.3 CEO Performance Review Panel – 13 October 2022

Moved Cr Mark Osterstock

S/- Cr Chris Grant

287/22

That the minutes of the CEO Performance Review Panel meeting of 13 October 2022 as distributed, be received and noted.

Carried Unanimously

17.3.1 CEO Performance Review Panel Presiding Member's Report 2022

Moved Cr Mark Osterstock

S/- Cr Nathan Daniell

288/22

Council resolves that the report be received and noted.

Carried Unanimously

**ADELAIDE HILLS COUNCIL
MINUTES OF ORDINARY COUNCIL MEETING
TUESDAY 25 OCTOBER 2022
63 MT BARKER ROAD STIRLING**

17.4 Boundary Change Committee

Nil

18. CONFIDENTIAL ITEMS

Nil

19. PRESENTATION OF SERVICE CERTIFICATES TO COUNCIL MEMBERS

8.13pm Mayor Jan-Claire Wisdom left the Chamber and Deputy Mayor Nathan Daniell took the Chair

Cr Ian Bailey addressed the Chamber

8.14pm Mayor Jan-Claire Wisdom returned to the Chamber and Deputy Mayor Nathan Daniell vacated the Chair

Cr Andrew Stratford addressed the Chamber

Cr Linda Green addressed the Chamber

Mayor Wisdom presented Certificates of Appreciation to all Council Members acknowledging their service over the 2018 – 2022 Council term.

19.1 NEXT ORDINARY MEETING

The next ordinary meeting of the Adelaide Hills Council will be held on Tuesday 29 November 2022 from 6.30pm at 63 Mt Barker Road, Stirling.

20. CLOSE MEETING

The meeting closed at 8.31pm.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	8.1.1
Responsible Officer:	Lachlan Miller Executive Manager Governance & Performance Office of the Chief Executive
Subject:	Petition – Water Storage Tank – Upper Hermitage
For:	Decision

SUMMARY

A petition has been received with 204 signatories stating:

We, the undersigned, are concerned citizens who urge the Councillors to act now and do hereby apply to the Adelaide Hills Council for permission to provide their land at the junction of Warner Road and Range Road North, Upper Hermitage for the location of a Community donated 115,500 Litre (25,410 gallons) Water Storage Tank for CFS and Community use in a Bushfire Emergency.

Correspondence was received in conjunction with the petition and this is provided in **Appendix 1** (less the petition).

RECOMMENDATION

Council resolves:

- 1. That the petition signed by 204 signatories requesting permission to place a tank on Council land be received and noted.**
 - 2. To note that the Administration will continue to liaise with the head petitioners and the CFS and will provide a status report to Council no later than the March Ordinary Council meeting.**
 - 3. That the CEO advise the principal signatory of the Council's noting of the petition and of any resolutions relating to the matter.**
-

1. PETITION DETAILS

Council has received a petition organised by Jan Verrall and Denise Elland of Hermitage Community Leaders signed by 204 signatories.

The Petition states:

We, the undersigned, are concerned citizens who urge the Councillors to act now and do hereby apply to the Adelaide Hills Council for permission to provide their land at the junction of Warner Road and Range Road North, Upper Hermitage for the location of a Community donated 115,500 Litre (25,410 gallons) Water Storage Tank for CFS and Community use in a Bushfire Emergency.

2. OFFICER'S RESPONSE – Karen Cummings, Manager Property Services

➤ **Relationship/relevance to Council services/activities/plans/strategies/resolutions**

The Administration has been liaising with the head petitioners and the CFS Headquarters for a period of time regarding the proposal.

While Council could consider entering into a licence agreement for placement of the Water Tank on the subject land, it is not appropriate for Council to own and maintain fire fighting infrastructure. Therefore, and this has been the basis of the discussions to date, the CFS would need to accept responsibility for the licence and for the ownership and maintenance of the Tank, such in-principle acceptance of responsibility has not been received by Council from the CFS.

Liaison with the head petitioners and the CFS will continue and a report on the status of the proposal can be scheduled for Council in the New Year, nominally March 2023

➤ **Options¹**

Council has the following options in relation to the matter(s) raised in the petition:

- I. To receive and note the petition, this includes noting that the CEO will write to the head petitioners regarding Council's consideration of the matter (Recommended)
- II. To consider whether a Motion Without Notice on the subject is required.

3. APPENDICES

- (1) *Petition Letter – Hermitage Community Leaders*

¹ Any potential motion arising from the receipt of a petition is a Motion Without Notice and Council has resolved for restrictions on the scope on these types of motions as per clause 3.18 of the *Code of Practice for Council Meeting Procedures*.

Appendix 1

Petition Letter – Hermitage Community Leaders

RECEIVED

22 NOV 2022



HERMITAGE COMMUNITY LEADERS



Proudly

Jan Verrall
409 Range Road North
Upper Hermitage SA 5131
0455 111 395
ianlverrall@gmail.com

HERMITAGE CFS



Supporting

Denise Elland
455 Range Road North
Upper Hermitage SA 5131
0427 707 951
deniseelland5@gmail.com

Good Evening, Director, Mayor Jan-Claire Wisdom and Councillors,

This is our Proposal for consideration by the Adelaide Hills Council at the 29.11.2022 Meeting:

We ask the Adelaide Hills Council for permission to provide their land at the junction of Warner Road and Range Road North, Upper Hermitage for the location of a Community Donated Water Storage Tank.

We would like to donate a 115,500 Litre Water Storage Tank to the CFS and Community of Upper Hermitage for Firefighting use only. This Tank will fill at least 38 Fire Trucks and Farm Firefighting Units.

This Community has no Mains Water Supply north, west or east of the Hermitage CFS Station. In a Bushfire electricity is turned off - there is **NO WATER**. Fire Trucks cannot be filled unless we have this Tank or they have to travel Kilometers away from the CFS Station to access water and time is critical in a Bushfire.

In a major Bushfire road closures could prevent big Tankers from entering roads, eg fallen trees etc.

Bombers and big Water Tankers cannot be everywhere. Bombers can quell the fire but ground crews are need to completely extinguish the fire.

Interstate Units and other visiting CFS units will know the location of the Water Tank by the CFS Station and "**FIRE WATER**" will be displayed on the Water Tank Roof.

MORE WATER is better than **NO WATER**. When the electricity is turned off this will lead to a better outcome.

This Community believes that **WATER** is what is needed in a Bushfire.

We can't fight Bushfires without **WATER**.

When the Hermitage CFS Units are out in other locations, our local Farm Firefighting Units will be able to access the **WATER**.

There are **108 households** in Upper Hermitage and **204 residents** have signed the Petition wanting this Large Water Storage Tank.

Everyone wants the Tank and Farm Firefighting Units will have access to the Tank in a Bushfire.



HERMITAGE COMMUNITY LEADERS

Proudly Supporting
HERMITAGE CFS



Jan Verrall
409 Range Road North
Upper Hermitage SA 5131
0455 111 395
janlverrall@gmail.com



Denise Elland
455 Range Road North
Upper Hermitage SA 5131
0427 707 951
deniseelland5@gmail.com

Information on the TANK:

1. No Maintenance
2. No Pump Required
3. No Mechanical Parts
4. 20 year No Service Costs Warranty
5. Padlocked Access Hatch in Roof
6. Free-standing Water Storage Tank
7. Tank will be LOCKED and ONLY Accessed in a Bushfire
8. Murals of Wildlife and Primary Production of the area will be Painted on the Tank by a Professional Artist
9. Tank will have an Anti-graffiti Coating over the Murals
10. Tank will be filled by Jan and Denise at **NO COST** to CFS
11. Tank will be refilled by SA Water in a Bushfire
12. Has a Water Gauge – full - half – empty
13. Compliant to CFS/MFS Policy Document 0014

As quoted in an email dated 9 Aug 2022 17:18 from Garth Hogarth, Acting Regional Commander of Region 2
South Australian Country Fire Service:

“What we would be excited to offer is to donate the required fittings to be installed onto the tank to support firefighting operations, and ensure full interoperability with the CFS fleet who may utilise this into the future.

We would be pleased to deliver these at the appropriate time of the project.

Thank you for driving community resilience through the Hermitage area.”

Garth Hogarth

Acting Regional Commander
South Australian Country Fire Service
1454 Mudla Wirra Road,
Wasleys SA 5371

T 08 8522 6088 | F 08 8522 6404 | M 0428 818 330 | E Garth.Hogarth@sa.gov.au
cfs.sa.gov.au | [Find us on Facebook](#) | [Follow us on Twitter](#)

Jan Verrall and Denise Elland
Hermitage Community Leaders

David W Pound

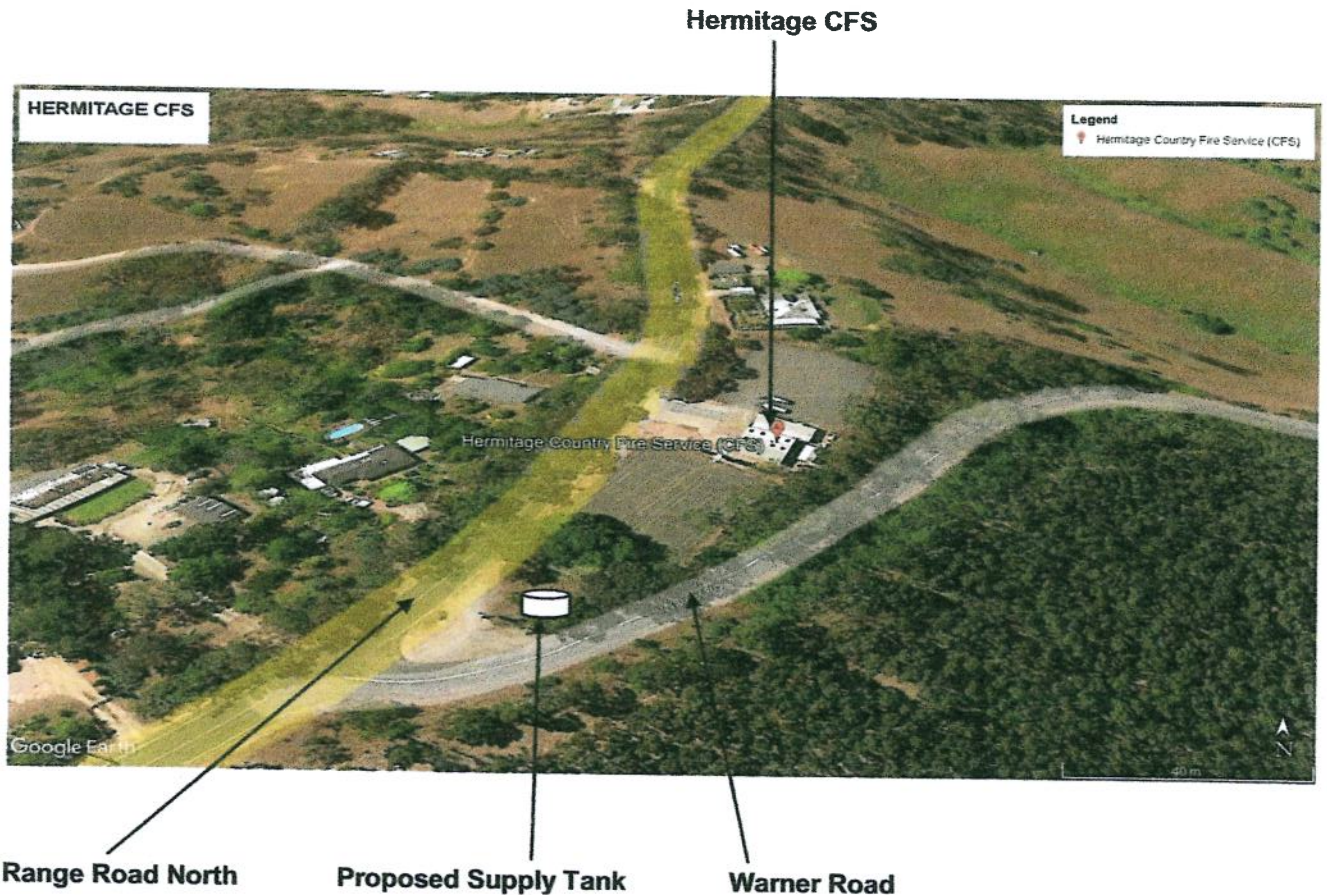
PROJECT DESIGN

94 Warner Road UPPER HERMITAGE SA 5131

Tel: (M) 0447 787 588

Email: dwpound@bigpond.com

PROPOSED FIRE SERVICES WATER SUPPLY TANK Located at Corner of Range Road North & Warner Road UPPER HERMITAGE



Site Specification:

Tree fallen in storm + removed since printing

* Existing dead tree trunk to be cut down and removed. Backfill hole, compact, and level ground.

Remove existing fence and shrubs to front of Clubroom area.

Excavate and level area of proposed Tank location. Refer to Drawings.

Install, compact, and level base material to Tank location. Install Geo mat.

Install Tank and fittings, including overflow pipework away from Tank.

Construct gravel pavement minimum 1 metre wide to perimeter of Tank.

Construct 1 metre high earth mound around Tank to extent shown on drawing.

Landscape mounds with Fire Resistant plants and non-combustible mulch to create a screen providing a reduction in visual impact.

Grade existing quarry rubble hardstand area providing suitable access to the Tank for CFS vehicles.

Tank:

Aquamate Maxi Tank

Capacity - 115,500 litres

Dimensions - 8.2 metres diameter x 2.2 metres high.

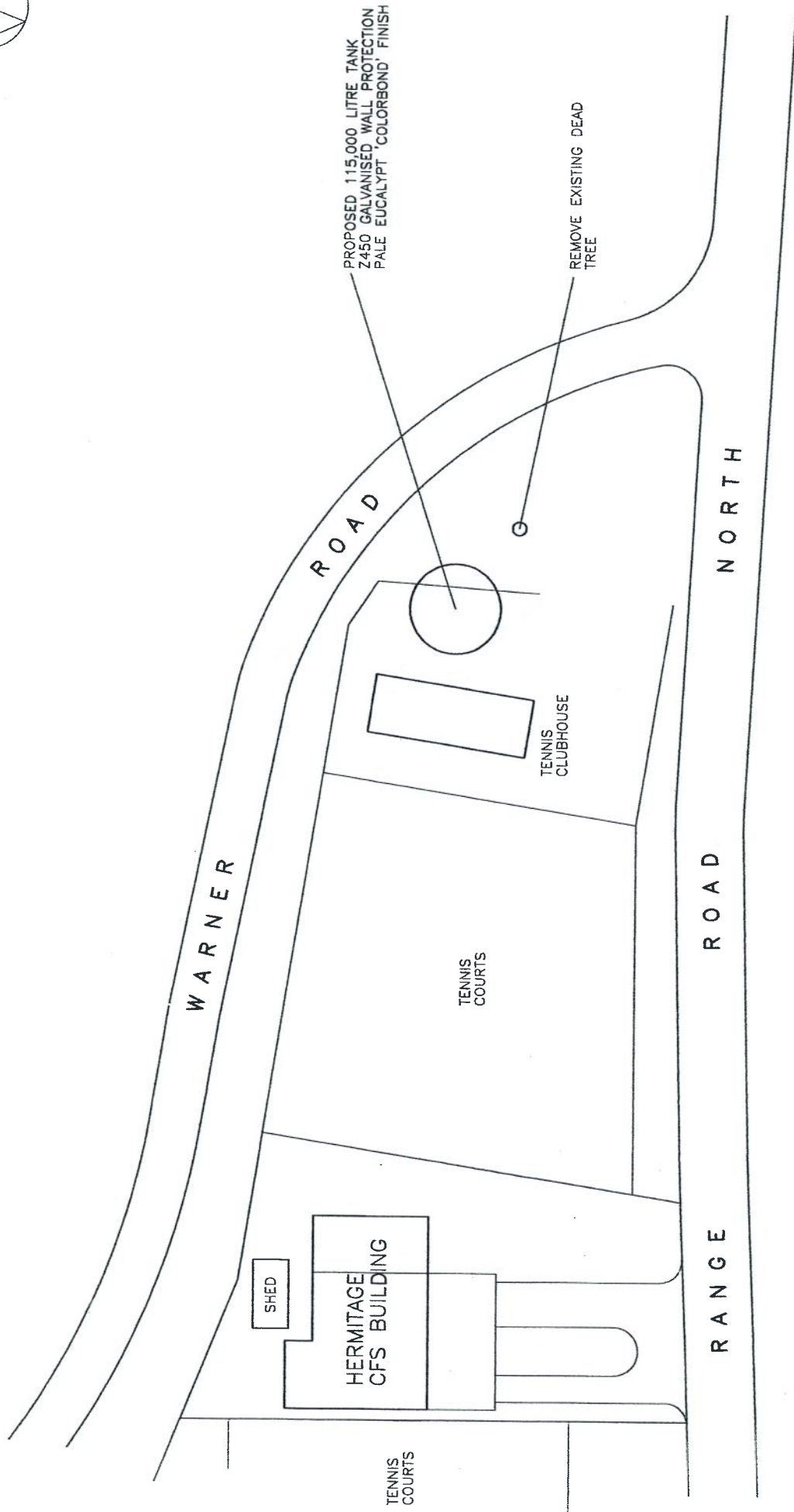
Construction Material - Z450 Galvanised steel, Pale Eucalypt 'Colorbond' finish.

Liner BPA & Pesticide Free Food Grade

Brass 50mm Outlet and Brass ball Valve



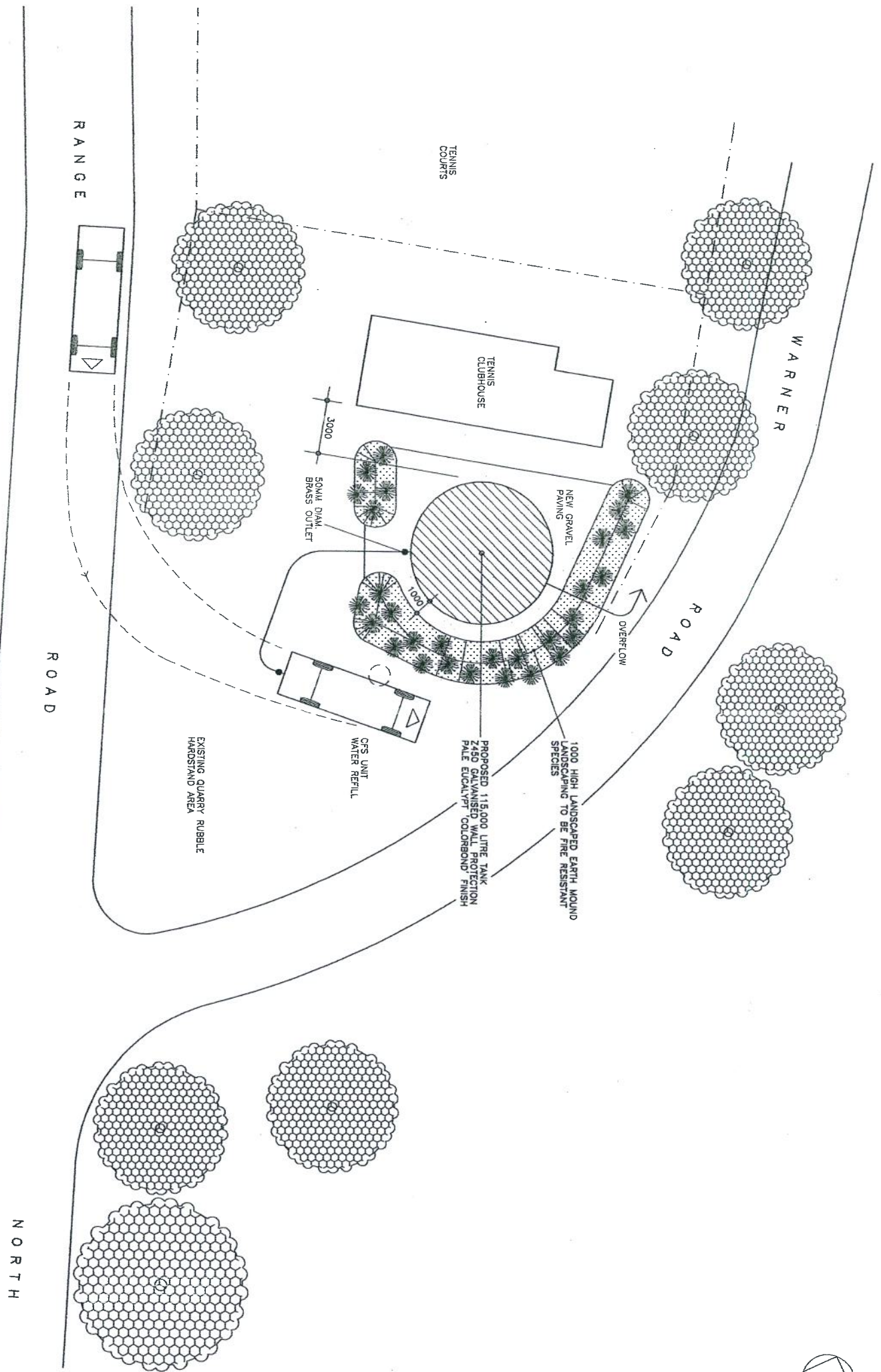
2



LOCATION PLAN
SCALE 1:500

3

PART SITE PLAN
SCALE 1:200



**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 10.1 Question on Notice

Originating from: Cr Pauline Gill

Subject: Property Losses from Bushfires

1. QUESTION

1. Could the breakdown of property losses from Sampson Flat, Cudlee Creek and Cherry Gardens bush fires be provided, with numbers of losses broken down into the following;
 - Number of township properties lost
 - Number of primary production (including orchards, livestock, berry, viticulture etc) properties lost
 - Number of commercial/industrial properties lost
 - Number of life style/hobby farms (properties that are not township or are not commercial use, eg owner does not make a living off the land) lost
2. Could the same be provided for properties damaged, eg outbuildings lost or other infrastructure that is not the main residence.
3. Can a ratio be provided for each category of those property categories in the fire scars, against numbers damaged and numbers destroyed, eg 1:5 would be one house destroyed in every five houses.

2. BACKGROUND

It is common knowledge that there were 24 homes destroyed in Sampson Flat, 85 homes destroyed in Cudlee Creek and 2 homes destroyed in Cherry Gardens, outbuildings is a bit harder to find exact numbers of outbuildings in each fire.

It is virtually impossible to find how many properties belonged to these various groups in proportion to numbers in total in each group within the fire scar. Why is this important? There is growing evidence that life style/hobby farm properties are more likely to be destroyed or damaged in a bushfire, with estimates being anywhere between 1:8 up to 1:5. These properties are generally located around townships and have a more fluid ownership change than primary production and township properties, which in turn leaves them vulnerable to being less prepared due to them having no experience of bush fires. If this is truly the case, it is imperative that a program be produced to educate new life style property owners to bush fire preparation.

During recovery after Cudlee Creek, hobby farms were identified as being in “no-man’s land” for grants and assistance, due to their properties not being a source of income and in some case not being the primary residence. From my personal experience going to many of these properties, they were in need of just as much assistance as primary producers, given the size of their properties, the only assistance provided was by volunteers with Rubicon (later Disaster Relief Australia), Blaze Aid and Habitat for Humanity for property clean up, although GISA eventually got the green light to assist all property owners, which was a relief.

These properties are growing in number as many primary producers walk off the land and sub-divide their properties. It is an unrecognised sector and one that has a potential to becoming a barrier to townships from bush fire and a safe area for emergency responders to defend from, what is needed is to

1. Identify the number of these properties
2. Understand the ownership turnover rate
3. Create an education package that is interactive and inclusive

Without the ratios for destroyed and damaged properties being provided, it is difficult to estimate if this is a real problem or a perceived one.

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

As has been identified in the background, portion of the sought data is difficult to obtain.

In relation to the information sought and the objectives, the following is provided:

Identify the number of properties

Collation of the numbers of destroyed and damaged buildings, whether they be residences or outbuildings, was undertaken by the CFS and subsequently the Department of Premier & Cabinet in their disaster recovery role.

Information published by the State Government in the months following the 2019 Cudlee Creek indicate that 98 homes were destroyed, 56 additional homes suffered damage, 542 non-residential buildings (sheds, outbuildings, etc) were damaged or destroyed and 325 vehicles were damaged or destroyed.

The Administration has not been able to identify any data sets that contain data of property losses that is broken down into township, primary production, commercial and hobby farms.

The Council does not maintain data of the total number of houses and improvements in the Council area however this information can possibly be obtained from the Valuer-General’s Department and Council can filter to seek to get close to the information sought however it will not be able to provide accurate data of the ratio of total dwellings and outbuildings in the fire scar area versus the dwellings and outbuildings that were lost or damaged.

Any collated information provided will reflect the current use of the property so there may be some discrepancies in the data if land use has changed.

This work can be undertaken by Council staff however it will be resource intensive, therefore allocation of resources will need to occur around existing business as usual responsibilities or other priorities will need to be deferred.

Understand the ownership turnover rate

There is no data available to identify the turnover rate in ownership in the respective areas. Whilst it is feasible to collate this data, it will be required to be sourced individually for each property within the requested areas and as such would require a significant resource allocation to undertake which is unbudgeted. Again, although Council is advised of change of ownership of properties in the district for rating purposes, it is not the agency responsible for holding property ownership and turnover data.

Create an education package that is interactive and inclusive

The CFS have developed a number of education packages for businesses and residents in fire prone areas. As the agency which leads fire response, it is appropriate that they are the agency delivering education programs in relation to bushfire preparedness and bushfire survival, particularly as education for lifestyle/hobby farms properties is not exclusive to the Adelaide Hills Council area.

In summary, given the significant resource requirement to provide the requested information, it is recommended that further discussions occur with Council staff, and subsequently the CFS, to identify where (if any) there are gaps in the CFS's education programs for lifestyle/hobby farm properties. Council may choose to take an advocacy role in this space to encourage the CFS to address any actual or perceived gaps in their education program.

4. APPENDIX
Nil

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 11.1 Motion on Notice

Originating from: Cr Malcolm Herrmann

Subject: Speed Limit North East Road Inglewood

1. MOTION

That the Acting CEO requests the Chief Executive, Department of Infrastructure and Transport, to investigate the reduction of the 80kph speed limit on the Adelaide side of North East Road, Inglewood to past the intersection of Range Road South and North East Road Houghton to the existing 60kph limit sign.

2. BACKGROUND

Recently (past 3-5 years), DIT reduced the speed limit from 80kph on North East road from approximately Chapman Road through Inglewood for a further 400m to 50kph.

Residents are now requesting that the limit be further extended on North East Road to past the intersection with Range Road South, Houghton. They are suggesting that the limit be 60kph which matches the existing limit on the down track to Tea Tree Gully.

Residents are concerned for the safety of motorists using intersections and have requested a review be undertaken, the outcome of which they hope will justify the reduction in the limit to 60kph.

3. OFFICER'S RESPONSE – Peter Bice, Director Infrastructure & Operations

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

Strategic Plan 2020-24 – A brighter future

Goal A functional Built Environment

Objective B4 Sustainable management of our built asset ensures a safe, functional, and well serviced community.

Priority B4.4 Improve road safety through a safe system approach to road design, construction and maintenance including on-going applications to the State and Federal Road Blackspot program

Appropriate and consistent speed limits play a critical role in a safe systems approach to road safety.

➤ **Legal Implications**

The Road Traffic Act 1961 requires that the Minister for Transport and Infrastructure grant approval to install, maintain, alter, operate, or remove traffic control devices, including speed limits.

The Minister has delegated powers and granted approvals by issuing Instruments to the Commissioner of Highways, Councils, and other road authorities. These Instruments specify the conditions of approval, and the devices requiring separate approval.

Speed limits are excluded from the Instrument of General Approval and Delegation to Council and require separate approval of the Commissioner of Highways or authorised delegate.

➤ **Risk Management Implications**

The letter requesting a review of the speed limit will assist in mitigating the risk of:

Community concern about crashes and safety at Range Road South leading to a belief that Council does not support road safety for its local community.

Inherent Risk	Residual Risk	Target Risk
Medium (2C)	Low (2D)	Low (2D)

➤ **Financial and Resource Implications**

Not applicable

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

Not applicable

➤ **Sustainability Implications**

Not applicable

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

Consultation on the development of this report was as follows:

Council Committees: Not applicable

Council Workshops: Not applicable

Advisory Groups: Not applicable

External Agencies: Not applicable

Community: Not applicable

4. ANALYSIS

North East Road comes under the care and control of the Department of Infrastructure and Transport (DIT).

Council has in the past written to DIT requesting a review of speed limits when raised by members of the community.

The ultimate decision rest with the department to undertake an assessment for a road under their care and control.

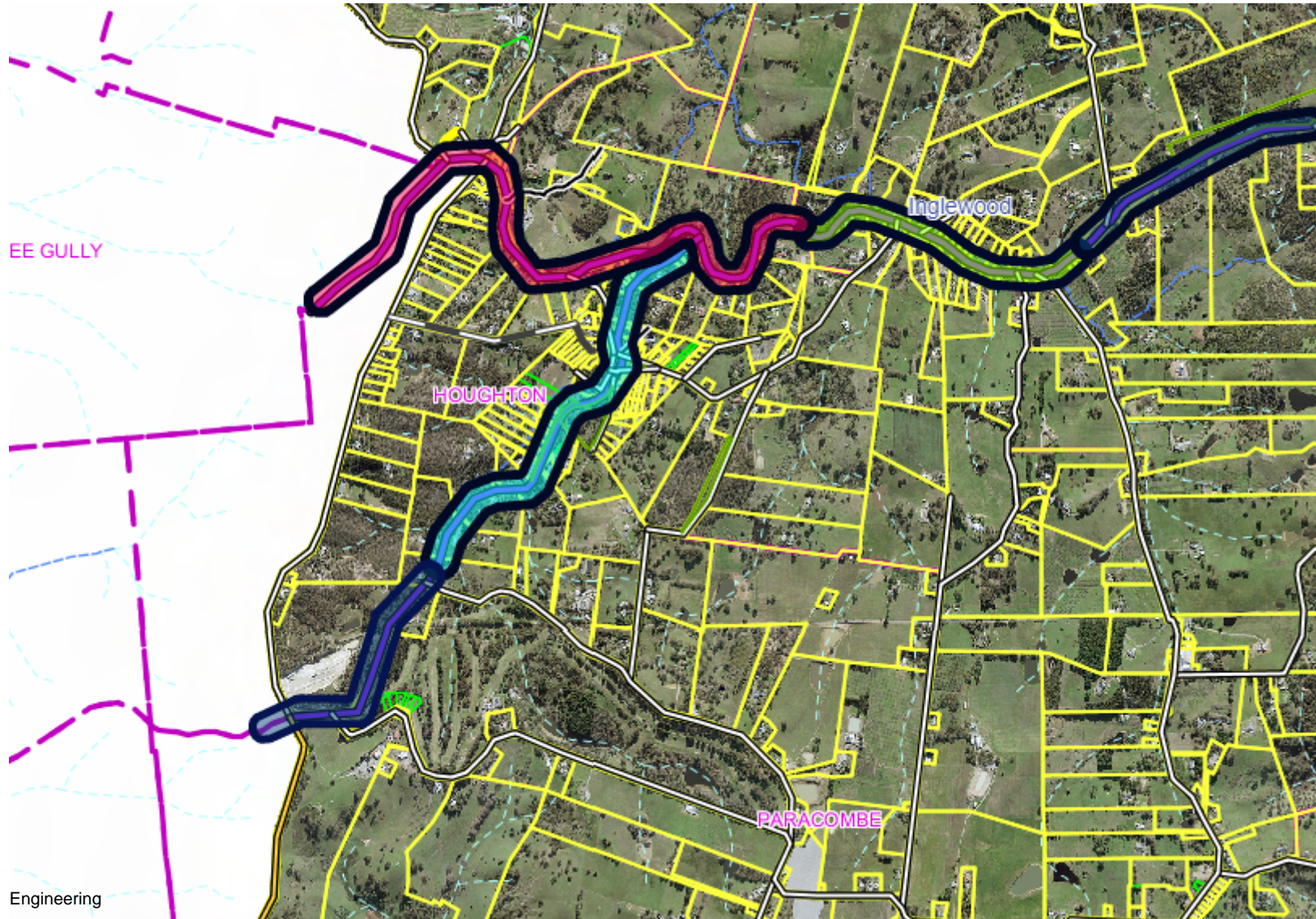
5. APPENDIX

- (1) Map showing existing speed limits around Houghton and Inglewood from Chapman Road to Range Road South on North East Road and Lower North East Road from Murphy Road to North East Road intersection

Appendix 1

Map - Current Speed Limit North East Road

North East Road - Speed Limit



Annotations

- Inglewood
- 80 km/h North East Road
- 80km/h North East Road - REQ UEST FOR REVIEW
- 80km/h
- Inglewood (North East Road) - 50km/h
- Lower North East Road 50km/h

AHC Core

- Parks
- Townships
- RoadsStreetView
 - ADJOINING LGA RD
 - AHC & PRIVATE
 - AHC RD
 - DPTI RD
 - PRIVATE RD
 - SHARED RD

- AHC_LGA
- Property_Owner
- Parcels
- Roads
- LGAs
- Suburbs
- Rivers
 - River
 - Creeks

Engineering

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Scale = 1:24131.520



**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	12.1
Responsible Officer:	Steven Watson Governance and Risk Coordinator Office of the Chief Executive
Subject:	Time and Place of Meetings
For:	Decision

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 for Ordinary Council (Council) and Committee meetings is required to enable public notices to be given under the *Local Government Act 1999*.

Council's *Information or Briefing Sessions Policy* provides that Council sets the schedule of specific Information or Briefing Sessions, 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 Council Meetings and Information or Briefing Sessions (Workshop sessions and Professional Development sessions) for the council term.

RECOMMENDATION

Council resolves that:

- 1. The report be received and noted.**
- 2. For the Council Term 2022-2026, Ordinary Council Meetings are scheduled to commence at 6.30pm on the fourth Tuesday of the month, except for December where they will be held on the third Tuesday, at 63 Mt Barker Road, Stirling.**
- 3. The Chief Executive Officer be authorised to adjust the Ordinary Council Meeting schedule, including time and place of the meeting, where matters necessitate a change such as a meeting date occurring on a public holiday, catastrophic fire danger day or other valid reason.**
- 4. For the Council Term 2022-2026, times and venues for Special Council Meetings, requested in accordance with the legislative provisions, are to be determined by the Chief Executive Officer.**

5. For the Council Term 2022-2026, Information or Briefing Sessions are scheduled as follows:
 - a. Workshops scheduled ordinarily at 6.30pm on the second Tuesday of each month, held at 36 Nairne Road, Woodside, except for January.
 - b. Professional Development Sessions scheduled ordinarily at 6.30pm on the third Tuesday of each month, held at 63 Mt Barker Road, Stirling, except for December and January.
6. The Chief Executive Officer be authorised to schedule additional Information or Briefing sessions where workload dictates, or adjust the Information or Briefing Sessions schedule, including time and place of the sessions, where matters necessitate a change such as an Information of Briefing session date occurring on a public holiday, catastrophic fire danger day or other valid reason.
7. The Chief Executive Officer is authorised to adjust any Policy which is impacted by the setting of the Time and Place of Meetings.

1. BACKGROUND

Council Meetings

At its meeting on 22 October 2019, Council resolved to adopt the following schedule for the period December 2019 through to October 2022.

12.1 Time & Place of Council Meetings, Workshops, Professional Development

Moved Cr Pauline Gill
S/- Cr Linda Green

245/19

Council resolves that:

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

*Tuesday, 17 December 2019	Tuesday, 22 June 2021
Tuesday, 28 January 2020	Tuesday, 27 July 2021
Tuesday, 25 February 2020	Tuesday, 24 August 2021
Tuesday, 24 March 2020	Tuesday, 28 September 2021
Tuesday, 21 April 2020	Tuesday, 26 October 2021
Tuesday, 26 May 2020	Tuesday 23 November 2021
Tuesday, 23 June 2020	Tuesday, 14 December 2021
Tuesday, 28 July 2020	Tuesday, 25 January 2022
Tuesday, 25 August 2020	Tuesday, 22 February 2022
Tuesday, 22 September 2020	Tuesday, 22 March 2022
Tuesday, 27 October 2020	Tuesday, 26 April 2022
Tuesday 24 November 2020	Tuesday, 24 May 2022
Tuesday, 15 December 2020	Tuesday, 24 June 2022
**Wednesday, 27 January 2021	Tuesday, 26 July 2022
Tuesday, 23 February 2021	Tuesday, 23 August 2022
Tuesday, 23 March 2021	Tuesday, 27 September 2022
Tuesday, 27 April 2021	***Tuesday, 25 October 2022
Tuesday, 25 May 2021	**Moved due to Public Holiday
*Resolved Previously	***Last meeting of Council term

Council's *Code of Practice for Council 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 Committee Meetings

The Terms of Reference for each of the Council Committees created under s41 of the Act (i.e., Audit Committee, CEO Performance Review Panel, and Boundary Change Committee) 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.

Meeting Schedule

For 2019 - 2022, the meeting schedule was aligned to the Tuesday nights within the month as follows:

1 st Tuesday	No meeting (available for Special Council Meetings and Information or Briefing Sessions as required)
2 nd Tuesday	Information & Briefing Session (Workshop) - Woodside
3 rd Tuesday	Information & Briefing Session (Professional Development) - Stirling
4 th Tuesday	Ordinary Council – Stirling
5 th Tuesday	Community Forum (in the months with five Tuesdays)

Information & Briefing Sessions (Workshops and Professional Development)

Council makes use of Information or Briefing Sessions 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.

Workshops are scheduled to provide Council Members with background information, generally, on a matter coming to a formal Council meeting. These are not decision-making forums, yet they are useful for exploring strategic directions, legislative provisions and to provide additional detail on a matter.

Professional development sessions are focused on building the knowledge, skillset, and team culture of Council Members. There is a higher proportion of these sessions in the early years of a council term during which there is considerable mandatory training and other induction/orientation sessions required.

Legislation prohibits Information or Briefing Sessions from being an opportunity for Council Members to make, or to effectively make, decisions that should be made by resolution in a Council meeting.

The provisions relating to Information or Briefing Sessions, including Council discretionary policy provisions, are contained in the *Information and Briefing Sessions Policy* which is available on the Council website.

In relation to the two most common forms of information and briefing sessions attended by Council Members (excluding Advisory Groups), Council at its meeting on 22 October 2019, resolved to adopt the following indicative schedule (carried unanimously).

12.1 Time & Place of Council Meetings, Workshops, Professional Development

Moved Cr Pauline Gill

S/- Cr Linda Green

245/19

4. Regarding Workshop and Professional Development Informal Gatherings:

- **Workshop Sessions be scheduled ordinarily at 6.30pm on the 2nd Tuesday of each month, to be held at 36 Nairne Road, Woodside.**
- **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.**
- **The Chief Executive Officer be authorised to make changes to the informal gathering schedule, timings and locations.**

Informal Gathering sessions held for the period November 2021 to October 2022 is as follows:

Workshop Sessions	Professional Development Sessions	Community Forums	Total Information or Briefing Sessions
78	6	3	87

Attendance at Information or Briefing Sessions is not mandatory for Members and during the 2018-22 Council term, attendance at these sessions averaged 75%.

Community Forums

A third type of Information or Briefing Session held by Council is the Community Forums. The Council has held forums in venues throughout the district (usually away from where Council Meetings are held) to enable community members to engage directly with Council Members.

The Administration suggests that a workshop be held with Council Members in the first half of 2023 to explore the form and function of Community Forums prior to any decision on whether or not to continue to hold them in the current term. As such, they are not discussed further in this report.

2. ANALYSIS

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

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.2 Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

- | | |
|---------------|---|
| Objective O5 | We are accountable, informed, and make decisions in the best interests of the whole community |
| Priority O5.1 | Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations |

Council's *Code of Practice for Council Meeting Procedures* sets out the legislative provisions and Council's discretionary policy positions in relation to the meeting procedure that applies to AHC Council meetings. This Code is available on the Council website.

Council's *Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings & Documents* sets out the legislative provisions and Council's discretionary policy positions in relation to access to agendas and other meeting documents, access to meetings, livestreaming/broadcasting, processes to exclude the public from meetings, use of confidentiality provisions, and grievances under the Code. This Code is available on the Council website.

Council's *Information and Briefing Sessions Policy* sets out the legislative provisions and Council's discretionary policy positions in relation to the conduct of information and briefing sessions, livestreaming/broadcasting, processes to exclude the public from meetings, and the use of confidentiality provisions. This Policy is available on the Council website.

➤ **Legal Implications**

Section 81 of the *Local Government Act 1999* (the 'Act') sets out the provisions regarding the frequency and timing of **ordinary** council meetings. Key amongst these are:

- 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.

Section 82 of the Act sets out the provisions regarding the calling of **special** council meetings. Key amongst these are:

- the CEO must call a special council meeting at the request of:
 - the principal member
 - at least three council members
 - a council committee at which three members of the council vote in favour of the request
- the CEO must be provided with an agenda for the special meeting when the request is made
- special meetings may be held at any time.

Section 90A of the Act sets out the provisions regarding the holding of an information or briefing session. Key amongst these are:

- a CEO or council may hold or arrange a session to which more than one Member is invited for the purposes of providing information or a briefing to attendees
- a matter must not be dealt with in such a way as to effectively obtain a decision outside of a council or council committee meeting
- a session must be conducted in a place open to the public if a matter is discussed that is intended to be on the agenda a council or council committee meeting unless an appropriate confidentiality provision under s90(3) is utilised.

➤ **Risk Management Implications**

The setting of a schedule for Ordinary Council Meetings, Information or Briefing Sessions will assist in mitigating the risk of:

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

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

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

➤ **Financial and Resource Implications**

The resources involved in the notification for and conduct of Council, Information or Briefing Sessions are provided for in the adopted annual budget.

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

The timing and location of Council Meetings and Information or Briefing Sessions 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).

➤ **Sustainability Implications**

Not applicable.

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

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: At the conclusion of the 2018-22 council term members provided feedback on a range of matters including the frequency of meetings, commencement and conclusion times for council meetings (see Additional Analysis below)

Advisory Groups: Not Applicable

External Agencies: Not Applicable

Community: Not Applicable

➤ **Additional Analysis**

Meeting Timings

While there are no legislative impediments to meetings being held during the day, Council Meetings and Information or Briefing Sessions have historically commenced at 6.30pm. This timing is a reasonable balance to enable Council Members and Community Members sufficient time to travel to meetings following their workday while providing adequate time for Council to do its business and conclude prior to the aforementioned 10.00pm conclusion.

Whilst Tuesday has been the day of the week selected by Council for the holding of meetings, the only legislative impediment details Ordinary Meetings of a Council may not be held on a Sunday, or on Public Holidays.

The Administration is aware of concerns from Council Members that 10.00pm or later finishes are impacting them in terms of fatigue, potential for poor decision making, ability to safely drive home (particularly for those living some way from the venue) and impacts on their obligations the following day.

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

In addressing the Council Member concerns, considerations include but are not limited to:

- *Changing the commencement and finishing times of meetings.*
Council has the option to change the meeting times. Consideration should be given to Council Members' work or other commitments, along with the ability of Community members to attend. The Administration is in support of earlier meeting times. Other considerations could be back-to-back meetings such as an Information or Briefing Session followed by an Ordinary Council Meeting or vice versa.
- *Changing the day of the week meetings are held.*
Council has the option to change the day of the week meetings are held, except for Sundays and Public Holidays. Again, consideration should be given to Council Members' work or other commitments, along with the ability of Community members to attend. Whilst the Administration would need to adjust scheduling if a change is made, there is no objections to a change of day.

Some of the key reasons for retaining a single night each week 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 prevent clashes with Council Committee meetings and Regional Subsidiary meetings;
- to avoid the confusion for Council Members, Officers and the community as to which meeting night is in which week (as would occur 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.
- *Hold two (2) Ordinary Council Meetings a month*
Council has the option to schedule more than one Ordinary Council Meetings a month and an in-depth analysis is detailed below:

One Ordinary Meeting/per month

Advantages

1. Enables the concerted preparation and focus on Council business one night per month for Council Members
2. Most efficient in terms of meeting costs (meals, staff) and staff resource utilisation
3. Special Council meetings can be called as required to manage ‘peak load’ and don’t limit time with the standard Ordinary Meeting procedural items. Generally, Special Council Meetings occur prior to a Workshop or Professional Development Session, which would have minimal impact on Council Member diaries or personal commitments.
4. Enables Council Members and the community to schedule in other community commitments/meetings
5. Facilitate the balance or work/family/council life

Disadvantages

1. Meetings can go later (4 of 10 Ordinary meetings in 2022 went beyond 10.00pm with the latest finishing at 10.21pm)
2. Members may feel the need to ‘hurry’ through business to finish at a reasonable time
3. Council Member fatigue (on the night and travelling home)
4. Reading through large agendas
5. Public Forums and Deputations are limited by time

Two Ordinary Meetings/per month

Advantages

1. Should result in both meetings finishing earlier than a monthly Ordinary meeting
2. Shorter agenda length per meeting (in terms of Members’ reading per meeting)
3. More opportunities for members of the public to attend (particularly if alternate venues are used) and speak in public forums and make deputations
4. More opportunities for external presenters to attend formal meetings (rather than workshops)
5. Committee meetings/workshops could potentially be held on the same night (i.e. before the Council meeting)

Disadvantages

1. Will result (at least for the first 12 months) in all Tuesday nights being used for meetings and information sessions (workshops and PD) which is likely to be an issue for Members with other commitments
2. Could result in a greater number of apologies for Ordinary meetings (as it will be harder to schedule absences around meetings)
3. Increased potential for absences without leave exceeding 3 consecutive meetings (creating a casual vacancy)
4. The standard procedural items of an Ordinary meeting order of business will be dealt with twice in a month (regardless of whether there is a need to do so) resulting in the only time saved being that associated with the split of decision items between the two meetings (i.e. rather than considering 12 decision items per meeting, it would only be 6 per meeting) Doing so might save 60 minutes per meeting)
5. Two agendas for Council Members to read per month
6. Increased costs for the provision of meals
7. Increased costs for staff attending meetings (overtime and mileage)
8. Increased costs for Council Member travel
9. Increased resource demands for governance staff in producing agendas and minutes and setting up the meeting room (opportunity cost and impact on other service provision)
10. Increased Council Member and staff fatigue and potential higher occurrence of absences. Note: once an Ordinary Meeting is scheduled it can't be cancelled, including if a quorum is not present, it is simply moved to another date and time.

General points for both options

1. Meetings can be scheduled to start (and finish) earlier, including by resolution of Council.
2. Meetings can be scheduled on the same day with a break in-between, such as Audit Committee followed by Ordinary/Special Council Meeting.
3. Meetings can be scheduled to a day other than Tuesday.
4. Alternate venues have greater bump-in and bump-out costs, greater WHS issues
5. Meeting duration can be influenced by changes to the order of business (i.e. MONs after Decision Items, QONs after Information Items, etc); changes to meeting procedure (i.e. moving en-bloc – within legal constraints); and changes to how Members contribute to debates. The *Code of Practice for Council Meeting Procedures* will be reviewed early in 2023 and these types of changes can be incorporated as required.
6. Meals do not need to be provided to Council Members (potential to start 30 minutes earlier)
7. Agendas can be released earlier which (if read earlier) could increase the number of queries resolved before the meeting rather than during it
8. More business can be done in committees if powers are delegated to that committee (i.e. the Audit Committee could adopt all finance-related policies) thereby reducing matters coming to council meetings

It should be noted that there would be additional staff effort required for the workload associated with an additional meeting. Assuming Council is not inclined to allocate additional budget to enable additional resource allocation, it would be necessary to adjust the priorities and activities otherwise assigned to the staff involved in the preparation and administration of meetings.

The Administration's position remains that the existing schedule, i.e. one Ordinary Council Meeting per month, works well and the number of items required to be considered by Council across a typical year can be accommodated with those meetings, plus the use of Special Council Meetings from time to time (perhaps 2 – 3) throughout the year.

The Administration further proposes that the Code of Practice for Meeting Procedures be reviewed in early 2023 to further refine the standard agenda, incorporating opportunities for more efficient consideration of information items, more efficient use of the Chief Executive Officer Report item and the consideration of items put to the meeting on notice by Members. These changes could be expected to reduce the average length of meetings by half an hour or more.

Meeting Locations

In the 2028-22 term, it was agreed that Council workshops (currently 2nd week of the month) would be held at 36 Nairne Road Woodside 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 Council Members. Attendance by members of the public at the public forums during 2018-2022 has been very low and attendees for workshop items (which are published on Council's website in accordance with the *Information or Briefing Sessions Policy*) has, with a small number of exceptions for items of particular community interest, been very low.

Meeting Schedule

For 2022 - 2026 it is proposed to retain the 2018 - 2022 meeting schedule, that is

1 st Tuesday	No meeting
2 nd Tuesday	Information or Briefing Session (Workshop)
3 rd Tuesday	Information or Briefing Session (Professional Development)
4 th Tuesday	Ordinary Council
5 th Tuesday	Community Forum (in the months with 5 Tuesdays)

Notwithstanding the above, please note that the December Council Meeting is proposed to be the 3rd Tuesday of that month (thereby replacing the Professional Development session). Also the January Workshop and Professional Development sessions

Special Council Meetings (if required) can be accommodated on the 1st, 2nd or 3rd Tuesdays as necessary.

Information or Briefing Sessions (Workshops and Professional Development)

Workshops and Professional Development sessions (other than the mandatory training) are not mandatory and Council Members have complete discretion as to whether to attend. Notwithstanding this, considerable administrative resources are expended in preparing and delivering these sessions.

Participation in these sessions allows Members to more fully explore matters which can result in more efficient and effective consideration of matters in Council and Committee meetings. These sessions are usually live streamed which can assist members who are not able to physically attend (while preferred) to still participate in and benefit from these sessions

3. OPTIONS

The Council has the following options in relation to the Time and Place of Meetings:

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

4. APPENDIX

NIL

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.2

Responsible Officer: Steven Watson
Governance and Risk Coordinator
Office of the Chief Executive

Subject: Deputy Mayor Position Creation and Appointment

For: Decision

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

Decision 1

Council resolves:

1. That the report be received and noted.
2. To create the position of Deputy Mayor.
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.

Decision 2 (only required if Decision 1 carried)

Council resolves:

1. To appoint Cr _____ to the position of Deputy Mayor for a _____ month/year term to commence 30 November 2022 and conclude on 30 November 20__.
-

1. BACKGROUND

Role of Deputy Mayor

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

During the 2018-2022 Council term, the Deputy Mayor deputised for the Mayor on several occasions and acted in the Office of the Mayor during periods of absence (i.e. illness and leave).

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.3 Attract and develop a diverse and capable elected body that represents, promotes, and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

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

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

➤ Legal Implications

Section 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 may 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.

By default, the Deputy Mayor assumes the role of Acting Mayor when the Mayor is on a leave of absence.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council

Members seeking to be appointed to the Deputy Mayor position may have a Material COI due to the additional allowance payable and should consider declaring the interest and acting in accordance with s75C – *Dealing with material conflicts of interest*.

Council's *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information or Briefing Session if it occurs.

➤ **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)	Low (3E)	Low (3E)

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 2 of 2022 – 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 2022 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 \$23,887.50 pa. The Determination further prescribes that the Deputy Mayor will receive the equivalent of the Mayoral allowance (4 times the annual councillor allowance) in circumstances where they are required to act in the office of the Mayor for a period exceeding one month.

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 is absent or on leave, which allows a continuance of mayoral activities within the Council Chamber and the community. The Deputy Mayor may also represent the Mayor at community events when the Mayor is unable to attend.

➤ **Sustainability Implications**

Not Applicable.

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

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.

➤ **Additional Analysis**

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

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

- understanding of, or the ability to acquire the same in, the role, function, and strategic intent of the Council;
- understanding of, 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 Council Meeting Procedures* more specifically;
- expertise in chairing meetings of comparable 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 s75 (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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, the Chief Executive will conduct the session 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 information or briefing session 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 using 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 in the Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.
- i) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] 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 return to the Briefing Session and publicly 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 complicated due to the legislative provisions regarding conflict of interest and information or briefing sessions as such the following chronology is suggested:

- I. Council considers whether to create the position of Deputy Mayor. 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. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 Deputy Mayor role would be advised to make declarations in accordance with *s75C – 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. Council would give effect to this by dealing with Decision 2 (or a variant) at this time.

3. 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 or to defer the creation of the role until later in the Term (***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.

4. APPENDIX

Nil

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	12.3
Responsible Officer:	Kira-marie Laverty Corporate Planning & Performance Coordinator Office of the Chief Executive
Subject:	Draft 2021-22 Annual Report
For:	Decision

SUMMARY

Section 131 of the *Local Government Act 1999* (the 'Act') requires councils to prepare and adopt an Annual Report by 30 November. The Annual Report is the primary mechanism for summarising the 2021-22 financial year achievements against Council's *Strategic Plan 2020-24 – A brighter future*, and *2021-22 Annual Business Plan*.

The purpose of this report is to provide the draft *2021-22 Annual Report* (the Annual Report) for the Council's consideration and adoption.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted.**
 - 2. The 2021-22 Annual Report, as contained in Appendix 1, be adopted.**
 - 3. That the Acting Chief Executive Officer be authorised to make minor content, formatting or design changes necessary for publication purposes.**
-

1. BACKGROUND

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

It provides a summary of achievements against the goals and objectives set out in Council's *Strategic Plan 2020-24 – A brighter future* and *2020-21 Annual Business Plan*. It also contains highlights and statistics of other activities of note.

Much of the additional content in the Annual Report addresses statutory requirements, particularly those set out in Schedule 4 of the *Local Government Act 1999* and Regulation 35 of the *Local Government (General) Regulations 2013* (the Regulations). **Appendix 2** provides an extract of the relevant acts and regulations and highlights which sections of the draft Annual Report address the requirements.

While the required content for the draft Annual Report is presented in **Appendix 1**, the final graphic design is currently being produced ready for publication and distribution. The subsidiary Annual Reports have also not been included in the draft Annual Report, but will be included in the final published version.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal A progressive Organisation

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

Priority O5.3 Demonstrate accountability through robust corporate planning and reporting that enhances performance, is relevant and easily accessible by the community

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

➤ Legal Implications

Section 131 of the *Local Government Act 1999* (the ‘Act’) requires councils to produce Annual Reports. It must be prepared and adopted by the Council by 30 November. This section focuses on the timing and distribution of the report.

Schedule 4 of the Act and associated Regulations set out the material that must be contained in the Annual Report.

Regulation 35 of the *Local Government (General) Regulations 2013* (the ‘Regulations’) sets out the required elements needed for the report on confidentiality orders under Section 90(2) and 91(7) of the Act. These requirements have been addressed with a report included within the “Our Governance” section of the draft Annual Report.

An extract of relevant schedules from the Act and the Regulations has been included in **Appendix 2** to highlight the alignment to the sections of the draft *2021-22 Annual 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

➤

➤ **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 and the printing of a small number of hard copies.

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

The Annual Report contains information of the provision of services and facilities to the Adelaide Hills community in the financial year. It also 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.

➤ **Sustainability Implications**

The Council's sustainability (financial, social and environmental) is reflected within the statistics and results discussed within the Annual Report.

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

Consultation on the development of this report was as follows:

Council Committees: Audit Committee were presented with the Audited Financial Statements which are included within Appendix 1 of the Annual Report, at their 17 October 2022 Meeting.

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Annual reports were supplied by all Council Subsidiaries: Adelaide Hills Region Waste Management Authority; East Waste Management Authority; Gawler River Floodplain Management Authority; and Southern & Hills Local Government Association. These are contained within Appendix 3 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.

3. **OPTIONS**

Council has the following options:

- I. Resolve to adopt the 2020-21 Annual Report content as presented (**Recommended**)
- II. Resolve to adopt the 2020-21 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

4. APPENDICES

- (1) Draft 2021-22 Annual Report
- (2) Annual Report Legislative Compliance

Appendix 1

Draft 2021-22 Annual Report



2021-22 Annual Report





Welcome

This is our Annual Report for 2021-22 which provides an account of our performance over the financial year 1 July 2021 to 30 June 2022 and highlights our achievements against the goals we set in our *Strategic Plan 2020-24 – A Brighter Future and Annual Business Plan 2020-21*.

The Annual Report meets the requirements of the *Local Government Act 1999*, and is provided for our ratepayers, residents, business operators, visitors, government agencies and other interested parties.

ISBN XXXXXXXXXXXXX

Cover photo: Amy Gillet Bikeway. Credit: Darren Clements.

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Council acknowledges that we conduct our business on the traditional lands and waters of the Peramangk and Kurna people.

We pay our respects to Elders past, present and emerging as the Custodians of this ancient and beautiful land.

Together we will care for this country for the generations to come

An online version of this Annual Report can be downloaded at ahc.sa.gov.au or request a copy by contacting us:

(08) 8408 0400
mail@ahc.sa.gov.au
PO Box 44, Woodside SA 5244

We welcome your feedback on this Report or any other Council matter.



From the Mayor

Jan-Claire Wisdom

As your Council, we have continued to focus on providing valuable services and infrastructure in a financially sustainable way by aligning everything we do to our Strategic Plan 2020-24: A brighter Future and our Long Term Financial Plan.

In the 2021-22 financial year, our commitments to the community, local economy and environment has seen us secure grants to fund the Community Resilience Program which allows us to connect and strengthen our community, secure over \$350,000 in funding for activities related to biodiversity and bushfire recovery, commence a 'free-camping' initiative to attract tourists to our region, support our local businesses with Home Based Business networking events, and progress the re-development of the Fabrik Arts and Heritage Hub.

Our staff, community partners and volunteers have all worked with such passion and commitment, and on behalf of Council Members I would like to thank them for everything they have achieved.



From the CEO

David Waters

The Administration has worked closely with the elected body this year in serving and supporting our community.

The impact of costs escalating at a greater rate than anticipated from late 2021 proved a particular challenge and the organisation placed a renewed emphasis on procurement and process efficiencies to minimise the impact.

At the same time, we continued our drive to improve our customers' experience, with a new website which improves the accessibility of information, strengthened our systems by implementing our Cyber Security Plan, and conducted a review of our civil infrastructure maintenance processes.

Obtaining over \$7.3 million in grants assisted us in supporting community, environment and economic initiatives, including continued recovery from the 2019-20 bushfires and the COVID-19 pandemic. We delivered over \$18 million of capital works projects – the Council's biggest ever works program.

Our staff, volunteers and partners contribute so much to our region, and I know they will continue to work in partnership with our elected body to do so into the future.

About Us

Our District

Infographic with District Map and the following content

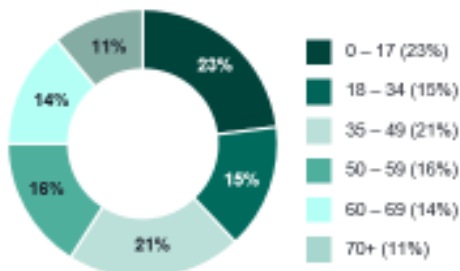
We Are Unique

The size of a Regional Council with the expenses and population of a City Council

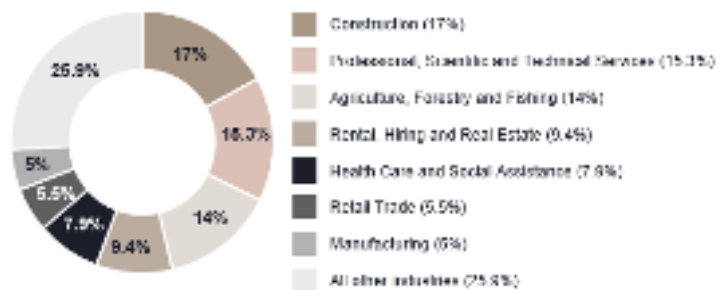
Demographic/Council statistics

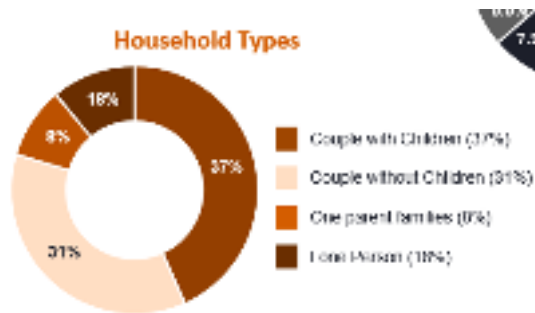
- District Area 795km²
- 57 Townships and localities
- Total population 40,233
- 618km of sealed roads
- 403km of unsealed roads
- 115km of footpath
- 3 Libraries
- 3 community centres
- 373 Council owned buildings
- Median Age 44
- Volunteers 32%
- 3% need help at home
- 15,478 Households
- 88% Own or are buying a home
- 39% have a university or TAFE qualification
- 19% have a trade qualification
- 4,092 businesses
- 11,720 local jobs
- 1.2m+ Domestic day trips were taken in our region in 2021-22

Age Profile of the Adelaide Hills



Number of registered businesses by industry





Our Elected Council

Mayor

Dr Jan-Claire Wisdom

Ranges ward

Councillor Ian Bailey

Councillor Kirrilee Boyd

Councillor Nathan Daniell (Deputy Mayor)

Councillor John Kemp

Councillor Leith Mudge

Councillor Mark Osterstock

Councillor Kirsty Parkin

Valleys ward

Councillor Pauline Gill

Councillor Chris Grant

Councillor Linda Green

Councillor Malcolm Herrmann

Councillor Andrew Stratford

Our Organisation

Includes an Organisation Chart

Council and Committees

The Elected Council's role is to provide for the governance and management of the Council area. It does this through representing the interests of the community; providing and coordinating public services and facilities; encouraging and developing initiatives to improve the community's quality of life; and exercising, undertaking its functions under legislation and its strategic management plans.

A number of committees have been established in accordance with legislation to assist the Council to discharge its responsibilities in specific areas. These are the Audit Committee, the Chief Executive Officer Performance Review Panel (CEOPRP), the Council Assessment Panel (CAP), the Building Fire Safety Committee and the Health & Safety Committee.

Regional Subsidiaries

Council is a member of four regional subsidiaries which assist in the strategic planning and service delivery activities. The subsidiaries are the Southern and Hills Local Government Association (SHLGA), the Eastern Waste Management Authority (East Waste), the Adelaide Hills Region Waste Management Authority (AHRWMA), and the Gawler River Floodplain Management Authority (GRFMA).

Administration

The Council's Administration is led by a Chief Executive Officer appointed by the Council.

The Chief Executive Officer appoints staff to carry out the functions and duties delegated to them and to implement Council decisions. The Administration is organised into directorates (see diagram), each with a specific area of focus and functional responsibilities. The arrangement of the directorates provides for the separation of the regulatory activities (into the Development & Regulatory Services Directorate) from the other activities of the Council.

2021-22 Performance highlights

infographic

Topic/section	Statistic
Aged home support	<ul style="list-style-type: none"> 6,700 hours of support in and around the home 20,000 hours of social support 2,500 transport trips
Community programs and events	<ul style="list-style-type: none"> Attendees at Fabrik events and programs = 8,821 8,140 participants in community centre activities
Community online engagements	<ul style="list-style-type: none"> No of online engagement campaigns = 35 No of project page views = 7422 Total participants = 1833 Electronic newsletter subscribers = 25,400 Total social media community = 24,500 Overall growth in social media community = 12% increase
Economy	<ul style="list-style-type: none"> Day trips taken = 1,215,236 3 Home Based Business Networking events with 57 businesses engaged
Average no of volunteers	<ul style="list-style-type: none"> Volunteer hours = 13,101 No of volunteers = 150
Cultural diversity	<ul style="list-style-type: none"> 10 activities or programs offered across the Community Centres and Libraries that celebrated Cultural diversity.
Library stats	<ul style="list-style-type: none"> Physical visits = 164,964 Physical loans = 425,369 eBook = 41,306 eAudiobook = 35,521 eMagazines = 2,775 219 early childhood programs delivered

2021-22 DRAFT Annual Report

Council decisions	<ul style="list-style-type: none"> 95% of all Council decisions were made in meetings open to the public
Animal management	<ul style="list-style-type: none"> Dogs registered: 8826 Cats registered: 1300
Planning and Building Approvals	<ul style="list-style-type: none"> Planning and Building Applications lodged 1,749 worth \$19.7 million
Biodiversity	<ul style="list-style-type: none"> 12.6 ha of weeds and other fuels cleared which posed a fire risk Over \$460k in Grants won for bushfire and Biodiversity projects
Waste	<ul style="list-style-type: none"> 52.3% of waste collected was diverted from landfill as recyclable material 14 waste education sessions held 26 drop off days held at Heathfield, Gumeracha and Woodside resulting in 10,232 drop offs processed totalling 1,441 tonnes of green organic waste
Bushfire inspections	<ul style="list-style-type: none"> 12,241 property inspections completed 369 private properties were issued a 105F notice
Recycled water	<ul style="list-style-type: none"> Used 82,000 KL of recycled waste water provided by CWMS Waste Water Treatment Facility
Solar power/panels	<ul style="list-style-type: none"> 219 MWh of solar energy produced by Council Properties
Youth	<p>Youth leadership volunteers</p> <ul style="list-style-type: none"> Delivered 6 youth events Provided 300 year 12 support packs across 5 high schools

Customer Service Standards

infographic

Topic/section	Statistic
Incoming calls	Volume: 36178 Percent answered in 30 sec: 69% Target 75%
Customer details updated	Volume: 355 Percentage updated within 5 days: 99% Target 80%
New event applications	Volume: 49 Percent acknowledged within 5 days of receipt: 92% Target 80%
Illegal burning complaints	No of complaints: 26 % investigated within 24hours: 81% Target 80%
Public Health complaints	Volume: 11 % investigated and responded within 24 hours: 82% Target 80%

2021-22 DRAFT Annual Report

Topic/section	Statistic
Illegally dumped rubbish complaints	Volume: 311 % removed within 3 days: 95% Target 80%
Library purchase requests	Volume: 0 % responses provided within 10 days: N/A Target 80%
Dog attack reports	Volume: 23 % responded within 24 hours: 100% Target 80%
European wasp reports	Volume: 471 % investigated and actioned within 7 days: 99% Target 80%
Fast track Development applications planning consents granted	Volume Fast track applications received: 102 % approved within 28 days: 83% Target 80%
Bin repair/replacement requests	Volume: 1729 % actioned within 7 days: 95% Target 80%
Missed bin complaint	Volume: No missed bin complaints
Footpath, Stormwater and road requests	Volume: 3026 Volume Hazardous repair reported: 2 % Hazardous reports made safe within 24 hours: 100% Target 80%
Tree and environment requests	Volume: 2035 Volume Hazardous trees reported: 246 % reports made safe within 24 hours: 100% Target 80%

Financial Performance Highlights

infographic

Topic/section	Statistic
Operating Income	Total = 52.46m Rates income = 41.50m Grants, subsidies and contributions = 7.67m Other = 3.29m
Operating Expenditure	Total = 51.32m Employee costs = 19.61m Materials, contracts & other expenses = 21.52m Depreciation = 9.82m Other = 370k
Capital expenditure	Total = 13.86m Renewal = 12.34m New or upgrade = 4.84m
Expenditure highlights	Libraries & Customer service = \$2.7m Civil services = \$5.5m

Topic/section	Statistic
	Waste & recycling = \$5.65m Community, cultural & youth development = \$1.22k Biodiversity & sustainability = \$1.281m Aged care support = \$1.15m Open space – operations = \$5.3m Animal management = \$504k Property management = \$1.68m Planning & development = \$2.2m Economic development = \$525k

2021-22 Capital Works Program Highlights

infographic

Topic/section	Highlights
Road works \$3.97m	<ul style="list-style-type: none"> • 25.6km of sealed roads renewed • Renewed 2.8% of our road base pavement (under the sealed surface) • 17.5km of unsealed roads renewed
Footpaths \$1.89m	<ul style="list-style-type: none"> • 2.3km new footpaths constructed including completion of Crafers to Stirling Bikeway • 2.35km of existing footpaths renewed including Albert St, Gumeracha and Melrose Ave, Stirling
Storm Water \$618,000	<ul style="list-style-type: none"> • New infrastructure completed at Lobethal Road, Lobethal and at Albert St, Gumeracha
Buildings \$2.16	<ul style="list-style-type: none"> • Refurbishment of Summit Community Centre • New toilet facilities at Woodside institute. Upgrades in Shannon St, Birdwood; Steamroller park, Stirling; and Bridgewater Oval.
CWMS \$ 209,000	<ul style="list-style-type: none"> • Upgrade of Valves and Pumps at Woodside, Birdwood and Kersbrook • Control panel upgrades at three pump stations
Sport and Recreation \$3.79m	<ul style="list-style-type: none"> • 3 play space upgrades • Heathfield Oval and Mt Lofty change rooms upgraded • Court resurfacing at Gumeracha and Heathfield High School
Other capital projects	<ul style="list-style-type: none"> • Gumeracha Main Street upgrade completed • Aldgate Main Street upgrades to Car Park, footpath, kerb and shelter • New drainage for Bridgewater Oval • Retaining Wall renewal at Bridgewater Oval • Guardrail renewals at Carey Gully Road, Mount George and at Hillcrest Avenue, Crafers West

Events

infographic

2021-22 DRAFT Annual Report

The Adelaide Hills remains a destination of choice for arts and community events. In 2021-22 we supported 184 community events including markets, local cycling and walking events, nature and sustainability events, and the Santos Festival of Cycling, including supporting them through the challenges of responding to the COVID-19 pandemic.

Event	Date/location	Description
Discover, Play, Bikeway!	6 March 2022 Oakbank, Woodside, Charleston, Mt Torrens	Discover, Play, Bikeway! encouraged residents and visitors to ride or walk the Amy Gillett Bikeway and discover an array of pop-up food, music, art and performances along the way, from Oakbank to Woodside, Charleston and Mount Torrens.
Fringe in the Hills	15 – 24 April 2022 Stirling and Lobethal	The team behind the Stirling Fringe ran an expanded program this year across Stirling and Lobethal. Fringe in the Hills had something for all tastes and ages with delicious Hills food and wine and fabulous entertainment from comedy to cabaret.
Santos Festival of Cycling	21 – 29 January 2022 Lobethal, Stirling, Mt Lofty, Woodside	This domestic event was held instead of the International Santos Tour Down Under. We hosted three stages in the Adelaide Hills, a women's start and finish in Lobethal, the men's race from Stirling to Lobethal, then Mt Lofty to Woodside later that week. The district put on a show again, winning the Santos Best Dressed Town award.

Delivering on our plans

Our *Strategic Plan 2020-24 – A Brighter Future* was formally adopted in April 2020 with the aspiration of making it easier for our community to prosper while maintaining and enhancing the unique environment, character and liveability of our area.

The Strategic Plan is supported by our Long Term Financial Plan, Infrastructure and Asset Management Plan, and Corporate Plan, all of which are critical to ensuring Council's long-term sustainability. The following performance information is aligned with our Strategic Plan and the 2021-22 Annual Business Plan (ABP) strategy and goals.

A functional Built Environment

Ensure that all decisions regarding the built environment recognise our unique character and natural environment to maintain and enhance liveability for our community.

Community Wellbeing

An inclusive and prosperous community with the capacity to flourish and fulfil their potential through opportunities to engage, connect, participate and enhance wellbeing.

A prosperous Economy

Our region's economy is diverse and sustainable with a reputation for quality, niche products, services and experiences underpinned by a culture of creativity and innovation

A valued Natural Environment

The natural environment of the Adelaide Hills contributes significantly to the character of the region and is greatly valued by our local community and visitors.

A progressive Organisation

Council is recognised for its skilled and agile workforce, for its representative and accountable governance, its commitment to cost effectiveness and efficient service delivery

Goal 1 – A functional Built Environment

Our *Strategic Plan 2020-24 – A Brighter Future* sets out our goals, objectives and priorities (listed in full in Appendix 3). As it is a four year plan, not every priority will have an achievement listed against it each year.

What we have achieved

Objective B1 - Our district is easily accessible for community, our businesses and visitors

- Completed the Crafers to Stirling Bikeway (B1.1)
- The final Trails & Cycling Routes Framework documents were endorsed at the 26 April 2022 Council meeting (B1.1)
- New and upgraded footpath projects were completed at a variety of locations across the district, including at Mount Barker Road, Aldgate; Elizabeth St, Woodside; and Glover St, Kersbrook. (B1.2)
- An all-ability accessible school crossing was constructed on Mill Road, in Lobethal. (B1.5)

Objective B2 - Preserve and enhance the unique character of the Hills for current and future generations

- Engaged the Crafers community regarding the development of the Crafers Pocket Park which helped inform the final design. (B2.1)
- Collaborated with members of the Stirling Business Association to support closure of a laneway to promote pedestrian activation potential (including adjacent footpath and bus shelter). (B2.1)
- Support and advice provided to a local community group regarding a 'visioning' project for their township. (B2.1)
- Stormwater directed to garden beds for passive watering and flow velocity reduction, as part of the Aldgate Main Street carpark renewal and upgrade project (B2.2)
- Worked with applicants to have 822 development consents granted which will complement and enhance existing local character. (B2.3)
- Initiated the third round of the Local Heritage Grant Fund program with two projects endorsed to receive grant money to upgrade and restore local heritage places. (B2.4)
- Assisted 338 applicants with Development Applications as a result of the bushfires. (B2.6)
- Continued to work with PlanSA to improve the functionality of the new state-wide digital planning and development system including development of the public notification and building notification modules for customers.

Objective B3 - Consider external influences in our long term asset management and adaptation planning

- Commenced an investigation into improve water efficiencies for recreation areas irrigated by bore water. (B3.1)
- Upgraded the LED lighting to Aldgate main street and Summertown main street (B3.2)
- Installed energy efficient reverse cycle air conditioners in the Coventry Library, Stirling (B3.2)
- Continued to participate in the Circular Procurement Trial along with other several other Councils and the Local Government Association of SA (B3.3)

Objective B4 - Sustainable management of our built assets ensures a safe, functional and well serviced community

- Completed Public Toilet upgrades at Stirling, Aldgate, Bridgewater, Woodside Hall and Lobethal Institute. (B4.3)

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- Commenced design works as part of the Federal Blackspot program for Montacute Rd, Woodhill Rd and Warren Rd. (B4.4)
- Acquired a further six hybrid vehicles in line with our commitment to carbon reduction (B4.5)
- Prepared a Fleet Transition Plan identifying actions to increase hybrid vehicles and trial electric vehicles (B4.5)

Performance Measures

Measure	Target	Strategic objective	Reporting frequency	Actual	Comments
CPI-B01 Inspections of footpaths in high priority zones	100%	B1	Quarterly	100%	
CPI-B02 Delivery of capital works program	90%	B1	Quarterly	83%	Availability of contractors and resources impacted ability to fully deliver the program over the year
CPI-B03 Compliance inspections completed within 5 business days of development completion notification	80%	B2	Quarterly	Q1 = 100% Q2 = 57% Q3 = 75% Q4 = 100%	Extended inspection timeframes were experienced in Q2 & Q3 due to resource vacancies in the Building Team
CPI-B04 Compliance inspections completed within 5 business days of notification of alleged unlawful development	80%	B2	Quarterly	Q1 = 76% Q2 = 67% Q3 = 81% Q4 = 94%	Extended inspection timeframes were experienced in Q1 & Q2 due to increased file load for the Compliance Officer in that period
CPI-B05 Comparison of Council's Energy Usage (Kwh) against previous financial year	Less than previous financial year	B3	Annually	2018-19 = 2,393,157 Kwh 2019-20 = 1,984,080 Kwh 2020-21 = 1,906,714 Kwh 2021-22 = 1,729,151 Kwh Reduction of 177,563 Kwh	
CPI-B06	25	B3	Annually	14 tonnes	Items purchased containing recycled

Tonnes of recycled plastic content in products purchased by Council					plastic include wheelie bins, boardwalks, bollards/posts, picnic table and wheel stops. Note 25 is an aspirational target and results fluctuate based on program inclusions.
CPI-B07 Operational tasks completed within the Civil Zone Maintenance Program	80%	B4	Quarterly	60%	Result indicates that 60% of operational activities are planned, compared to 40% reactive for “out-of-zone” work priorities.

Goal 2 – Community wellbeing

Our *Strategic Plan 2020-24 – A Brighter Future* sets out our goals, objectives and priorities (listed in full in Appendix 3). As it is a four-year plan, not every priority will have an achievement listed against it each year.

What we have achieved

Objective C1 - A community for everyone that is inclusive, welcoming and accessible

- Completed sustainability upgrades to The Summit Community Centre which resulted in a more spacious, accessible and dynamic space for community programs and events. (C1.1)
- Created *Dementia-Friendly Organisation Action Plan* for our Community Centres with the help of Dementia SA. (C1.1)
- Adopted a new *Libraries Strategy* to guide future service delivery priorities and key initiatives. (C1.1)
- Hosted Muslim Women’s Association gatherings with Hills craft groups at Fabrik (C1.2)
- Offered multicultural craft and cooking programs through community centres and libraries (C1.2)
- Established a new team of Volunteer Access and Inclusion (A&I) Advisors, to help prioritise future actions related to Council’s *Disability Access and Inclusion Plan (DAIP)* (C1.3)
- Engaged an accredited access consultant to review our designs for proposed projects to improve the accessibility and inclusion across our region (C1.3)
- Provided staff training in planning accessible and inclusive events (C1.3)
- Delivered an online workshop for local sporting clubs focused on adaptive programs for children with disability (C1.3)
- Advocated for improved transport opportunities for disadvantaged as part of the Community Passenger Network committee. (C1.4)

Objective C2 - A connected, engaged and supported community

- Provided programs, events and activities for our community through community centers, libraries, and a range of other venues. (C2.1)
- Provided the Positive Ageing Program for the over 65 community members which consisted of 6,700 hours of support in and around the home; 20,000 hours of social support; and 2,500 transport trips (C2.2)
- Completed the 2021 Youth Leadership Program. As part of this, participants took the lead in the production and distribution of 300 support packs for local year 12s going through exam periods. (C2.3)
- Commenced the development of an online Youth Hub which aims to increase youth wellbeing by offering a platform for connection, engagement and information provision around programs and events, community organisations, support services and wellbeing (C2.3)
- Updated our Community Engagement hub to make it easier for our community to join the conversation, share ideas and to stay in the loop on proposed projects and Council decisions. (C2.4)
- Facilitated community forums at Basket Range, Gumeracha, Birdwood and Montacute, which were attended by 214 people and provided communities with an opportunity for open discussion on current and emerging issues. (C2.4)
- Continued the federally funded Community Resilience Program which focused on helping people (particularly young people and families) in bushfire risk areas mentally prepare for future disasters (C2.5)

Objective C3 - A community that grows together

- Expanded the digital library collections with the introduction of BorrowBox platform across the state-wide network. (C3.1)
- Provided School Holiday Programs which were attended by hundreds of children with highlights including illustration workshops, a story trail on the Stirling lawns, STEM challenges and various crafts and activities. (C3.1)
- Streamed the Adelaide Writers Week within libraries to enable participation from those that could not attend in person. (C3.1)
- Provided recruitment support through Councils Volunteer Connect platform for volunteer involving organisations. (C3.2)
- Provided Volunteer support of over 1,200 hours of service for the community. (C3.2)
- Awarded Community & Recreation Facility Grants of \$100,000 and Community Development Grants of \$42,460. (C3.3)
- Negotiated a new 3-year funding agreement with The Hut Community Centre (C3.3)
- Partnered with the Mount Lofty Districts Historical Society in various events and exhibitions, including “Modernist Architecture in Adelaide and the Hills” and “Murder at Christmas” events. (C3.4)

Objective C4 - An active, healthy, thriving and resilient community

- Continued Fabrik’s program of creative recovery with the support from Wellbeing SA, offering ways for community members to connect, reflect and move towards the future with hope. (C4.1)
- Completed play space renewals at Lobethal Bushland Park, Lenswood Oval and Yarrabee Road Reserve in Greenhill (C4.2)

- Completed the Heathfield Sports Courts Redevelopment in partnership with the Department of Education, which provided additional sporting facilities to the community, sports clubs and the Heathfield School (C4.4)
- Resurfaced the Gumeracha Federation Park tennis courts (C4.4)
- Constructed new cricket nets and change rooms for the Heathfield Oval to provide compliant and accessible unisex and officials change room facilities in partnership with the Mt Lofty Sports Club (C4.4)
- Completed Council's *Emergency Management Plan* (C4.5)
- Provided emergency management training for Council's Incident Management Team and support staff (C4.5)
- With the assistance of the City of Burnside, the Glenunga Hub and other sites have been established as an alternative site to establish Council's Incident Management Team and Emergency Operations Centre on Catastrophic Fire Danger Days (C4.5)

Objective C5 - Respect for Aboriginal culture & values

- Produced new Acknowledgement of Country branding and artwork on cards, Coventry Library windows, and on new signs in parks and reserves.
- Adopted the *Aboriginal Place Naming Action Plan* (C5.1)
- Collaborate with Country Arts SA to present the 2-day Regional Arts Australia "Artlands" conference at Fabrik in September which had a strong First Nations focus. (C5.2)
- Provided the Introduction to Kurna language and culture session with Elected Members which was presented by Jack Buckskin. (C5.2)
- Provided Reconciliation Week activities which included a Ngarrindjeri weaving workshop by Cedric Varcoe at Fabrik, and movie screenings. (C5.2)

Objective C6 - Celebrate our community's unique culture through arts, heritage & events

- Presented a program of creative workshops at Fabrik throughout the year which ranged from introductory courses through to textile masterclasses. (C6.1)
- Supported a range of major events including a Christmas Twilight Market, the Flocking Together large scale projection project, Mill Square Music festival and Fringe in the Hills performances. (C6.1)
- Hosted the SA iteration of the Regional Arts Australia national conference *Artlands* at Fabrik (C6.1)
- Supported the Festival of Cycling event which included a Women's Stage 3 start and finish in Lobethal (C6.2)
- More than 6,000 people attended twilight markets at Fabrik over two nights during the Lights of Lobethal Festival. (C6.2)
- Supported multiple small events across the district including Discover, Play, Bikeway!, Bio-Blitz in Gumeracha, Lobethal Gardening Festival, Uraidla Show, local markets and the Stirling Family Fun Day (run by The Hut). (C6.2)
- Offered skills development workshops, exhibition and retail sales and artist market opportunities throughout the year. (C6.3)
- Adopted the *Public Art Strategy* (C6.4)

Performance Measures

Measure	Target	Strategic objective	Reporting frequency	Actual	Comment
CPI-C01 Positive ageing wellbeing score	7 Average	C2	Quarterly	6.7	The wellbeing score across our older population was lower than the target score which participants reported was a result of reduced access to community and social opportunities as a result of COVID isolation requirements.
CPI-C02 Community Centre participants who feel better connected to others or community	85%	C2	Bi-annual	88%	
CPI-C03 Community centre participants who would use the knowledge/skills gained in the future	80%	C3	Bi-annual	89%	
CPI-C04 Number of volunteer hours contributed to AHC programs each year	4800	C3	Quarterly	Q1 = 4,318 Q2 = 3,921 Q3 = 1,772 Q4 = 3,089	Volunteer numbers and hours reduced during the peak of the COVID 19 Pandemic primarily due to isolation and vaccination requirements for our government funded programs.
CPI-C05 Library visits per capita compared with the state average	25% above state average	C3	Annually	3.4 AHC 4.3 state average 20% below state.	The state average used is 2020-21 data as other not yet available. State average includes school community library visits where visitation is often higher due to frequent use of schools
CPI-C06 Library loans per capita compared with the state average	35% above state average	C3	Annually	14.6 loans State 2020-	The state average used is 2020-21 data as other not yet available.

				21 = 11.6% 26% above state	
CPI-C07 Attendance at programs, events and workshops at Fabrik Arts and Heritage Hub	8,000	C6	Annually	8821	
CPI-C08 Percent of available studio spaces occupied	50	C6	Annually	0	Studio Spaces unavailable due to commencement of redevelopment works
CPI-C09 Number of events and programs celebrating cultural diversity	8	C6	Annually	10	

Goal 3 – A prosperous Economy

Our *Strategic Plan 2020-24 – A Brighter Future* sets out our goals, objectives and priorities (listed in full in Appendix 3). As it is a four-year plan, not every priority will have an achievement listed against it each year.

What we have achieved

Objective E1 - Support and grow our region's existing and emerging industries

- Conducted an expression of interest process to establish 'Free' camping sites in the district (E1.1)
- Upgraded signage, installed user infrastructure (bins, benches) and created A4 maps of the Amy Gillet Bikeway (E1.1)
- Assisted Stirling's nomination for the Small Tourism Town Awards 2022 (E1.1)
- Attended Adelaide Hills Tourism board meetings (E1.1)
- Created Living in Harmony promotional videos and brochures (E1.2)
- Commissioned a creative industry report written by EconomyID which provides an overview of the number and characteristic of creative industry businesses within the Adelaide Hills. This will enable Fabrik to better connect with and support local Creative Industry businesses. (E1.3)
- Promoted business services available through Government programs through the Quarterly e-newsletter, sent to more than 2,000 readers (E1.4)
- Undertook The Biannual Business Survey which received 109 responses which is a 30% increase from the 2019 survey. Data from the survey reflects increasing business confidence for the year ahead. (E1.5)

- Provided two training sessions for businesses on how to engage in Council’s procurement processes which had 18 businesses attend. This supports local businesses to grow their market share and Council to purchase more goods and services locally (E1.6)

Objective E2 - Provide local infrastructure to drive growth and productivity

- Strongly advocated for funding to upgrade NBN for Mt Torrens and Crafers West which have both been identified as priority areas. (E2.1)
- Contributed to Regional Development Australia’s inquiry into Rapid Transport Solutions. (E2.1)
- Worked with Business SA on promoting online platform services for business. (E2.2)
- Continued to be actively involved in working groups with the State Government for review and updates to planning policy which includes consideration of desired future development outcomes. (E2.3)

Objective E3 - Encourage, attract and retain a creative, talented and skilled workforce in our region

- Hosted a series of successful networking events for Home Based Businesses (E3.1)
- Worked with the Regional Development Australia’s Workforce program and the Australian Governments workforce programs to inform them of local workforce needs. (E3.2)
- Established a Home-Based Business Network to identify needs and provide a means to meet these. (E3.4)

E4 - Cultivate a clear, unique and consistent regional identity that can be leveraged to attract national and international attention

- Continued to fund and support key economic development partnerships with Stirling Business Association, Adelaide Hills Tourism and Regional Development Adelaide Hills, Fleurieu and Kangaroo Island (E4.2)
- Supported Adelaide Hills Tourism in holding the inaugural Wellness Wander Weekend in April, with 85% of available tickets sold. (E4.3)
- Worked in collaboration with the City of Adelaide to explore the possibility of a joint World Heritage Bid resulting in agreement that the interim bid name should be ‘Adelaide and its Rural Settlement Landscapes’. (E4.4)
- Engaged World Heritage expert Duncan Marshall to provide further rationale for the joint World Heritage bid. This work produced a single narrative for the combined bid which focused on the colonial planning model. (E4.4)

Performance Measures

Measure	Target	Strategic objective	Reporting frequency	Actual
CPI-E01 Net Easy Score of respondents who rated ease of getting assistance from Council as Easy or Very Easy v Difficult or Very Difficult	>0	E1	Every 2 Years	-17 Results based on survey conducted with 23 respondents
CPI-E02	1.2mil	E1	Annually	1,215,236

Visitor numbers (visitor domestic day trips)				
CPI-E03 Average number of days for Building Rules Consents	20 or 60 business days*	E2	Quarterly	Average = 20
CPI-E04 Percentage of new development application decisions upheld in Council/CAPs favour under appeal	85%	E2	Quarterly	100%
CPI-E05 Percentage of Planning Consents completed within statutory timeframes	85%	E2	Quarterly	Q1 = 53% Q2 = unknown Q3 = 77% Q4 = 75% There were some early reporting discrepancies between the new system and the old system. As the year progressed, average assessment time and the percentages improved as the number of applications in the old system were removed.
CPI-E06 Number of local jobs in AHC area compared to previous financial year	Maintain 2019-20 Financial Year = 11200	E3	Annually	11,720

Goal 4 – A valued Natural Environment

Our *Strategic Plan 2020-24 – A Brighter Future* sets out our goals, objectives and priorities (listed in full in Appendix 3). As it is a four-year plan, not every priority will have an achievement listed against it each year.

What we have achieved

N1 - Conserve and enhance the regional natural landscape character and amenity values of our region

- Planted replacement trees for those damaged in the Cudlee Creek Bushfire creating an avenue of trees between Lobethal and Woodside. (N1.1)
- Heathfield Stone Reserve was rededicated for conservation purposes by Lands Title Office, now to be referred to as Heathfield Conservation Reserve. (N1.2)
- Entered Heathfield Conservation Reserve, Stock Road Reserve and Mimi Reserve into Heritage Agreements. (N1.2)
- Initiated the Riparian Restoration of Cox Creek in Bridgewater Recreation Reserve co-funded by a Grassroots Grant in partnership with the Bridgewater Friends of Cox Creek (N1.2)

N2 - Recognise the benefits of ecosystem services and improve environmental resilience by reducing environmental impacts

- Assessed 10 reserves of high biodiversity value to monitor vegetation condition using the BushRAT methodology, which identifies new threats and management priorities. (N2.1)
- Undertook conservation activities on 43 reserves of biodiversity value, including minimal disturbance weed control and revegetation. (N2.1)
- Assessed 63 National Vegetation Marker System (NMVS) Sites (roadsides with high biodiversity value) to assess or monitor vegetation condition. Undertook minimal disturbance weed control on 369 NVMS sites (N2.1)
- Undertook woodland bird monitoring at 8 conservation sites (N2.1)
- Developed a Vegetation Management Plan for Aldgate Valley Wildlife Corridor. (N2.1)
- Successful in receiving \$32,635 in Heritage Agreement grants to undertake bush care activities on reserves under Heritage Agreement (N2.1)
- Implemented the cat by-law change that requires residents to keep their cats contained within their property. Feedback from the community indicates that they are already starting to see a reduction of wandering cats and an increase in native fauna on their land (N2.2)
- Commenced the Wandering Cat Monitoring Program to ascertain risks posed by cats to local wildlife populations. Information gathered will help inform Council's future animal management decision making and any associated programs implemented by Council and/or community. (N2.2)
- Partnered with private land owners and Hills & Fleurieu Landscapes Board to eradicate over 12 hectares of weed infestation which posed significant fire risk (N2.3)
- Maintained 62 Asset Protection Zones to mitigate the impacts of a fire occurring adjacent assets, infrastructure and private properties. (N2.3)
- Maintained 30 CFS Bushfire Management Area Plan (BMAP) Asset Protection Zones adjacent critical infrastructure and facilities identified as at risk in the BMAP on an annual basis. These assets are owned and operated by both Council and external agencies, such as SA Water, SA Power Networks and telecommunication companies. (N2.3)
- Completed over 12,700 bushfire safety inspections on Adelaide Hills properties and issued 369 notices under the *Fire and Emergency Services Act 2005*. Engaged a contractor to clear 19 properties for failing to take reasonable steps under the *Fire and Emergency Services Act 2005*, and 12 expiations were issued (N2.3)
- Undertook Weed control with fuel reduction focus activities across 15 high biodiversity reserves in close proximity to medium-high density housing (N2.3)

- Participated in the DEW Burning on Private Lands Program, undertaking collaborative follow up weed control on 10 prescribed burn sites. (N2.3)
- Secured \$337,200 in external funding for biodiversity recovery work on bushfire affected Council roadsides and reserves. (N2.4)
- Partnered with Forestry SA and volunteers from the Mountain Bike group Rise Racing to deliver Croft Road car park / Anderson Hill winery at Cudlee Creek for a Bushfire recovery revegetation project. (N2.4)

Objective N3 - Nurture valuable partnerships and collaborations and engage the local community in the management of our natural environment

- Engaged with Heathfield High and Aldgate primary students to educate them on biodiversity topics for the region, demonstrations on weed control, bushfire recovery and land management processes. (N3.1)
- Partnered in several engagement projects via Kenton Creek Restoration Project at Federation Park, including Lions Club of Torrens Valley, the Gumeracha Town Hall & Community Association, Gumeracha Primary School and the 2021 Nature Festival BioBlitz, delivering education on a range of biodiversity topics. (N3.1)
- Developed the Council website to promote the Weeds for Monarto program, educating residents about local weeds and conservation of internationally endangered species at Monarto (N3.1)
- Provided free butterfly kits, consisting of local plant species from the AHC Native Habitat Landscaping and Gardening Guide that support indigenous butterfly species, and a copy of the Guide. (N3.1)
- Distributed Native Gardening and landscaping books/low flammability at field days, customer service centres, volunteer run community events and electronically on our website
- Participated in the Bridgewater Community Forum to inform residents of the Riparian Restoration of Cox Creek, Bridgewater project, and distribute copies of the Native Habitat Landscaping and Gardening Guide, and the Native Habitat Gardening Guide for low flammability gardens. (N3.1)
- Undertook two community workshops on installing solar PV panels and battery storage. (N3.1)
- Collaborated with over 12 volunteer bush care groups, Non-government Organisations, and State Government departments in managing biodiversity on mixed use reserves across the region (N3.2)
- Continued the Bush For Life Funding and Partnership Agreement resulting in an on-ground work contribution of \$121,063 and 280 hours of on-ground work at 28 Bush For Life sites on council land. (N3.2)
- Secured funding of \$100,000 for a bushfire and biodiversity project through the Resilient Hills and Coasts partnership (N3.3)
- Collaborated with Trees for Life, Adelaide University, Mt Barker Council and Department of Environment and Water to investigate the dying stringybarks and links to a changing climate within the region. (N3.3)
- Installed a shade structure at the Lenswood playground and investigated potential a water fountain installation at the Balhannah dog park. The intention is to roll out climate change adaptation actions concurrently with the playground framework and open space upgrades (N3.3)

Objective N4 - Reduce the impact of waste to landfill by maintaining a robust waste and resource management framework

- Provided a significant increase to the number of free green organic drop off days available to the community to assist with bushfire preparation activities. (N4.2)

- Conducted 14 community education activities to raise awareness and to inform the community on best practice recycling and waste reduction. These activities included information on the importance of recycling food scraps in the green organic bin. (N4.3)
- Completed a review into Council’s use of single-use plastics and actions were progressed across the Council to reduce the use of these plastics. (N4.4)
- Continued to provide a range of waste and recycling services including kerbside bins, hard rubbish service, free green organic drop off days and the Heathfield Resource Recovery Centre. (N4.4)
- Assisted residents with disposal of waste collected as part of Clean Up Australia Day. (N4.4)

Objective N5 - Assist our community to reduce the impact of waste to landfill on the environment

- Released a new waste and recycling educational video which features the Brinkley Landfill. The video demonstrates the accumulative impact of waste disposed of to landfill with the intention of encouraging avoidance of waste generation in the first place. (N5.1)
- Completed kerbside bin audits in the Balhannah and Lenswood areas which assist in informing community on preventing valuable resources going to landfill and reducing contamination in recycling bins. (N5.2)
- Held a number of waste and education stalls were at local events including the Gumeracha Community Forum and the Uraidla Show. (N5.2)
- 26 drop-off days held at Heathfield, Gumeracha and Woodside resulting in 10,232 drop off processed totaling 1,441 tonnes of green organic waste.

Performance Measures

Measure	Target	Strategic objective	Reporting frequency	Actual	Comment
CPI-N01 Number of Native Vegetation Marker System BushRAT Assessment sites complete (actual versus planned)	60 NVMS sites per annum	N2	Annually	91 assessments over 63 sites	
CPI-N02 Woody Weed Control Program - no. of sites complete (actual versus planned)	15 sites per annum	N2	Quarterly	15	
CPI-N03 Percent of nuisance and litter queries resolved	90%	N2	Quarterly	Q1 = 83% Q2 = 93% Q3 = 91.5% Q4 = 88%	All queries were actioned and resolved however not all were completed within the quarter when reported.
CPI-N04 Percent of private properties inspected prior	At least 90%	N2	Annually	97%	

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to bushfire season that comply with fuel load management requirements					
CPI-N05 Tonnes of green organics collected on Green organic days	150	N4	Quarterly	Q1 = 184 Q2 = 740 Q3 = 351 Q4 = 166	
CPI-N06 Percentage change in tonnes of waste disposed to landfill compared to previous financial year	Reduction in waste percentage	N5	Annual	Percentage of waste diverted from landfill 2019-20 = 51% 2020-21 = 53.3% 2021-22 = 52.3% Increase of 1% waste going to landfill	The diversion rate is variable from year to year with changes occurring for a variety of reasons including seasonal impacts and the communities waste and recycling practices.
CPI-N07 Number of community education actions delivered (Waste Management Strategy 2016-2021) – Actioned vs Planned	6	N5	Quarterly	14	

Nuisance & Litter	Nature	Number
Number of complaints	Illegal Dumping of Rubbish	306
	Air Pollution	16
	Water Pollution	4
	Noise Complaints	26
	Vandalism/Graffiti	45
	Insanitary Conditions/Vermin	5
	Littering	14
Expiated Offences	Disposal of litter onto any land or into any waters - excess of 50 Liters of class B hazardous or general litter	2
	Carry on an activity resulting in local nuisance	6
	Cause or permit the burning of matter by fire in the open	2

Nuisance & Litter	Nature	Number
	Burning of prohibited substances by fire	1
	Failure to comply with Local Nuisance abatement notice	4
Abatement notices issued	Wandering Livestock, Unsightly Property	3

Goal 5 – A progressive Organisation

Our *Strategic Plan 2020-24 – A Brighter Future* sets out our goals, objectives and priorities (listed in full in Appendix 3). As it is a four-year plan, not every priority will have an achievement listed against it each year.

What we have achieved

Objective O1 - We have the right people with the right knowledge and skills in the right jobs and they are supported and developed

- Completed the Work Health and Safety Action Plan with all actions achieved or implemented (O1.1)
- Completed an audit on our Recruitment and Retention processes and an action plan to continuously improve these practices (O1.2)
- Continued to provide flexible work arrangements enabling customer and community work to continue (O1.2)
- Launched organisational wide online training using the Skytrust system (O1.4)
- Participated in the 2022 Australasian Management Challenge providing selected staff with opportunities to be mentored and develop skills outside of their normal roles. (O1.4)

Objective O2 - Our customers find it easier to interact and do business with Council and have an improved customer experience

- Implemented a new CMS (Content Management System) and developed a new Council Website with an enhanced user experience, improving the accessibility of information for the community and delivering objectives within the Access and Inclusion Plan. (O2.1)
- Implemented a new electronic Customer Complaint Handling Form to highlight and improve the way complaints are managed. (O2.3)

Objective O3 - Our organisation is financially sustainable for both current and future generations

- Developed strategies as part of a review of the Long-Term Financial Plan to minimise the impact of increases in the Consumer Price Index on the level of rate revenue required (O3.3)
- Undertook a review of the operational accommodation requirements, with additional leased office space secured to enable building upgrade works to be progressed and future requirements considered. (O3.2)
- Conducted an external service review on the Civil Services Maintenance function to analyse the service's quality, effectiveness and efficiency (O3.4)

Objective O4 - We actively represent our community

- Facilitated 18 Council meetings and 12 workshops which, except for some confidential items, were open to the public both in person and online via a livestream. (O4.1)
- Undertook public consultation on Council's major plans, strategies and policies including the Long Term Financial Plan in April and the Annual Business Plan in May. All consultation feedback was considered by Council prior to their final adoption. (O4.1)
- Hosted two candidate information sessions to assist potential candidates to understand the role of a council member. (O4.2)
- Promoted, in conjunction with the Electoral Commission, the 'Nominate' phase of the election process to encourage the breadth and diversity of candidates. (O4.2)
- Provided submissions to federal and state agencies in relation to legislative change associated with planning & development, heritage, boundary reform and Council Member allowances, conduct and training standards. (O4.3)
- Took a strong advocacy position with the Boundaries Commission throughout the year in relation to the Campbelltown City Council's Stage 2 Boundary Change Proposal. (O4.4)

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

- Implemented changes arising from the local government reforms in the *Statutes Amendment (Local Government Review) Act 2021* and revised policy framework to ensure contemporary and legislatively compliant policies and codes (O5.1)
- Provided quarterly reports to Audit Committee on Council's strategic risk profile and mitigation actions. (O5.2)
- Provided quarterly performance reports to the Council and the community on key activities, projects, financial results and performance targets. (O5.3)
- Produced a comprehensive annual report setting out the achievement against the annual business plan and the audited financial results and analysis. (O5.3)

Objective O6 - Technology and innovation is utilised to better meet our community's expectations and deliver value for money

- Implemented a Cyber Security Plan aligned to a new statewide Local Government Information Security Framework developed by LGITSA (Local Government Information Technology South Australia) and grant funded by LGA's Local Government Research & Development Fund. (O6.1)
- Implemented a Cemetery Management System with drone and memorial imaging (O6.2)
- Migrated email, Payroll and Human Resources systems to Cloud based technology (O6.3)
- Implemented Cyber Security Systems for multifactor authentication and application security (O6.3)
- Utilised Customer Experience survey feedback to inform potential service improvements across Council systems. (O6.4)

Performance Measures

Measure	Target	Strategic objective	Reporting frequency	Actual	Comment
CPI-O01 Number of Lost time injuries	0	O1	Quarterly	4	While the result for actual Lost Time Injuries (LTI) remains at historically low levels within the sector, a target of no LTI will remain as Council's aspirational goal
CPI-O02 Customer Net Ease Score (NES)	50	O2	Bi-annual	Q2 = +35 Q4 = +50	Range is -100 to +100. Therefore, result is good and improved throughout the year
CPI-O03 Overall customer satisfaction	75%	O2	Bi-annual	Q2 = 68% Q4 = 73%	Satisfaction increased during the year with customers preferring the instant connection of the phone than the potentially more involved service requests
CPI-O04 Operating Surplus Ratio	1-5%	O3	Annually	2.2%	
CPI-O05 Net Financial Liabilities Ratio	25-75%	O3	Annually	46%	
CPI-O06 Asset Sustainability Ratio	95-105%	O3	Annually	114%	
CPI-O07 Decisions (Council resolutions) considered in open Ordinary & Special Council meetings during the reporting period	90%	O4	Quarterly	95% average	
CPI-O08 Council member attendance at Ordinary & Special meetings	90%	O4	Quarterly	90% average	
CPI-O09 FOI requests completed within the legislated timeframe	100%	O6	Quarterly	100%	
CPI-O10	100%	O6	Quarterly	100%	

Ombudsman investigations upholding Council’s decisions (general investigations and FOI external reviews)					
CPI-O11 Employee Turnover	7-15%	O1	Quarterly	11.2%	

Our Governance

Governance refers to the rules, practices and processes by which Council is directed and controlled. Adelaide Hills Council continuously strives for best practice in Governance by being:

- Accountable, transparent and responsive,
- Effective and efficient,
- Participatory, equitable and responsible, and
- By meeting legislative obligations.

The following information reports on our governance activity during 2021-22.

Good Governance is accountable, transparent and responsive

Council Meetings

Council is the ultimate decision-making body of the organisation; it consists of the Mayor and 12 Councillors. Council meetings were held on the fourth Tuesday of every month. All Council and Council Committee meetings are open to the public unless specific provisions in the *Local Government Act 1999* are satisfied to require the closing of the meeting under a confidentiality order.

Council meetings held in 2021-22:

- 12 ordinary meetings
- 6 special meetings

Council Committee meetings held in 2021-22:

- 6 Audit Committee meetings
- 5 CEO Performance Review Panel meetings

The attendance of the Mayor and Councillors at 2021-22 Council and Committee meetings is detailed in the tables below.

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Council Meeting	Ordinary Council		Special Council	
Total Meetings	12		6	
	P	A	P	A
Mayor Jan-Claire Wisdom	11	1	3	3
Cr Nathan Daniell	12	0	5	1
Cr Ian Bailey	12	0	5	1
Cr Kirrilee Boyd	11	1	5	1
Cr Pauline Gill	4	8	4	2
Cr Chris Grant	12	0	6	0
Cr Linda Green	12	0	6	0
Cr Malcolm Herrmann	12	0	6	0
Cr John Kemp	10	2	5	1
Cr Leith Mudge	11	1	5	1
Cr Mark Osterstock	12	0	4	2
Cr Kirsty Parkin	12	0	4	2
Cr Andrew Stratford	10	2	5	1

Good Governance is effective and efficient

Council Member training & development

Council is committed to providing training and development activities for Council Members and recognises the responsibility to develop and adopt a policy for this purpose under Section 80A of the *Local Government Act 1999*.

Monthly professional development training sessions have been held for Council Members. Professional development sessions conducted in-house are Closed Informal Gatherings for the purposes of the *Informal Gatherings and Discussions Policy*. The dates and venues for these sessions are publicly documented in agendas for Ordinary Council meetings and are posted on the Council's website.

Good Governance is participatory, equitable and responsible

Allowance Paid to Council Members

Council Members are entitled to receive an annual allowance, as determined by the Remuneration Tribunal pursuant to Section 76 of the *Local Government Act 1999* (the Act) for performing and discharging their official functions and duties.

Pursuant to the Remuneration Tribunal's determination, the following amounts were prescribed for Council Members for 2021-22:

Period	Amount
Mayor/Principal member	\$74,212
Deputy Mayor/Presiding member of a prescribed committee*	\$23,171
Other Council Members	\$18,533

**Council's prescribed committees are the Audit Committee, and the CEO Performance Review Panel.*

In addition to the allowance paid under section 76 of the *Local Government Act 1999*, Council Members were entitled to receive the following under the *Council Member Allowances and Benefit Policy*. Council members are not provided with purchase cards, and are instead provided with reimbursements or provisions such as:

- Reimbursement for travelling within/outside the area of Council and child/dependent care expenses associated with attendance at a Prescribed Meeting or undertaking a function or activity on the business of Council.
- Provision of an annual Travel Time Payment for Members residing greater than 30km from the Principal Office.
- Reimbursement of other expenses including:
 - Phone costs (call charges only)
 - Conference, seminar and training course fees and associated travel expenses.
- Provision of the following to assist Members in performing their official functions:
 - An iPad (or similar tablet computer), associated software and 4G connection for document management (including Council Agenda and Minutes), communication and research (both Council workspace and internet)
 - A Council email address
 - A mobile phone (including SIM)
 - Paper for printing
 - Stationery (such as pads, pens, diaries, etc.)
 - Meals and beverages provided in association with attendance at prescribed meetings.

Notwithstanding their entitlement under the Policy, not all of these provisions were accessed by all Council Members.

In addition to these, Council resolved to make available to the Mayor (or Deputy Mayor during the Mayor's absence) the following additional facilities and support to assist them in performing and discharging their official functions and duties:

- Laptop computer with appropriate software
- Supply and maintenance of a motor vehicle (not allocated in 2021-22)
- Mayoral Office accessible 24/7 providing desk and meeting facilities
- Provision of media and communications support
- Access to administrative officer services.

The Chief Executive Officer maintains a Register of Allowances and Benefits provided to Council Members which is available to the public on our website.

Council Member Interstate and International Travel

During 2021-22, the following interstate and international travel was conducted by Council Members:

Event	Date	Location	Travel Expenses
National General Assembly Conference	June 2022	Canberra	\$1,768

Local Government Act 1999 Section 41 Committees

The Adelaide Hills Council has two Section 41 (Council) Committees which operate under Terms of Reference determined by Council.

2. Audit Committee, and

3. CEO Performance Review Panel.

Audit Committee

The Audit Committee was established by Council in 2005 in accordance with Section 126 of the *Local Government Act 1999* (the Act).

The Audit Committee's role is to assist Council in the discharge of its responsibilities for financial reporting, maintain a reliable system of internal controls, risk management and asset management, liaise with the external auditor, and foster the organisation's ethical development.

There are five members of the Audit Committee, three independent members and two Council Members. The membership and attendance during the financial year was:

Audit committee - Member name	No of meetings present	No of meetings Absent/apology
Cr Malcolm Herrmann (Presiding Member)	6	0
Cr Leith Mudge	5	1
Peter Brass (Independent member)	6	0
Natalie Johnston (Independent member)	6	0
David Moffatt (Independent member)	5	1

Six (6) ordinary meetings were held during 2021-22. Sitting fees were paid to independent members of the Audit Committee.

The Presiding Member receives an allowance equivalent to that received by Presiding Members of Prescribed Committees in accordance with the Remuneration Tribunal's determination.

Sitting fees paid up until 1 June 2022:

- Independent Presiding Member: \$550 per meeting (not utilised in 2021-22).
- Independent Member: \$400 per meeting.

Sitting fees paid after 1 June 2022:

- Independent Presiding Member: \$575 per meeting (not utilised in 2021-22).
- Independent Member: \$450 per meeting.

Chief Executive Officer Performance Review Panel

The Chief Executive Officer Performance Review Panel (CEOPRP) was established in 2014 to provide advice to Council on matters related to the Chief Executive Officer (CEO) and their performance.

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In 2021-22, a process was undertaken to review the CEO's performance against the position description requirements and the agreed set of key performance indicators for the year. External advice was also received on the remuneration package payable.

Membership and attendance during the financial year was:

Member name	No of meetings present	No of meetings Absent/apology
Cr Mark Osterstock (Presiding Member)	5	0
Mayor Jan-Claire Wisdom	4	1
Cr Nathan Daniell	5	0
Cr Chris Grant	5	0
Ms Janet Miller (Independent member)	5	0

Five (5) ordinary meetings were held in 2021-22.

The Presiding Member receives an allowance equivalent to that received by Presiding Members of Prescribed Committees in accordance with the Remuneration Tribunal's determination.

Sitting fees paid up until 1 June 2022:

- Independent Presiding Member: \$550 per meeting (not utilised in 2021-22).
- Independent Member: \$400 per meeting.

Sitting fees paid after 1 June 2022:

- Independent Presiding Member: \$575 per meeting (not utilised in 2021-22).
- Independent Member: \$450 per meeting.

Council's Assessment Panel (CAP)

As a result of the State Government's rollout of the Planning Reform for South Australia Adelaide Hills Council established a Council Assessment Panel (CAP) as required by Sections 82 and 83 of the *Planning, Development and Infrastructure Act 2016* (PDI Act). This CAP replaced the former Council Development Assessment Panel and membership comprises one Council member and four independent members (which includes an Independent Presiding member).

Membership and attendance during the financial year was:

Member name	No of meetings present	No of meetings Absent/apology
Geoff Parsons (Independent Presiding Member)	13	0
Ross Bateup (Independent Member)	13	0
David Brown (Independent Member ceased 1 June 2022)	11	0
Myles Somers (Independent Member commenced 1 June 2022)	2	0
Paul Mickan (Independent Member)	13	0
Cr John Kemp (Council Member)	13	0

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The Panel considers certain development applications (i.e. requests from people wishing to construct buildings or undertake other developments in the area) which cannot be decided upon by staff under delegation. It also hears submissions lodged in relation to publicly notified development applications. CAP meetings are generally held in Stirling on the second Wednesday of each month from 6:30pm. In 2021-22, 13 meetings of the Panel were held.

Sitting fees paid to independent members of the CAP up until 1 June 2022 were:

- Independent Presiding Member: \$500 per meeting
- Independent Ordinary Member: \$380 per meeting
- Council Member: \$190 per meeting

Sitting fees paid to independent members of the CAP after 1 June 2022 were:

- Independent Presiding Member: \$550 per meeting
- Independent Ordinary Member: \$420 per meeting
- Council Member: \$293 per meeting

Council Advisory (Working) Groups

Advisory Groups, operating under their own terms of reference, provide advice and support to Council's administration.

Adelaide Hills Council's Advisory (Working) Groups are:

- Biodiversity Advisory Group
- Bushfire Advisory Group
- Cemetery Advisory Group
- Property Advisory Group
- Rural Land Management Advisory Group
- Sustainability Advisory Group
- Community & Recreation Facility Framework Internal Working Group
- AHC Reconciliation Working Group

These Groups do not report directly to Council however they provide advice to the Administration which informs Council and Committee decisions.

Building Fire Safety Committee

Council's Building Fire Safety Committee held 4 meetings during the year to review the adequacy of fire safety for large buildings in the district with an aim of improving the level of fire and life safety. The membership of the Committee was amended halfway through the year with a new Presiding Member joining the Committee with experience in fire safety. Members and attendance for the Committee was:

Member name	No of meetings present	No of meetings Absent/apology
Peter Harmer (Qualifications in Building Surveying)	2	0
Colin Paton, (CFS Representative)	4	0

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Louis Palumbo – Council Staff Member (Experience in Fire Safety)	4	0
Tom Warneke - Council Staff Member (Qualifications in Building Surveyor)	4	0

The Committee conducted 14 inspections and considered 18 buildings during the year, working with building owners to negotiate an improved level of safety for their buildings in relation to fire exits, emergency lighting, fire-fighting equipment, water supply, hydrant coverage, access for fire services, and bushfire survival plans. No new fire safety defect notices were issued during 2022, whilst 3 of the buildings requiring upgrades, completed the negotiated works enabling the Committee to acknowledge the owner’s co-operation and works undertaken to improve the fire and life safety of their buildings.

Information or Briefing Sessions

Information or Briefing Sessions (workshops, briefings, and professional development sessions) are held with Council Members twice a month and provide a valuable opportunity to enhance the decision-making process. Council and Committee Members use the gatherings to become better informed on issues, seek further clarification, or explore a topic further in an informal environment. Information or Briefing Sessions are not used to make decisions; all decision-making is conducted at the formal Council and Section 41 Committee meetings.

Information or Briefing Sessions that involve the discussion of matters that will be considered at a formal council or council committee meeting must be open to the public unless the appropriate confidentiality provisions of the *Local Government Act 1999* are utilised.

All Information or Briefing Sessions are advertised on the Council website.

Date of Information or Briefing Session	Topic	Type of session
13/07/2021	Fabrik - History Trust Interpretation Plan	Open
13/07/2021	Accommodation Planning	Confidential
13/07/2021	CEO Report - performance targets and position objectives	Confidential
13/07/2021	CEO Update	Confidential
10/08/2021	Adelaide Hills Tourism Annual Reporting	Open
10/08/2021	Lobethal Bushland Park - Final Draft Masterplan Update	Confidential
10/08/2021	Black Summer Bushfire Recovery Grants Program	Open
10/08/2021	‘Free’ camping - including RV dump point	Open
10/08/2021	CEO Update	Confidential
17/08/2021	Stirling Business Association	Open
17/08/2021	Local Government Reform – First Tranche Commencement	Open
17/08/2021	Local Government Reform – Mobile Food Vans	Open
17/08/2021	Black Summer Bushfire Recovery Grants Program	Open
17/08/2021	Cat Confinement Community Education	Open
17/08/2021	CEO Update	Open
14/09/2021	NBN in the Region	Open
14/09/2021	Single-use plastics MON draft plan	Open

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Date of Information or Briefing Session	Topic	Type of session
14/09/2021	Woodside Recreation Ground water reuse analysis	Open
14/09/2021	Street Lighting Policy	Open
14/09/2021	CEO Update	Open
21/09/2021	RDA Adelaide Hills, Fleurieu and KI Annual Reporting	Open
21/09/2021	Ashton Landfill Update	Confidential
21/09/2021	White Rock Quarry Road Closure	Open
21/09/2021	CWMS Cost Base Review	Open
21/09/2021	CWMS Network Update	Open
21/09/2021	CEO Update	Confidential
12/10/2021	Youth Leadership Presentation	Open
12/10/2021	Trails & Cycling Routes Framework - Workshop before Community Consultation	Open
12/10/2021	Fabrik Project Update	Open
12/10/2021	Expression of Interest - Station Road Woodside	Confidential
12/10/2021	CEO Update	Open
19/10/2021	Emergency Management	Open
19/10/2021	LG Reform – November 10 commencements	Open
19/10/2021	Council Member Feedback - LGA AGM and OGM Agenda and Minutes Documents	Open
19/10/2021	Ashton Landfill	Confidential
19/10/2021	CEO Update	Open
9/11/2021	Community & Recreation Facility Framework Update	Open
9/11/2021	Adelaide Hills Emergency Relief Fund	Open
9/11/2021	Long Term Financial Plan Assumptions and Parameters	Open
9/11/2021	CEO Update	Confidential
16/11/2021	Council Member Education -Public Integrity Refresher Training	Confidential
16/11/2021	Service Review Framework	Open
16/11/2021	CFS Workshop	Open
16/11/2021	CEO Update	Confidential
4/02/2022	LTFP workshop	Open
9/02/2022	Buffers Policy Review	Open
9/02/2022	Sculpture deterioration	Open
9/02/2022	LG Reform - Second Round Proclamation	Open
9/02/2022	CEO Update	Confidential
15/02/2022	Stirling Library Lawn Rotunda Replacement	Open
15/02/2022	Proposed development 160 Longwood Road, Heathfield	Open
15/02/2022	CEO Update	Confidential
8/03/2022	Whiterock Quarry	Confidential
8/03/2022	Roadside Trading Policy review	Confidential

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Date of Information or Briefing Session	Topic	Type of session
8/03/2022	LRCIP Round 3	Open
8/03/2022	Adelaide Hills Regional Waste Management Authority (AHRWMA) Board Member Nominations	Open
8/03/2022	CEO Update	Confidential
15/03/2022	Waste Workshop	Open
15/03/2022	RTSA - Submission - Council Member Allowances	Open
15/03/2022	Library Services Strategic Plan	Open
15/03/2022	Caretaker	Open
15/03/2022	CEO Update	Open
12/04/2022	Rates Oversight Scheme and CPI Forecasts	Open
12/04/2022	Draft Regional Public Health Plan 2022-27	Open
12/04/2022	Genetically Modified Crops Policy	Open
12/04/2022	Honour Board Concepts	Open
12/04/2022	CEO Update	Open
19/04/2022	Aboriginal culture - use of language	Open
19/04/2022	CEO Update	Open
28/04/2022	Annual Business Plan and LTFP	Open
28/04/2022	CEO Update	Open
10/05/2022	Public Forum	Open
10/05/2022	Cox Creek Smart Catchment Project	Open
10/05/2022	Public Art Strategy	Open
10/05/2022	Public Transport Policy Review	Open
10/05/2022	Ashton Landfill	Confidential
9/05/2022	CEO Update	Confidential
17/05/2022	Council Website	Open
17/05/2022	Local Roads and Community Infrastructure Program (LRCIP) - Phase 3 Extension	Confidential
17/05/2022	CEO Update	Open
14/06/2022	Consultant briefs Council on CEO performance review process	Open
14/06/2022	CEO provides update on 2021-22 PTs and position objectives	Open
14/06/2022	Discuss proposed 2022-23 CEO performance targets	Open
14/06/2022	Gifts and Benefits	Open
14/06/2022	CEO Update	Open
21/06/2022	Proposal for Budget Review Committee	Open
21/06/2022	Animal Management Plan development	Open
21/06/2022	CEO Update	Confidential

Ordinary Council Meeting agendas publicly document the dates and venues of regular workshops and professional development sessions. The professional development sessions are reported under Council Member Training and Development and are run as Closed Informal Gatherings.

2021-22 DRAFT Annual Report

Agendas and Minutes

All Council, Committee and CAP meeting agendas are placed on public display at least three days prior to the holding of these meetings.

Minutes are placed on display within five days of meetings. Copies of agendas and minutes are available at Council's service centres and libraries and can be downloaded from the Council's website.

Section 90(2) and 91(7) Requirements - confidentiality orders

During 2021-22, 17 new items were considered in closed session in accordance with Section 90(2) of the Local Government Act 1999, and 7 items remained on the register from the previous financial years. Of these, 12 items were released in full and 12 remained in confidence, in accordance with Section 91(7) of the Act as at 30 June 2022.

Date	Council / Committee	Item No.	Title	LGA 1999 Section	New confidentiality Recommendation or Date Released	Status as at 30 June 2022
22/04/2014	Council	18.2.1	AHRWMA	90(3)(b,d,i)		Retained in confidence
1/08/2018	Special Council	7.2.1	Retirement Village Review	90(3)(b)		Retained in confidence
23/06/2020	Council	18.1.1	Event Opportunity	90(3)(j)		Retained in confidence
27/01/2021	Council	18.2	CWMS Review	90(3)(d)		Retained in confidence
25/05/2021	Ordinary Council	18.1.1	Multi-Year Road Rally Proposal	90(3)(d)	Partial release 08 October 2021. Redaction and Appendices Remain Confidential	Retained in confidence
22/06/2021	Ordinary Council	18.2.1	Event Opportunity - SANTOS TDU 2022	90(3)(j)		Retained in confidence
22/06/2021	Ordinary Council	18.1.1	Cyber Security Plan	90(3)(e)		Retained in confidence
27/07/2021	Council	166/21	46 Mt Barker Road Stirling - Old Stirling Police Station	90(3)(d) & (j)	Released 15 June 2022	Released
24/08/2021	Council	18.1.1	CEO Performance Review & Remuneration Review	90(3)(a)		Released
26/10/2021	Council	18.2	Ashton Landfill	90(3)(i)		Retained in confidence
26/10/2021	Council	18.1	Electricity Procurement Legal Matter	90(3)(h)		Retained in confidence
14/12/2021	Council	18.1	Audit Committee Independent Member Appointment	90(3)(a)	Released 15 December 2021	Released

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Date	Council / Committee	Item No.	Title	LGA 1999 Section	New confidentiality Recommendation or Date Released	Status as at 30 June 2022
14/12/2021	Council	18.2	Citizen of the Year Awards 2022	90(3)(o)	Released 26 January 2022	Released
14/12/2021	Council	18.3	East Waste Independent Chair Appointment	90(3)(a)	Released 11 February 2022	Released
25/01/2022	Ordinary Council	18.1	Audit Committee Independent Member Extension of Term - Confidential Item	90(3)(a)	Released 30 January 2022	Released
26/04/2022	Council	11.1.2	Property Lobethal Road, Lenswood - Confidential	90(3)(a)	Minute not confidential	Retained in confidence
26/04/2022	Council	18.1	Appointment of CAP Independent Members	90(3)(a)	Released 26 May 2022	Released
26/04/2022	Council	18.2	Appointment of AHRWMA Chair	90(3)(a)	Released 30 May 2022	Released
17/05/2022	Special Council	8.1.1	Appointment of Consultant to undertake CEO Performance & Remuneration Reviews	90(3)(d)	Released 24 May 2022	Released
28/06/2022	Council	18.4	East Waste Charter Amendment	90(3)(k)	Released 19 September 2022	Released
28/06/2022	Council	18.1	Warren Road Birdwood Blackspot	90(3)(d)		Retained in confidence
28/06/2022	Council	18.2	Santos Tour Down Under Event Opportunity	90(3)(j)	Released 16 September 2022	Released
28/06/2022	Council	18.3	Ashton Landfill	90(3)(i)		Retained in confidence
28/06/2022	Council	18.5	Fabrik Tender & Contract	90(3)(d)	Released 19 August 2022	Released

Council's Representation Quota

The Adelaide Hills Council's total representation quota (the number of electors for each Council Member including Mayor) in 2021-22 is 1 for every 2,343 electors. The total number of electors is 30,462.

The Adelaide Hills Council's representation quota is comparable with councils of similar populations (albeit different numbers of Council Members):

- City of Holdfast Bay (electors 28,895) = 1:2,222
- City of Norwood Payneham and St Peters (electors 26,261) = 1:1,875
- Burnside (electors 32,398) = 1:2,492
- City of Unley (electors 28,044) = 1:2,157.

(Information provided by the Electoral Commission of SA, current as at 30 June 2022)

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The next representation review is scheduled to commence April 2024, at which time electors will be advised of the process to make submissions on representation under the *Local Government Act 1999*.

Public involvement in Council business

Members of the public may put forward their views to Council in a number of ways.

Public Forum

Any member of the public is allocated up to five minutes at each Council meeting to address the Members with comments or questions.

Deputations

With the permission of the Mayor or Committee Presiding Member, a member of the public can address a committee or the Council personally or on behalf of a group of residents as a deputation. Each deputation is usually limited to a maximum of ten minutes. People wishing to access this opportunity should make prior arrangements through the Mayor's Office on (08) 8408 0438.

Petitions

Written petitions can be addressed to Council or a Committee on any issue within the Council's jurisdiction and these are presented at the next meeting of Council or Committee following receipt. Petitions must be in the format set out in legislation; Council's *Petitions Policy* provides guidelines on these requirements as well as on submission.

Written requests

A member of the public can write to the Council about any Council service, activity or policy via post or email.

Chief Executive Officer

Adelaide Hills Council

63 Mount Barker Rd, Stirling, SA 5152

mail@ahc.sa.gov.au

Community Engagement

The Adelaide Hills Council engages with local residents about many issues that may affect their neighbourhoods. Formal consultations are guided by Council's Public Consultation Policy. Everyone is encouraged to contribute to projects via the Your Say website at engage.ahc.sa.gov.au, by emailing engage@ahc.sa.gov.au, post, calling 8400 0400 or attending online or face to face drop-in sessions. Over the last financial year there were 12,300 visits to the Your Say website and 37 community engagement projects for contributions or information.

Community Forums

Local community members and groups are invited to attend Community Forums across the district and to address Council on new initiatives or topics of concern. Holding the forums in different townships in the Council area is an important method of providing residents with opportunities to speak in person with Council Members and senior staff.

Four Community Forums were held in 2021-22 (separate from Ordinary Council Meetings):

- Montacute: 31 May 2022 | Montacute Institute Community Hall | Attendance: 50
- Birdwood: 29 March 2022 | Birdwood Institute | Attendance: 58
- Gumeracha: 30 November 2021 | Gumeracha Town Hall | Attendance: 45
- Basket Range: 31 August 2021 | Basket Range Community Hall | Attendance: 63

Internal review of Council decisions

The Council's Internal Review of Council Decisions Policy provides a process pursuant to Section 270 of the *Local Government Act 1999* for people to request a formal internal review of a decision made by Council (including by staff acting under delegation).

Formal reviews are normally the final avenue for a complainant before raising the matter with external agencies such as the South Australian Ombudsman. Formal internal reviews are distinct from routine complaint handling processes in that they involve a higher degree of scrutiny of the decision making process and merit and are conducted by a person who was not involved in the original decision.

Internal reviews in progress at 1 July 2020: 1

Internal review requests received in 2021-22: 3

Internal reviews closed in 2021-22: 2

Internal reviews in progress at 30 June 2022: 2

Summary of internal review requests dealt with during 2021-22

Internal review subject	Lodged	Closed	Outcome
Decision to not remove trees	1 June 2021	12 August 2021	Original decision upheld
Decision by Council at its meeting held on 25 May 2021 to support the conduct of the Adelaide Rally within the district for a period 2021 to 2023 and to acknowledge that the CEO will use the delegation already provided to him to consider consent for road closures on an annual basis	23 August 2021	14 December 2021	Original decision upheld
Decision by Council (staff) to deny use of unmade road reserve to the rear of applicant's property for vehicular access	12 October 2021		Still open at 30 June 2022 ¹
Decision by Council (staff) to not issue a permit over the use of unmade road reserve to the rear of applicants' property	27 February 2022		Still open at 30 June 2022 ²

1. Review still underway at 11 November 2022
2. Closed 2 September 2022, original decision upheld

Freedom of Information requests

Nineteen requests for information were made under the *Freedom of Information Act 1991* during the 2021-22 financial year; a decrease from thirty-three managed in the previous year. Four applications rolled over from the 2020-21 year making the total managed during 2021-22 financial year being Twenty-three.

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Freedom of Information (FOI) applications can be submitted using an FOI Application form, available from the State Records website, Council's website, or any of Council's Service Centres or by way of a request in writing. An application fee (in accordance with Council's *Fees and Charges Policy*) must accompany the application.

The State Records website provides detailed information on the FOI process or you can contact Council's FOI Officer. Requests should be forwarded to:

Freedom of Information Officer
Adelaide Hills Council
63 Mount Barker Road, STIRLING SA 5152

The Freedom of Information Statement is reviewed and published annually on our website in accordance with the requirements of the *Freedom of Information Act 1991*.

Annual Reporting is provided to State Records of South Australia at the end of each financial year, below outlines 2021-22 outcomes for Adelaide Hills Council.

FOI Requests	Total
Outstanding from previous period	4
New applications	19
Total to be processed	23
Transferred in full	0
Determined - Full release	5
Determined – Partial release	10
Determined - Refused	1
Withdrawn	2
No records available	1
Information previously provided	1
Outstanding at the end of the period	3
Internal review completed	3
External review completed	2

[Amendment to Council records](#)

Any member of the public may inspect Council documents relating to their personal affairs with a request under Part 4 Division 2 of the Freedom of Information Act 1991. Access to the records is possible through the completion of a Freedom of Information Request Form.

A member of the public may then request a correction to any information about themselves that is incomplete, incorrect, misleading or out-of-date. Amendments to Council records must be requested using a Freedom of Information Amendment of Records Form.

[Fraud and corruption prevention](#)

Council recognises that fraud and corruption have the potential to cause significant financial and non-financial harm, and that the prevention and control of fraud and corruption should feature predominantly within the systems and procedures of a responsible council.

Council is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency; the key components of good governance. A *Fraud and Corruption Prevention Policy* has been adopted by Council to provide guidance in managing these risks.

Council adopted a *Public Interest Disclosure Policy* to facilitate the disclosure of public interest information and provide guidance on the management and investigation of disclosures. This Policy and associated procedures have been developed in accordance with the *Public Interest Disclosures Act 2018* which replaced the *Whistleblowers Protection Act 1993* from 1 July 2019.

Delegations and sub-delegations

The Chief Executive Officer and other officers have the delegated authority from Council (in accordance with Section 44 and 101 of the *Local Government Act 1999*) to make decisions on a number of specified administrative and operational matters.

The Register of Delegations reflects the delegated authority from Council to the Chief Executive Officer (and subsequently any sub-delegations) and this is visible on Council's website. As a minimum, delegations are reviewed annually.

Good Governance involves meeting our legislative obligations

Registers, codes and policies

Documents available for public inspection are as follows.

Registers

- LG Act Section 63 | Gifts and Benefits Register – Council Members and Staff
- LG Act Section 68 | Council Members' Register of Interests
- LG Act Section 79 | Council Members' Register of Allowances and Benefits
- LG Act Section 90 | Confidential Items
- LG Act Section 105 | Council Employees Register of Salaries
- LG Act Section 188 | Fees and Charges
- LG Act Section 196 | Community Land Management Plans
- LG Act Section 207 | Community Land
- LG Act Section 231 | Public Roads
- LG Act Section 252 | By-laws
- Development Regulations 2008 Regulation 98 | Development Applications Register

Codes and Policies

Administration

- LG Act Section 110 | Mandatory Code of Conduct for Council Employees

Community

- Acknowledgement and Welcome to Country
- Arts and Heritage Collection
- Cemetery Operating
- Burials Outside Cemeteries
- Community Group Use of Photocopiers

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- Community Information Display
- Community Loans
- Festivals & Events
- Flags Policy
- Grant Giving
- Memorials within Council Cemeteries
- Outdoor Dining
- Play Space
- Public Consultation
- Public Transport
- Safe Environments
- School Parking and Associated Facilities
- Sport and Recreation
- Tributes for Commemorative Services
- Volunteer Engagement
- Wastewater System Application Fee Refunds

Corporate Governance

- Advisory Group Operation and Conduct
- Caretaker
- LG Act Section 92 | Code of Practice for Access to Council & Council Committee Meetings and Documents
- Code of Practice for Meeting Procedures
- Complaint Handling
- Enforcement
- Fraud Corruption Misconduct & Maladministration
- Information or Briefing sessions
- Internal Audit
- Internal Review of Council Decisions
- Order Making
- Petitions
- Public Interest Disclosure
- Public Interest Disclosure Procedure
- Procurement
- Prudential Management
- Records and Information Management
- Request for Services
- Risk Management
- Unreasonable Complainant Conduct

Council Member

- LG Act Section 63 | Council Member Conduct
- Council Member Training & Development

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- Council Member Allowances and Support
- Mayor Seeking Legal Advice
- One Team Communication Protocols

Development & Engineering

- Access to Development Application Documents
- Accredited Professionals
- Buffers
- Council Assessment Panel Review of Decisions of the Assessment Manager
- Delegations Policy for the Determination of Development Applications by CAP
- Development Application Fee Refunds
- Development Application Fee Waiver Policy 2020
- Development Applications Involving Regulated Trees
- Management of Built Heritage
- Models for Major Development
- Privately Funded (Council-led) Code Amendments
- Public Place & Road Naming
- Unsealed Roads

Environment & Open Space

- Directional Signage
- Burning Permit
- Genetically Modified Crops
- Telecommunications Installation Small Cell Stobie Pole Mounted Antennae
- Tree Management

Finance

- Debt Recovery (inc. CWMS Customer Hardship Policy)
- Disposal of Assets
- Grant & External Funding (Acceptance) Policy
- Rating
- Treasury

Infrastructure & Assets

- Alteration and Occupation of Public Roads
- Asset Management
- Occasional Hiring of Council Meeting Rooms
- Roadside Trading
- Street Lighting
- Trails and Cycling Routes Management
- Waste and Resource Recovery Services

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The policies, codes and registers detailed are available at Council's Service Centres for inspection and/or purchase by members of the public for a fee as set out in Council's *Fees and Charges Policy*.

Many of these documents can be accessed on Council's website for no charge.

Community Land Management Plans

A new *Community Land Management Plan* was adopted by Council on 24 September 2019. The plan has been prepared for each category of community land, defining ownership details, location, area, principal usage and user groups.

Data verification of community land has been completed with all community land assigned to the appropriate category in the Community Lands Register. It lists community lands and does not include any lands revoked or excluded under the *Local Government Act 1999*.

Competitive tendering

In 2021-22 Council determined that a number of services it provides could be more efficiently provided by external contractors. Where services are outsourced, a tender process is used to achieve best value for Council.

Details of the tendering process can be found in Council's *Procurement Policy*. In 2021-22, 64 services were subjected to a competitive bidding process.

Purchase of local goods and services

When goods and services are required by Council, local suppliers are invited to tender.

All tenders are considered on an equal basis in accordance with the principles of fair trading and the requirements of National Competition Policy and the *Competition and Consumer Act 2010*.

When paying for purchases, employees are encouraged under Council's *Procurement Policy* to utilise purchase cards as one of the most cost effective payment methods. During 2021-22, purchase cards were used for a total of \$401,482.18 of Council expenses.

National Competition Policy

Principles of competitive neutrality are designed to neutralise any net competitive advantage that a government or local government agency engaged in significant business activities would otherwise have, by virtue of its control by the government or local government, over private businesses operating in the same market.

Council has a complaints mechanism in place and in 2021-22 no complaints were received through this process with regard to competitive neutrality.

Our people

Council's success relies on the experience and skills of staff to provide services to the community. As at 30 June 2022, Council's workforce consisted of 190.04 FTE (full-time equivalent) people managing a diverse range of services and programs.

Employee turnover levels remain within a healthy range between 7-15 percent, with a turnover during 2021-22 of 11.2% percent.

Employees continue to focus on customer experience and service improvement across the organisation and continually review and refine processes to enable a better experience for our community.

Employee Travel

One of the ways Council supports employees is through the provision of travel to attend events to represent Council and/or that are relevant to the employee's development. In 2021-22, the following employee travel occurred:

Event/Activity	Date	Location	Travel Expenses
Presenting at the Australian Museums and Galleries Association National Conference	June 2022	Perth	\$1,650
Pre-Build Inspection for Elevated Work Platform (EWP)	May 2022	Melbourne	\$554.45

Employee Performance

For half the year we continued to manage COVID restrictions that impacted on the way we undertake our work. The focus has been on progressing strategic and planned work as a priority and making changes to programs and services to be responsive to our community while meeting health requirements. As the year progressed, we settled into the new working norm with flexible arrangements allowing our people to continue to provide services to our community.

Leadership Development

Leadership development sessions are provided to our People Leaders which are anyone who manages employees as part of their role.

Supporting People Leaders in managing a more flexible workforce as an ongoing practice has been undertaken as more people returned to an AHC site in an ongoing way.

Diversity and inclusion

Council has continued its journey towards being a diverse and inclusive organisation. Processes continue to be reviewed with the aim of improving our ability to be responsive to individual needs whilst managing expectations and successful outcomes for each role.

Our Recruitment Processes

Council facilitates merit-based selection processes to ensure that it provides equal opportunity for people to be employed. Our recruitment processes have continued to improve as we utilise systems to enable us to manage more effectively and with less waste. We continue to advertise our positions through Disability Employment Service providers to enable better access to those people living with a disability.

Council recognises that selecting the right person for each role has a significant impact on their team, the effectiveness of work undertaken, and services provided to our community. Effective and fair recruitment is critically important.

Work Health and Safety and Injury Management

Work Health and Safety (WHS) and Injury Management (IM) will always be of high importance and therefore many activities and improvements are undertaken regularly to ensure Council is managing its due diligence requirements and maintaining safe systems of work.

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The Executive Leadership Team, with the Health and Safety Committee, promotes safe work practices that focus on delivering and maintaining a work environment that is safe, where hazards are identified and risks are managed, resulting in low injury rates.

A focus for his year has been on further developing and refining our Training Needs Analysis (TNA). This provides more accurate and timely data to our People Leaders and enables them to manage and take action on required training for their people.

The WHS Action Plan (developed as a result of Audit processes), monitored by the Local Government Association Workers Compensation Scheme has continued to be worked on and actions closed out. An annual rebate is available where activities from the Action Plan are assessed as complete.

Executive Leadership Team Arrangements

Council has an Executive Leadership Team that operates under the direction of the Chief Executive Officer.

Position	No of positions	Salary Range as at 30 June 2022
CEO	1	\$241,244
Director	4	\$189,000 - \$200,500
Executive Manager	2	\$128,500 - \$158,000

The Executive Leadership Team have Total Remuneration Packages that incorporates salary (as above), compulsory superannuation and the provision of a motor vehicle for business and private use. Other benefits available to the Executive Team may include the provision of ICT equipment (a mobile telephone and tablet) and paid memberships for up to two professional bodies. No other bonuses or allowances are paid.

Remuneration payable to Council's auditor

Remuneration payable for the audit of the Adelaide Hills Council Internal Financial Controls and Annual Financial Statements for 2021-22 was \$24,890.

No other remuneration was paid to the auditors for non-audit services.

Appendix 1: Financial Statements

Adelaide Hills Council

GENERAL PURPOSE FINANCIAL STATEMENTS
for the year ended 30 June 2022



General Purpose Financial Statements

for the year ended 30 June 2022

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General Purpose Financial Statements

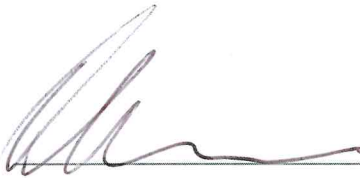
for the year ended 30 June 2022

Certification of Financial Statements

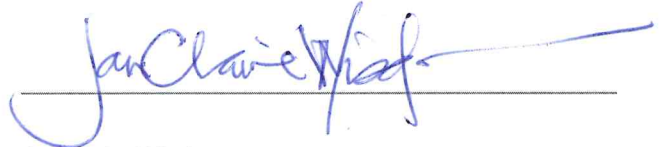
We have been authorised by the Council to certify the financial statements in their final form.

In our opinion:

- the accompanying financial statements comply with the *Local Government Act 1999, Local Government (Financial Management) Regulations 2011* and Australian Accounting Standards,
- the financial statements present a true and fair view of the Council's financial position at 30 June 2022 and the results of its operations and cash flows for the financial year,
- internal controls implemented by the Council provide a reasonable assurance that the Council's financial records are complete, accurate and reliable and were effective throughout the financial year,
- the financial statements accurately reflect the Council's accounting and other records.



David Waters
Acting Chief Executive Officer



Jan-Claire Wisdom
Mayor

Date 1/11/2022

Statement of Comprehensive Income

for the year ended 30 June 2022

\$ '000	Notes	2022	2021
Income			
Rates	2a	41,504	40,110
Statutory Charges	2b	1,430	1,489
User Charges	2c	884	705
Grants, Subsidies and Contributions	2g	7,667	8,219
Investment Income	2d	59	22
Reimbursements	2e	197	235
Other income	2f	583	637
Net Gain - Equity Accounted Council Businesses	19(a)	133	764
Total Income		52,457	52,181
Expenses			
Employee costs	3a	19,608	18,644
Materials, Contracts and Other Expenses	3b	21,515	21,101
Depreciation, Amortisation and Impairment	3c	9,820	9,451
Finance Costs	3d	306	615
Net loss - Equity Accounted Council Businesses	19(a)	66	13
Total Expenses		51,315	49,824
Operating Surplus / (Deficit)		1,142	2,357
Physical Resources Received Free of Charge	2h	4,072	1,884
Asset Disposal & Fair Value Adjustments	4	(1,693)	(2,045)
Amounts Received Specifically for New or Upgraded Assets	2g	1,905	1,108
Net Surplus / (Deficit)		5,426	3,304
Other Comprehensive Income			
Changes in Revaluation Surplus - I,PP&E	9a	2,814	7,811
Share of Other Comprehensive Income - Equity Accounted Council Businesses	19	1	31
Other Equity Adjustments - Equity Accounted Council Businesses	19(a)i	6	69
Total Other Comprehensive Income		2,821	7,911
Total Comprehensive Income		8,247	11,215

The above Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

Statement of Financial Position

as at 30 June 2022

\$ '000	Notes	2022	2021
ASSETS			
Current assets			
Cash & Cash Equivalent Assets	5a	3,215	637
Trade & Other Receivables	5b	3,025	3,225
Inventories	5c	32	23
<u>Subtotal</u>		<u>6,272</u>	<u>3,885</u>
Total current assets		<u>6,272</u>	<u>3,885</u>
Non-current assets			
Equity Accounted Investments in Council Businesses	6	2,416	2,342
Infrastructure, Property, Plant & Equipment	7a(i)	445,461	433,592
Total non-current assets		<u>447,877</u>	<u>435,934</u>
TOTAL ASSETS		<u>454,149</u>	<u>439,819</u>
LIABILITIES			
Current Liabilities			
Trade & Other Payables	8a	9,651	7,734
Borrowings	8b	9,581	5,523
Provisions	8c	4,072	3,963
<u>Subtotal</u>		<u>23,304</u>	<u>17,220</u>
Total Current Liabilities		<u>23,304</u>	<u>17,220</u>
Non-Current Liabilities			
Borrowings	8b	5,200	5,425
Provisions	8c	1,751	1,527
Total Non-Current Liabilities		<u>6,951</u>	<u>6,952</u>
TOTAL LIABILITIES		<u>30,255</u>	<u>24,172</u>
<u>Net Assets</u>		<u>423,894</u>	<u>415,647</u>
EQUITY			
Accumulated surplus		147,964	142,182
Asset revaluation reserves	9a	275,831	273,017
Other reserves	9b	99	448
Total Council Equity		<u>423,894</u>	<u>415,647</u>
<u>Total Equity</u>		<u>423,894</u>	<u>415,647</u>

The above Statement of Financial Position should be read in conjunction with the accompanying notes.

Statement of Changes in Equity

for the year ended 30 June 2022

\$ '000	Notes	Accumulated surplus	Asset revaluation reserve	Other reserves	Total equity
2022					
Balance at the end of previous reporting period		142,182	273,017	448	415,647
Net Surplus / (Deficit) for Year		5,426	–	–	5,426
Other Comprehensive Income					
- Gain (Loss) on Revaluation of I,PP&E	9a	–	2,814	–	2,814
Share of OCI - Equity Accounted Council Businesses		1	–	–	1
Other Equity Adjustments - Equity Accounted Council Businesses	19(a)i	6	–	–	6
Other comprehensive income		7	2,814	–	2,821
Total comprehensive income		5,433	2,814	–	8,247
Transfers between Reserves		349	–	(349)	–
Balance at the end of period		147,964	275,831	99	423,894
2021					
Balance at the end of previous reporting period		138,645	265,206	581	404,432
Net Surplus / (Deficit) for Year		3,304	–	–	3,304
Other Comprehensive Income					
- Gain (Loss) on Revaluation of I,PP&E	9a	–	7,811	–	7,811
Share of OCI - Equity Accounted Council Businesses		31	–	–	31
Other Equity Adjustments - Equity Accounted Council Businesses	19(a)i	69	–	–	69
Other comprehensive income		100	7,811	–	7,911
Total comprehensive income		3,404	7,811	–	11,215
Transfers between Reserves		133	–	(133)	–
Balance at the end of period		142,182	273,017	448	415,647

The above Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Statement of Cash Flows

for the year ended 30 June 2022

\$ '000	Notes	2022	2021
Cash flows from operating activities			
<u>Receipts</u>			
Rates Receipts		41,289	39,969
Statutory Charges		1,430	1,489
User Charges		884	705
Grants, Subsidies and Contributions (operating purpose)		8,225	7,857
Investment Receipts		59	4
Reimbursements		197	235
Other Receipts		292	988
<u>Payments</u>			
Finance Payments		(306)	(615)
Payments to Employees		(19,191)	(18,410)
Payments for Materials, Contracts & Other Expenses		(19,972)	(19,610)
Net cash provided by (or used in) Operating Activities	11b	<u>12,907</u>	<u>12,612</u>
Cash flows from investing activities			
<u>Receipts</u>			
Amounts Received Specifically for New/Upgraded Assets		2,552	2,409
Sale of Replaced Assets		756	604
Sale of Surplus Assets		9	17
<u>Payments</u>			
Expenditure on Renewal/Replacement of Assets		(12,337)	(7,823)
Expenditure on New/Upgraded Assets		(4,839)	(5,372)
Net cash provided (or used in) investing activities		<u>(13,859)</u>	<u>(10,165)</u>
Cash flows from financing activities			
<u>Payments</u>			
Repayments of Borrowings		–	(5,000)
Repayment of Lease Liabilities		(400)	(336)
Repayment of Aged Care Facility Deposits		(76)	(192)
Net Cash provided by (or used in) Financing Activities		<u>(476)</u>	<u>(5,528)</u>
Net Increase (Decrease) in Cash Held		<u>(1,428)</u>	<u>(3,081)</u>
plus: Cash & Cash Equivalents at beginning of period		<u>(4,563)</u>	<u>(1,482)</u>
Cash and cash equivalents held at end of period	11a	<u>(5,991)</u>	<u>(4,563)</u>

Additional Information:

The above Statement of Cash Flows should be read in conjunction with the accompanying notes.

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Contents of the Notes accompanying the General Purpose Financial Statements

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Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 1. Summary of Significant Accounting Policies

The principal accounting policies adopted by Council in the preparation of these consolidated financial statements are set out below.

These policies have been consistently applied to all the years presented, unless otherwise stated.

(1) Basis of Preparation

1.1 Compliance with Australian Accounting Standards

This general purpose financial report has been prepared on a going concern basis using the historical cost convention in accordance with Australian Accounting Standards as they apply to not-for-profit entities, other authoritative pronouncements of the Australian Accounting Standards Board, Interpretations and relevant South Australian legislation.

The financial report was authorised for issue by certificate under regulation 14 of the *Local Government (Financial Management) Regulations 2011* dated 30 April 2022.

1.2 Critical Accounting Estimates

The preparation of financial statements in conformity with Australian Accounting Standards requires the use of certain critical accounting estimates and requires management to exercise its judgement in applying Council's accounting policies.

The areas involving a higher degree of judgement or complexity, or areas where assumptions and estimates are significant to the financial statements are specifically referred to in the relevant sections of these Notes.

1.3 Rounding

All amounts in the financial statements have been rounded to the nearest thousand dollars (\$'000).

1.4 Estimates and assumptions

COVID-19 is not expected to have a material financial impact on Council operations. It is expected that there may be some minor financial impacts flowing into the 2022-23 financial year but these have been largely taken into account during the development of the budget process for 2022-23. The budget for 2022-23 assumes that no further restrictions will be put in place by the Government. However, Council has determined that there is no material uncertainty that casts doubt on Council's ability to continue as a going concern.

(2) The Local Government Reporting Entity

Adelaide Hills Council is incorporated under the South Australian Local Government Act 1999 and has its principal place of business at 63 Mount Barker Road, Stirling. These financial statements include the Council's direct operations and all entities through which Council controls resources to carry on its functions. In the process of reporting on the Council as a single unit, all transactions and balances between activity areas and controlled entities have been eliminated.

Other entities in which Council has an interest but does not control are reported in Note 19.

(3) Income Recognition

Income Recognition

Income is measured at the fair value of the consideration received or receivable. Income is recognised when the Council obtains control over the assets comprising the income, or when the amount due constitutes an enforceable debt, whichever first occurs.

The Council recognises revenue under *AASB 1058 Income of Not-for-Profit Entities* (AASB 1058) or *AASB 15 Revenue from Contracts with Customers* (AASB 15) when appropriate.

In cases where there is an 'enforceable' contract with a customer with 'sufficiently specific' performance obligations, the transaction is accounted for under AASB 15 where income is recognised when (or as) the performance obligations are satisfied (i.e. when it transfers control of a product or service to a customer). Revenue is measured based on the consideration to which the Council expects to be entitled in a contract with a customer.

In other cases, AASB 1058 applies when a not-for-profit (NFP) entity enters into transactions where the consideration to acquire an asset is significantly less than the fair value of the asset principally to enable the entity to further its objectives. The excess of the asset recognised (at fair value) over any 'related amounts' is recognised as income immediately, except in the case

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 1. Summary of Significant Accounting Policies (continued)

where a financial asset has been received to enable the council to acquire or construct a recognisable non-financial asset that is to be controlled by the council. In this case, the council recognises the excess as a liability that is recognised over time in profit and loss when (or as) the entity satisfies its obligations under the transfer.

In recent years the payment of untied financial assistance grants has varied from the annual allocation as shown in the table below:

	Cash Payment Received	Annual Allocation	Difference
2019-20	\$1,640,046	\$1,564,152	+\$75,894
2020-21	\$1,516,052	\$1,581,658	-\$65,606
2021-22	\$2,304,241	\$1,661,744	+\$642,497

Because these grants are untied, the Australian Accounting Standards require that payments be recognised upon receipt. Accordingly, the operating results of these periods have been distorted compared to those that would have been reported had the grants been paid in the year to which they were allocated.

The Operating Surplus Ratio disclosed in Note 15 has also been calculated after adjusting for the distortions resulting from the differences between the actual grants received and the grants entitlements allocated.

Construction Contracts

Construction works undertaken by Council for third parties are generally on an agency basis where the third party reimburses Council for actual costs incurred, and usually do not extend beyond the reporting period. Reimbursements not received are recognised as receivables and reimbursements received in advance are recognised as "payments received in advance".

For works undertaken on a fixed price contract basis, revenues are recognised over time using the input method, with costs incurred compared to total expected costs used as a measure of progress. When it is probable that total contract costs will exceed total contract revenue, the expected loss is recognised as an expense immediately.

(4) Cash, Cash Equivalents and other Financial Instruments

Cash Assets include all amounts readily convertible to cash on hand at Council's option with an insignificant risk of changes in value with a maturity of three months or less from the date of acquisition.

Receivables for rates and annual charges are secured over the subject land, and bear interest at rates determined in accordance with the Local Government Act 1999. Other receivables are generally unsecured and do not bear interest.

All receivables are reviewed as at the reporting date and adequate allowance made for amounts the receipt of which is considered doubtful.

All financial instruments are recognised at fair value at the date of recognition, except for trade receivables from a contract with a customer, which are measured at the transaction price. A detailed statement of the accounting policies applied to financial instruments forms part of Note 13.

(5) Inventories

Inventories held in respect of stores have been valued by using the weighted average cost on a continual basis, after adjustment for loss of service potential. Inventories held in respect of business undertakings have been valued at the lower of cost and net realisable value.

5.1 Real Estate Assets Developments

Real Estate Assets developments have been classified as Inventory in accordance with AASB 102 and are valued at the lower of cost or net realisable value. Cost includes the costs of acquisition, development, borrowing and other costs incurred on financing of that acquisition and up to the time of sale. Any amount by which cost exceeds the net realisable value has been recognised as an expense.

Revenues arising from the sale of property are recognised in the operating statement when settlement is completed.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 1. Summary of Significant Accounting Policies (continued)

5.2 Other Real Estate Held for Resale

Properties not acquired for development, but which Council has decided to sell as surplus to requirements, are recognised at the carrying value at the time of that decision.

Certain properties, auctioned for non-payment of rates in accordance with the Local Government Act but which failed to meet the reserve set by Council and are available for sale by private treaty, are recorded at the lower of the unpaid rates and charges at the time of auction or the reserve set by Council. Holding costs in relation to these properties are recognised as an expense when incurred.

(6) Infrastructure, Property, Plant & Equipment

6.1 Initial Recognition

All assets are initially recognised at cost. For assets acquired at no cost or for nominal consideration, cost is determined as fair value at the date of acquisition.

All non-current assets purchased or constructed are capitalised as the expenditure is incurred and depreciated as soon as the asset is held "ready for use". Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition, including architects' fees and engineering design fees and all other costs incurred. The cost of non-current assets constructed by the Council includes the cost of all materials used in construction, direct labour on the project and an appropriate proportion of variable and fixed overhead.

6.2 Materiality

Assets with an economic life in excess of one year are only capitalised where the cost of acquisition exceeds materiality thresholds established by Council for each type of asset. In determining (and in annually reviewing) such thresholds, regard is had to the nature of the asset and its estimated service life.

Examples of capitalisation thresholds applied during the year are given below. No capitalisation threshold is applied to the acquisition of land or interests in land.

Furniture & Fittings and Plant & Equipment for Retirement Villages	\$1,000
Office Furniture & Fittings	\$3,000
Other Plant & Equipment	\$3,000
Building Fixture and Fittings	\$5,000
Building Structures	\$5,000
Paving & Footpaths, Kerb & Gutter	\$5,000
Road construction & reconstruction	\$5,000
Stormwater, Gravity mains and Culverts	\$5,000
All Other Assets	\$5,000
Artworks	\$5,000

6.3 Subsequent Recognition

All material asset classes are revalued on a regular basis such that the carrying values are not materially different from fair value. Significant uncertainties exist in the estimation of fair value of a number of asset classes including land, buildings and associated structures and infrastructure. Further detail of these uncertainties, and of existing valuations, methods and valuers are provided at Note 7.

6.4 Depreciation of Non-Current Assets

Other than land, all infrastructure, property, plant and equipment assets recognised are systematically depreciated over their useful lives on a straight-line basis which, in the opinion of Council, best reflects the consumption of the service potential embodied in those assets.

Depreciation methods, useful lives and residual values of classes of assets are reviewed annually.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 1. Summary of Significant Accounting Policies (continued)

Major depreciation periods for each class of asset are listed below. Depreciation periods for infrastructure assets have been estimated based on the best information available to Council, but appropriate records covering the entire life cycle of these assets are not available, and extreme care should be used in interpreting financial information based on these estimates.

Plant, Furniture & Equipment

Office Furniture and Equipment	5 to 10 years
Vehicles and Heavy Plant	8 to 16 years
Other Plant & Equipment	5 to 10 years

Building & Other Structures

Buildings – masonry	50 to 100 years
Buildings – other construction	20 to 40 years
Benches, seats, etc	10 to 20 years
Park Structures – masonry	50 to 100 years
Park Structures – other construction	20 to 40 years
Playground equipment	5 to 15 years

Infrastructure

Bores	20 to 40 years
Bridges	80 to 100 years
Culverts	50 to 75 years
CWMS Pipes	70 to 80 years
Dams and Lagoons	80 to 100 years
Flood Detention Systems	80 to 100 years
Irrigation Pipes and Systems	25 to 75 years
Paving & Footpaths, Kerb & Gutter	40 to 100 years
Pumps & Telemetry	15 to 25 years
Road Pavement	65 to 180 years
Sealed Roads – Surface	15 to 25 years
Stormwater and Gravity Mains	80 to 100 years
Unsealed Roads	10 to 20 years

Other Assets

Artworks	indefinite
Right-of-Use Assets	2 to 5 years

6.5 Impairment

Assets whose future economic benefits are not dependent on the ability to generate cash flows, and where the future economic benefits would be replaced if Council were deprived thereof, are not subject to impairment testing.

Other assets that are subject to depreciation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount (which is the higher of the present value of future cash inflows or value in use).

Where an asset that has been revalued is subsequently impaired, the impairment is first offset against such amount as stands to the credit of that class of assets in Asset Revaluation Reserve, any excess being recognised as an expense.

6.6 Borrowing Costs

Borrowing costs in relation to qualifying assets (net of offsetting investment revenue) have been capitalised in accordance with AASB 123 "Borrowing Costs". The amounts of borrowing costs recognised as an expense or as part of the carrying amount of qualifying assets are disclosed in Note 3, and the amount (if any) of interest revenue offset against borrowing costs in Note 2.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 1. Summary of Significant Accounting Policies (continued)

(7) Payables

7.1 Goods & Services

Creditors are amounts due to external parties for the supply of goods and services and are recognised as liabilities when the goods and services are received. Creditors are normally paid 30 days after the month of invoice. No interest is payable on these amounts.

7.2 Payments Received in Advance & Deposits

Amounts other than grants received from external parties in advance of service delivery, and security deposits held against possible damage to Council assets, are recognised as liabilities until the service is delivered or damage reinstated, or the amount is refunded as the case may be.

(8) Borrowings

Borrowings are initially recognised at fair value, net of transaction costs incurred and are subsequently measured at amortised cost. Any difference between the proceeds (net of transaction costs) and the redemption amount is recognised in the income statement over the period of the borrowings using the effective interest method.

Borrowings are carried at their principal amounts which represent the present value of future cash flows associated with servicing the debt. Interest is accrued over the period to which it relates, and is recorded as part of "Payables"

(9) Employee Benefits

9.1 Salaries, Wages & Compensated Absences

Liabilities for employees' entitlements to salaries, wages and compensated absences expected to be paid or settled within 12 months of reporting date are accrued at nominal amounts (including payroll based oncosts) measured in accordance with AASB 119.

Liabilities for employee benefits not expected to be paid or settled within 12 months are measured as the present value of the estimated future cash outflows (including payroll based oncosts) to be made in respect of services provided by employees up to the reporting date. Present values are calculated using government guaranteed securities rates with similar maturity terms.

9.2 Superannuation

The Council makes employer superannuation contributions in respect of its employees to the Statewide Superannuation Scheme. The Scheme has two types of membership, each of which is funded differently. Details of the accounting policies applied and Council's involvement with the schemes are reported in Note 18.

(10) Provisions for Reinstatement, Restoration and Rehabilitation

Close down and restoration costs include the dismantling and demolition of infrastructure and the removal of residual materials and remediation and rehabilitation of disturbed areas. Estimated close down and restoration costs are provided for in the accounting period when the obligation arising from the related disturbance occurs and are carried at the net present value of estimated future costs.

Although estimated future costs are based on a closure plan, such plans are based on current environmental requirements which may change. Council's policy to maximise recycling is extending the operational life of these facilities, and significant uncertainty exists in the estimation of the future closure date.

(11) Leases

Accounting policy applicable from 01 July 2019

The Council assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

11.1 Council as a lessee

The Council recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 1. Summary of Significant Accounting Policies (continued)

i) Right-of-Use-Assets

The Council recognises right-of-use assets at the commencement date of the lease. Right-of-use assets are measured at cost, less any accumulated depreciation and impairment losses, and adjusted for any remeasurement of lease liabilities. The cost of right-of-use assets includes the amount of lease liabilities recognised, initial direct costs incurred, lease payments made at or before the commencement date less any lease incentives received and the estimate of costs to be incurred to restore the leased asset. Right-of-use assets are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

Computers & IT Equipment	3 to 5 years
Building Occupancy	Up to 3 years

The right-of-use assets are also subject to impairment. Refer to the accounting policies above - Impairment of non-financial assets.

ii) Lease Liabilities

At the commencement date of the lease, the Council recognises lease liabilities measured at the present value of lease payments to be made over the lease term. In calculating the present value of lease payments, the Council uses its incremental borrowing rate or the interest rate implicit in the lease.

iii) Short-term leases and leases of low-value assets

The Council applies the short-term lease recognition exemption to its short-term leases of machinery and equipment (i.e., those leases that have a lease term of 12 months or less from the commencement date). It also applies the low-value assets recognition exemption to leases of office equipment that are considered to be low value. Lease payments on short-term leases and leases of low-value assets are recognised as expense on a straight-line basis over the lease term.

(12) Equity Accounted Council Businesses

Council participates in cooperative arrangements with other Councils for the provision of services and facilities. Council's interests in cooperative arrangements, which are only recognised if material, are accounted for in accordance with AASB 128 and set out in detail in Note 19.

(13) GST Implications

In accordance with UIG Abstract 1031 "Accounting for the Goods & Services Tax"

- Receivables and Creditors include GST receivable and payable.
- Except in relation to input taxed activities, revenues and operating expenditures exclude GST receivable and payable.
- Non-current assets and capital expenditures include GST net of any recoupment.
- Amounts included in the Statement of Cash Flows are disclosed on a net basis.

(14) New accounting standards and UIG interpretations

In the current year, Council adopted where relevant, all of the new and revised Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that are relevant to its operations and effective for the current reporting period. The adoption of the new and revised Standards and Interpretations has not resulted in any material changes to Council's accounting policies.

(15) Comparative Figures

To ensure comparability with the current reporting period's figures, some comparative period line items and amounts may have been reclassified or individually reported for the first time within these financial statements and/or the notes.

(16) Disclaimer

Nothing contained within these statements may be taken to be an admission of any liability to any person under any circumstance.

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 2. Income

\$ '000	2022	2021
(a) Rates		
General Rates		
General Rates	39,123	37,495
Less: Mandatory Rebates	(300)	(288)
Less: Discretionary Rebates, Remissions & Write Offs	(274)	(118)
Total General Rates	38,549	37,089
Other Rates (Including Service Charges)		
Community Wastewater Management Systems	1,676	1,777
Landscape Levy	970	958
Separate & Special Rates	5	5
Stirling Business Association Separate Rate	97	95
Total Other Rates (Including Service Charges)	2,748	2,835
Other Charges		
Penalties for Late Payment	204	186
Legal & Other Costs Recovered	3	–
Total Other Charges	207	186
Total Rates	41,504	40,110
(b) Statutory Charges		
Animal Registration Fees & Fines	465	454
Development Act Fees	731	774
Health & Septic Tank Inspection Fees	101	127
Other Licences, Fees & Fines	31	27
Parking Fines / Expiation Fees	36	30
Searches	66	77
Total Statutory Charges	1,430	1,489
(c) User Charges		
Cemetery Fees	418	322
Community Centres	97	94
Lobethal Woollen Mill Precinct	142	137
Retirement Villages	32	34
Sundry	195	118
Total User Charges	884	705
(d) Investment Income		
Interest on Investments		
- Local Government Finance Authority	1	1
- Banks & Other	4	7
Unwinding of Premiums & Discounts	54	14
Total Investment Income	59	22

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 2. Income (continued)

\$ '000	2022	2021
(e) Reimbursements		
Lobethal Woollen Mill Precinct	172	192
Other Properties	13	19
Private Works	11	7
Other	1	17
<u>Total Reimbursements</u>	<u>197</u>	<u>235</u>
(f) Other income		
Insurance & Other Recoupments - Infrastructure, IPP&E	309	224
Insurance & Other Recoupments - Bushfire Events	–	175
Sundry	274	238
<u>Total Other income</u>	<u>583</u>	<u>637</u>
(g) Grants, Subsidies, Contributions		
Amounts Received Specifically for New or Upgraded Assets	1,905	1,108
Total Amounts Received Specifically for New or Upgraded Assets	<u>1,905</u>	<u>1,108</u>
Annual		
Community Home Support Program Grants	953	957
Community Wastewater Management Systems Contributions	37	113
Library and Communications	273	289
Roads to Recovery	699	699
Sundry	288	316
Supplementary Local Roads Funding	344	–
Untied - Financial Assistance Grant	2,304	1,516
Ad hoc / One Off		
Community Recovery Grants	36	177
Community Resilience Grants	186	83
Local Roads & Community Infrastructure Program	1,410	1,489
Natural Disaster Recovery Funding	–	2,532
Open Space Biodiversity Grants	371	48
Sport & Recreation Community Facilities Grants	766	–
<u>Total Other Grants, Subsidies and Contributions</u>	<u>7,667</u>	<u>8,219</u>
<u>Total Grants, Subsidies, Contributions</u>	<u>9,572</u>	<u>9,327</u>

The functions to which these grants relate are shown in Note 12.

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Note 2. Income (continued)

\$ '000	2022	2021
(i) Sources of grants		
Commonwealth Government	6,405	5,003
State Government	2,544	4,175
Other	623	149
Total	<u>9,572</u>	<u>9,327</u>
(ii) Individually Significant Items		
Grant Commission (FAG) Grant received in advance recognised as Income	1,488	846
 (h) Physical Resources Received Free of Charge		
Land & Improvements	4,072	1,884
Total Physical Resources Received Free of Charge	<u>4,072</u>	<u>1,884</u>

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 3. Expenses

\$ '000	Notes	2022	2021
(a) Employee costs			
Salaries and Wages		15,071	15,261
Employee Leave Expense		2,907	2,348
Superannuation - Defined Contribution Plan Contributions	18	1,589	1,361
Superannuation - Defined Benefit Plan Contributions	18	216	224
Personal Income Protection Insurance		302	260
Workers' Compensation Insurance		475	423
Other Employee Related Costs		729	285
Less: Capitalised and Distributed Costs		(1,681)	(1,518)
Total Operating Employee Costs		19,608	18,644
Total Number of Employees (full time equivalent at end of reporting period)		199	197
(b) Materials, Contracts and Other Expenses			
(i) Materials, Contracts and Expenses			
Bank Fees		89	88
Contractors		4,351	4,190
Contractors - Bushfire Recovery		-	1,609
Contractors - Cleaning		329	356
Contractors - Tree Management		975	864
Contributions & Donations		785	742
Contract Labour		587	601
Energy		451	510
Grant Related Expenditure		452	120
Gumeracha PLEC Contribution		-	563
Heathfield High School Contribution		1,123	75
Insurance		712	630
Landfill Remediation		739	321
Legal Expenses		183	186
Levies - Other		232	309
Levies Paid to Government - Landscape Levy		968	959
Licencing - ICT		775	618
Pandemic Response		21	151
Parts, Accessories & Consumables		2,064	1,974
Professional Services		66	86
Return of LGA CWMS Contribution		348	-
Stirling Business Association		95	95
Sundry		409	398
Telephone (incl data)		293	269
Water		221	198
Waste		4,461	4,450
Work-in-Progress Write-off		230	278
Less: Capitalised and Distributed Costs		(87)	(86)
Subtotal - Material, Contracts & Expenses		20,872	20,554

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 3. Expenses (continued)

\$ '000	2022	2021
(ii) Prescribed Expenses		
Auditor's Remuneration		
- Auditing the Financial Reports	24	22
- Other Auditors	23	35
Elected Members' Expenses	456	428
Election Expenses	13	13
Lease Expense - Low Value Assets / Short Term Leases	127	49
Subtotal - Prescribed Expenses	643	547
Total Materials, Contracts and Other Expenses	21,515	21,101

(c) Depreciation, Amortisation and Impairment

Depreciation and Amortisation

Buildings	1,082	1,113
Infrastructure		
- Bridges	293	282
- Cemeteries	33	30
- Community Wastewater Management Systems	411	397
- Footpaths	338	322
- Guardrails	99	86
- Kerb & Gutter	528	402
- Playgrounds	100	87
- Retaining Walls	169	163
- Roads	4,334	4,201
- Sport & Recreation	324	330
- Stormwater	591	461
- Street Furniture	86	94
- Traffic Controls	36	26
Right-of-use Assets	402	341
Plant & Equipment	928	1,052
Furniture & Fittings	66	64
Total Depreciation, Amortisation and Impairment	9,820	9,451

(d) Finance Costs

Interest on Overdraft and Short-Term Drawdown	60	30
Interest on Loans	230	568
Charges on Finance Leases	16	17
Total Finance Costs	306	615

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Note 4. Asset Disposal & Fair Value Adjustments

\$ '000	2022	2021
Infrastructure, Property, Plant & Equipment		
(i) Assets Renewed or Directly Replaced		
Proceeds from Disposal	756	604
Less: Carrying Amount of Assets Sold or Disposed of	(2,367)	(2,415)
Gain (Loss) on Disposal	(1,611)	(1,811)
(ii) Assets Surplus to Requirements		
Proceeds from Disposal	9	17
Less: Carrying Amount of Assets Sold or Disposed of	-	(57)
Less: Other Amounts Relating to the Sale of Surplus Assets	(91)	(1)
Gain (Loss) on Disposal	(82)	(41)
Fair Value Adjustments		
Revaluation Decrements Expensed	-	(193)
Total Fair Value Adjustments	-	(193)
Net Gain (Loss) on Disposal or Revaluation of Assets	(1,693)	(2,045)

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 5. Current Assets

\$ '000	2022	2021
(a) Cash & Cash Equivalent Assets		
Cash on Hand at Bank	2,845	269
Short Term Deposits	370	368
<u>Total Cash & Cash Equivalent Assets</u>	<u>3,215</u>	<u>637</u>

(b) Trade & Other Receivables

Rates - General & Other	1,714	1,535
Council Rates Postponement Scheme	165	129
Accrued Revenues	262	51
Debtors - General	269	56
Other Levels of Government	-	836
GST Recoupment	463	336
Prepayments	152	282
<u>Total Trade & Other Receivables</u>	<u>3,025</u>	<u>3,225</u>

(c) Inventories

Stores & Materials	32	23
<u>Total Inventories</u>	<u>32</u>	<u>23</u>

Note 6. Non-Current Assets

\$ '000	Notes	2022	2021
Equity Accounted Investments in Council Businesses			
Gawler River Floodplain Management Authority (GRFMA)	19i	1,054	993
Eastern Waste Management Authority (EWMA)	19i	121	241
Adelaide Hills Regional Waste Management Authority (AHRWMA)	19i	1,241	1,108
<u>Total Equity Accounted Investments in Council Businesses</u>		<u>2,416</u>	<u>2,342</u>

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Note 7. Infrastructure, Property, Plant & Equipment

(a(i)) Infrastructure, Property, Plant & Equipment

\$ '000	Fair Value Level	as at 30/06/21				Asset movements during the reporting period												as at 30/06/22				
		At Fair Value	At Cost	Accumulated Depreciation	Carrying amount	Asset Additions New / Upgrade	Asset Additions Renewals	WDV of Asset Disposals	Depreciation Expense (Note 3c)	Impairment Loss (recognised in Equity) (Note 9)	WIP Transfers	Adjustments & Transfers	Other Physical Resources Free of Charge	RoU Additions	Revaluation Decrements to P&L (Note 4)	Revaluation Decrements to Equity (ARR) (Note 9)	Revaluation Increments to Equity (ARR) (Note 9)	At Fair Value	At Cost	Accumulated Depreciation	Carrying amount	
Capital Work in Progress		-	4,051	-	4,051	4,839	12,337	-	-	(15,263)	(230)	-	-	-	-	-	-	-	-	5,733	-	5,733
Land - Community	3	87,922	-	-	87,922	-	-	-	-	11	-	-	-	-	-	-	47	87,980	-	-	87,980	
Buildings	3	65,569	-	(26,299)	39,270	-	-	(511)	(1,082)	2,357	35	-	-	-	(1,021)	-	62,977	-	(23,928)	39,049		
Infrastructure																						
- Bridges	3	21,615	-	(12,111)	9,504	-	-	-	(293)	68	-	-	-	-	(223)	-	21,351	-	(12,296)	9,055		
- Cemeteries	3	1,977	-	(954)	1,023	-	-	(20)	(33)	-	-	-	-	-	(6)	-	1,934	-	(969)	965		
- Community Wastewater Management Systems	3	21,065	-	(6,938)	14,127	-	-	(33)	(411)	127	-	46	-	-	-	45	21,036	-	(7,135)	13,901		
- Footpaths	3	16,399	-	(6,747)	9,652	-	-	(237)	(338)	2,608	-	1,036	-	-	-	-	19,468	-	(6,747)	12,721		
- Guardrails	3	5,063	-	(1,326)	3,737	-	-	(85)	(99)	56	-	-	-	-	-	54	5,040	-	(1,378)	3,662		
- Kerb & Gutter	3	42,335	-	(18,834)	23,501	-	-	(112)	(528)	273	-	843	-	-	-	-	43,204	-	(19,227)	23,977		
- Playgrounds	3	2,168	-	(809)	1,359	-	-	(26)	(100)	-	-	-	-	-	-	-	2,070	-	(837)	1,233		
- Retaining Walls	3	12,598	-	(4,021)	8,577	-	-	-	(169)	116	-	609	-	-	(568)	-	12,242	-	(3,678)	8,564		
- Roads	3	272,570	-	(92,887)	179,683	-	-	(473)	(4,334)	3,133	-	28	-	-	(162)	-	272,069	-	(94,194)	177,875		
- Sport & Recreation	3	17,156	-	(9,835)	7,321	-	-	(156)	(324)	3,717	-	-	-	-	(43)	-	20,340	-	(9,826)	10,514		
- Stormwater	3	43,807	-	(13,560)	30,247	-	-	-	(591)	526	-	1,510	-	-	-	4,691	58,475	-	(22,091)	36,384		
- Street Furniture	3	2,716	-	(957)	1,759	-	-	(157)	(86)	150	(2)	-	-	-	-	-	2,538	-	(872)	1,666		
- Traffic Controls	3	2,030	-	(577)	1,453	-	-	-	(36)	-	-	-	-	-	-	-	2,030	-	(613)	1,417		
- Other Infrastructure	3	-	2,196	(628)	1,568	-	-	-	-	-	-	-	-	-	-	-	-	2,196	(628)	1,568		
Right-of-Use Assets		-	1,294	(554)	740	-	-	-	(402)	-	-	-	227	-	-	-	-	1,521	(956)	565		
Plant & Equipment		-	12,757	(5,063)	7,694	-	-	(557)	(928)	2,055	(35)	-	-	-	-	-	-	13,615	(5,387)	8,228		
Furniture & Fittings		-	626	(222)	404	-	-	-	(66)	66	-	-	-	-	-	-	-	692	(288)	404		
Total Infrastructure, Property, Plant & Equipment		614,990	20,924	(202,322)	433,592	4,839	12,337	(2,367)	(9,820)	-	-	(232)	4,072	227	-	(2,023)	4,837	632,754	23,757	(211,050)	445,461	
Comparatives		591,609	23,239	(192,103)	422,745	5,372	7,823	(2,472)	(9,451)	-	-	(278)	1,884	353	(193)	(1,665)	9,476	614,990	20,924	(202,322)	433,592	

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 7. Infrastructure, Property, Plant & Equipment (continued)

(b) Valuation of Infrastructure, Property, Plant & Equipment

Valuation of Assets

The fair value of assets and liabilities must be estimated in accordance with various Accounting Standards for either recognition and measurement requirements or for disclosure purposes.

AASB 13 Fair Value Measurement requires all assets and liabilities measured at fair value to be assigned to a "level" in the fair value hierarchy as follows:

Level 1: Unadjusted quoted prices in active markets for identical assets or liabilities that the entity can access at the measurement date.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Inputs for the asset or liability that are not based on observable market data (unobservable inputs).

Refer to Note 7a for the disclosure of the Fair Value Levels of Infrastructure, Property, Plant and Equipment Assets.

Information on Valuations

Valuations of Crown land, community land and land subject to other restrictions on use or disposal, shown above as being based on fair value hierarchy level 3 valuation inputs, are based on prices for similar assets in an active market, but include adjustments for specific advantages or disadvantages attaching to the particular asset that are not directly or indirectly observable in that market, or the number and / or amount of observable adjustments of which are so great that the valuation is more fairly described as being based on level 3 valuation inputs.

There is no known market for buildings, infrastructure and other assets. These assets are valued at depreciated current replacement cost. This method involves:

- The determination of the cost to construct the asset (or its modern engineering equivalent) using current prices for materials and labour, the quantities of each being estimated based on recent experience of this or similar Councils, or on industry construction guides where these are more appropriate.
- The calculation of the depreciation that would have accumulated since original construction using current estimates of residual value and useful life under the prime cost depreciation method adopted by Council.

This method has significant inherent uncertainties, relying on estimates of quantities of materials and labour, residual values and useful lives, and the possibility of changes in prices for materials and labour, and the potential for development of more efficient construction techniques.

Other Information

At 1 July 2004 upon the transition to AIFRS, Council elected pursuant to AASB 1.D5 to retain a previously established deemed cost under GAAP as its deemed cost. With subsequent addition at cost, this remains as the basis of recognition of non-material asset classes.

Upon revaluation, the current new replacement cost and accumulated depreciation are re-stated such that the difference represents the fair value of the asset determined in accordance with AASB 13 Fair Value Measurement: accumulated depreciation is taken to be the difference between current new replacement cost and fair value. In the case of land, current replacement cost is taken to be the fair value.

Highest and best use

All of Council's non financial assets are considered as being utilised for their highest and best use.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 7. Infrastructure, Property, Plant & Equipment (continued)

Transition to AASB 13 - Fair Value Measurement

The requirements of AASB 13 Fair Value Measurement have been applied to all valuations undertaken since 1 July 2013 as shown by the valuation dates by individual asset classes below.

Land & Land Improvements

Council being of the opinion that it is not possible to attribute value sufficiently reliably to qualify for recognition, land under roads has not been recognised in these reports.

Land - Level 3: Crown Land which is subject to restriction for its use or sale has been valued by Council officers based on the Valuer General's site values as at 1 January 2018 less allowances for the restriction on sale (requiring Ministerial consent) which are unobservable inputs that have a significant effect on valuation.

Buildings & Other Structures

- Basis of valuation: Fair Value
- Date of valuation: 1 July 2017
- Valuer: APV Valuers & Asset Management

Council discloses Buildings as a separate class of Infrastructure Assets for the purposes of AASB 13 Fair Value Measurement, and the level of fair value hierarchy to be Level 3, as no relevant observable inputs (Markets) are available.

- There were no assets valued where it was considered that the highest and best use was other than its current use.
- Since the detailed valuation undertaken at 1 July 2017, valuations have been updated annually by Council Officers at depreciated current replacement cost based on Australia Bureau of Statistics Time Series data, Tables 17 (Construction Industries) movements specific to Adelaide for the period since valuation to July 2021.

Infrastructure

Council discloses Infrastructure Assets for the purpose of AASB 13 Fair Value Measurement as level 3 as no relevant observable inputs (markets) are available.

- There were no assets valued where it was considered that the highest and best use was other than its current use.

Bridges

- Basis of valuation: Valuation was undertaken using modern equivalent asset principles as per the International Infrastructure Management Manual (IIMM 6th edition, 2020) and included a condition audit
- Date of valuation: June 2021
- Valuer: ARRB Group

Community Wastewater Management Systems (CWMS)

- Basis of valuation: Fair Value
- Date of valuation: 1 July 2017 noting that effective date of valuation as per APV Valuers is 30 June 2017
- Valuer: APV Valuers & Asset Management
- Since the detailed valuation undertaken at 1 July 2017, valuations have been updated annually by Council Officers at depreciated current replacement cost based on Australia Bureau of Statistics Time Series data, Table 17 (Construction Industries) movements specific to Adelaide for the period since valuation to July 2021.

Footpaths & Retaining Walls

- Valuations were derived as at June 2019 referencing individual rates in Rawlinsons and Council Contracts to determine an overall rate for Council assets including footpaths and retaining walls by Steve Walker, Principal, Asset Engineering.
- Footpath rates were established by using rates from Council's schedule of rates contract to establish rates for brick paved, asphaltic concrete and concrete.
- Retaining Wall rates were established by using rates from Rawlinsons for retaining walls on a square metre basis for differing heights and referenced against Council's actual constructions in previous years
- Since the detailed valuation undertaken at June 2019, valuations have been updated by Council Officers at depreciated current replacement cost based on Australia Bureau of Statistics Time Series data, Table 17 (Construction Industries) movements specific to Adelaide for the period since valuation to July 2021.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 7. Infrastructure, Property, Plant & Equipment (continued)

Kerb & Gutter and Guardrails (safety barriers)

- Valuations were derived as at June 2020 referencing individual rates in Rawlinsons and Council Contracts to determine an overall rate for Council assets for kerb & gutter and safety barriers including guard rails by Steve Walker, Principal, Asset Engineering.
- Rates from Councils 2018 schedule of rates contract have been used to establish rates for barrier kerb, semi mountable, pinned semi mountable kerb with stone inlay. A BPI rate of 1.06 has been used to adjust rates from 2018 to 2020.
- Since the detailed valuation using unit rates undertaken at June 2020, valuations have been updated by Council Officers at depreciated current replacement cost based on Australia Bureau of Statistics Time Series data, Table 17 (Construction Industries) movements specific to Adelaide for the period since valuation to July 2021.

Roads

- Valuations were derived as at June 2019 referencing individual rates in Rawlinsons and Council Contracts to determine an overall rate for Council assets including road seal and road pavement by Steve Walker, Principal, Asset Engineering.
- Road Seals rates were established by using Council's recent contract rates for resealing which includes profiling, raising top stones, supply and laying of asphaltic concrete and supply and laying of spray seal
- Road Pavement rates were established by using rates from Rawlinsons applicable to the reconstruction of road pavements and compared against Council's actual costs
- During 2019-20 Council undertook a review of its sealed road components following an external review by Jeff Roorda, TechnologyOne, regarding components for road pavements. The assessment resulted in road pavement being componentised into a pavement base-course (layer immediately under the seal component) and a sub-base (bottom layer of road pavement). The base course layer retained the same useful life and the sub-base useful life was increased based on industry knowledge and standards. Given this useful life change, the sub-base was subsequently revalued from the asset construction date and hence the written down value of the assets adjusted downwards. As part of this process, the overall unit rate was also reallocated between the base-course and sub-base components.
- Since the detailed valuation using unit rates undertaken at June 2019, valuations have been updated by Council Officers at depreciated current replacement cost based on Australia Bureau of Statistics Time Series data, Table 17 (Construction Industries) movements specific to Adelaide for the period since valuation to July 2021.

Stormwater

- During 2021-22 extensive validation of stormwater asset data was undertaken to cross reference historic datasets and details contained within the asset register.
- Valuations were then derived at July 2021 based on this validated dataset. The valuation referenced individual unit rates in Rawlinson and Council contracts to determine an overall unit rate for Council stormwater assets including pits, pipes and culverts by Steve Walker, Principal, Asset Engineering Pty Ltd.
- Unit rates were derived for various pit types as per each unit rate.
- Unit rates per metre were determined for the various full range of standard pipes and culvert sizes.

Cemeteries, Playgrounds, Sport and Recreation Facilities (S&R), Street Furniture, Stormwater and Traffic Controls

- Valuations were performed by Council Officers at depreciated current replacement cost as at 30 June 2021 based on Australia Bureau of Statistics Time Series data, Tables 17 (Construction Industries) specific to Adelaide for July 2021.

Plant & Equipment

- Basis of valuation: Historic Cost

Furniture & Fittings

- Basis of valuation: Historic Cost

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 8. Liabilities

\$ '000	2022 Current	2022 Non Current	2021 Current	2021 Non Current
(a) Trade and Other Payables				
Goods & Services	4,172	–	3,894	–
Payments Received in Advance	2,989	–	2,360	–
Accrued Expenses - Employee Entitlements	925	–	652	–
Accrued Expenses - Other	1,044	–	231	–
Aged Care Facility Deposits	514	–	590	–
Deposits, Retentions & Bonds	7	–	7	–
<u>Total Trade and Other Payables</u>	<u>9,651</u>	<u>–</u>	<u>7,734</u>	<u>–</u>

\$ '000	Notes	2022 Current	2022 Non Current	2021 Current	2021 Non Current
(b) Borrowings					
Bank Overdraft		9,206	–	5,200	–
Loans		–	5,000	–	5,000
Lease Liabilities	17b	375	200	323	425
<u>Total Borrowings</u>		<u>9,581</u>	<u>5,200</u>	<u>5,523</u>	<u>5,425</u>

All interest bearing liabilities are secured over the future revenues of the Council

(c) Provisions

Employee Entitlements (including oncosts)	3,669	235	3,633	127
Future Reinstatement / Restoration, etc	403	1,516	330	1,400
<u>Total Provisions</u>	<u>4,072</u>	<u>1,751</u>	<u>3,963</u>	<u>1,527</u>

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 9. Reserves

\$ '000	as at 30/06/21		Transfers	Impairments	as at 30/06/22	
	Opening Balance	Increments (Decrements)			Closing Balance	
(a) Asset Revaluation Reserve						
Land - Community	60,767	47	–	–	60,814	
Buildings	31,801	(1,021)	–	–	30,780	
Infrastructure						
- Bridges	4,278	(223)	–	–	4,055	
- Cemeteries	2,208	(6)	–	–	2,202	
- Community Wastewater Management Systems	6,003	45	–	–	6,048	
- Footpaths	–	–	–	–	–	
- Guardrails	1,720	54	–	–	1,774	
- Kerb & Gutter	21,743	–	–	–	21,743	
- Playgrounds	124	–	–	–	124	
- Retaining Walls	5,519	(568)	–	–	4,951	
- Roads	114,820	(162)	–	–	114,658	
- Sport & Recreation	2,248	(43)	–	–	2,205	
- Stormwater	19,961	4,691	–	–	24,652	
- Street Furniture	1,040	–	–	–	1,040	
- Traffic Controls	557	–	–	–	557	
JV's / Associates - Other Comprehensive Income	228	–	–	–	228	
Total Asset Revaluation Reserve	273,017	2,814	–	–	275,831	
Comparatives	265,206	7,811	–	–	273,017	

\$ '000	as at 30/06/21		Tfrs to Reserve	Tfrs from Reserve	Other Movements	as at 30/06/22	
	Opening Balance					Closing Balance	
(b) Other Reserves							
Community Wastewater Management Systems	338	–	–	(338)	–	–	
Torrens Valley Community Centre	101	–	–	(8)	–	93	
Scott Creek Progress Association	6	–	–	(5)	–	1	
Significant Trees Reserve	3	2	–	–	–	5	
Total Other Reserves	448	2	–	(351)	–	99	
Comparatives	581	46	–	(179)	–	448	

Purposes of Reserves

Asset Revaluation Reserves

The asset revaluation reserve is used to record increments and decrements arising from changes in fair value of non current assets (less any subsequent impairment losses, where applicable).

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 10. Assets Subject to Restrictions

\$ '000	2022	2021
<p>The uses of the following assets are restricted, wholly or partially, by legislation or other externally imposed requirements. The assets are required to be utilised for the purposes for which control was transferred to Council, or for which the revenues were originally obtained.</p>		
Cash & Financial Assets		
Community Wastewater Management Systems Investigations	348	347
Total Cash & Financial Assets	348	347
Total Assets Subject to Externally Imposed Restrictions	348	347

Note 11. Reconciliation to Statement of Cash Flows

\$ '000	Notes	2022	2021
(a) Reconciliation of Cash			
<p>Cash Assets comprise highly liquid investments with short periods to maturity subject to insignificant risk of changes of value. Cash at the end of the reporting period as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:</p>			
Total Cash & Equivalent Assets	5	3,215	637
Less: Short-Term Borrowings	8	(9,206)	(5,200)
Balances per Statement of Cash Flows		(5,991)	(4,563)

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 11. Reconciliation to Statement of Cash Flows (continued)

\$ '000	Notes	2022	2021
(b) Reconciliation of Change in Net Assets to Cash from Operating Activities			
Net Surplus/(Deficit)		5,426	3,304
Non-Cash Items in Income Statements			
Depreciation, Amortisation & Impairment		9,820	9,451
Fair Value Adjustments		–	193
Equity Movements in Equity Accounted Investments (Increase)/Decrease		(67)	(751)
Premiums & Discounts Recognised & Unwound		(54)	(14)
Non-Cash Asset Acquisitions		(4,072)	(1,884)
Grants for capital acquisitions treated as Investing Activity		(1,905)	(1,108)
Net (Gain) Loss on Disposals		1,693	1,852
Other		(375)	293
		<u>10,466</u>	<u>11,336</u>
Add (Less): Changes in Net Current Assets			
Net (Increase)/Decrease in Receivables		200	(464)
Net (Increase)/Decrease in Inventories		(9)	(5)
Net Increase/(Decrease) in Trade & Other Payables		1,917	1,371
Net Increase/(Decrease) in Unpaid Employee Benefits		144	293
Net Increase/(Decrease) in Other Provisions		189	81
Net Cash provided by (or used in) operations		<u>12,907</u>	<u>12,612</u>
(c) Non-Cash Financing and Investing Activities			
Acquisition of assets by means of:			
Physical Resources Received Free of Charge	2h	4,072	1,884
Amounts recognised in Income Statement		<u>4,072</u>	<u>1,884</u>
Total Non-Cash Financing and Investing Activities		<u>4,072</u>	<u>1,884</u>

(d) Financing Arrangements

Unrestricted access was available at balance date to the following lines of credit:

Bank Overdrafts	200	200
Corporate Credit Cards	180	180
Asset Finance - Leasing	750	750
LGFA Cash Advance Debenture Facility	14,800	14,800
Westpac Bank Bill Business Loan	10,000	–

The bank overdraft facilities may be drawn at any time and may be terminated by the bank without notice.

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Note 12(a). Functions

Income, Expenses and Assets have been directly attributed to the following Functions / Activities.
Details of these Functions/Activities are provided in Note 12(b).

\$ '000	INCOME		EXPENSES		OPERATING SURPLUS (DEFICIT)		GRANTS INCLUDED IN INCOME		TOTAL ASSETS HELD (CURRENT & NON-CURRENT)	
	2022	2021	2022	2021	2022	2021	2022	2021	2022	2021
Functions/Activities										
Council	–	–	–	–	–	–	–	–	454,149	439,819
Community Capacity	1,970	4,783	7,424	9,324	(5,454)	(4,541)	1,698	4,317	–	–
Corporate Services	42,853	40,954	10,411	8,902	32,442	32,052	1,872	822	–	–
Infrastructure & Operations	6,198	4,943	29,476	27,881	(23,278)	(22,938)	4,059	3,043	–	–
Development & Regulatory Services	1,436	1,501	4,004	3,717	(2,568)	(2,216)	38	37	–	–
Total Functions/Activities	52,457	52,181	51,315	49,824	1,142	2,357	7,667	8,219	454,149	439,819

Revenues and expenses exclude net gain (loss) on disposal or revaluation of assets, amounts received specifically for new or upgraded assets and physical resources received free of charge.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 12(b). Components of Functions

The activities relating to Council functions are as follows:

COMMUNITY CAPACITY

Communications, Engagement & Events, Community Capacity Director's Office, Community Development, Community Programs, Community Resilience, Cultural Development, Customer Experience, Customer Service, Economic Development, FABRIK Arts and Heritage Hub, Library Services, Positive Ageing (Home and Social Support), Positive Ageing Project (Collaborative), The Summit Community Centre, Torrens Valley Community Centre, Volunteering and Youth Development.

CORPORATE SERVICES

Cemeteries, Corporate Services Director's Office, Financial Services, Governance & CEO Office, Information Services, Lobethal Woollen Mill Precinct, Organisational Development & Work Health & Safety, Property Management, Retirement Villages and Sport & Recreation.

INFRASTRUCTURE & OPERATIONS

Civil Services, Community Wastewater Management System (CWMS), Emergency Management, Infrastructure & Operations Director's Office, Open Space Biodiversity, Open Space Operations, Sustainability, Strategic Assets and Waste.

DEVELOPMENT & REGULATORY SERVICES

Animal Management, Development Assessment & Compliance, Development & Regulatory Services Director's Office, Fire Prevention, Parking and By-Laws, Policy Planning and Public Health.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 13. Financial Instruments

Recognised Financial Instruments

Bank, Deposits at Call, Short Term Deposits

Accounting Policy:

Initially recognised at fair value and subsequently measured at amortised cost; interest is recognised when earned.

Terms & Conditions:

Deposits are returning fixed interest rates between 1.05% and 1.35% (2021: 0.30% and 0.60%).

Carrying Amount:

Approximates fair value due to the short term to maturity.

Receivables - Rates & Associated Charges

Accounting Policy:

Initially recognised at fair value and subsequently measured at amortised cost. An impairment provision is recognised using the expected credit loss method.

Terms & Conditions:

Secured over the subject land, arrears attract interest of 5.05% (2021: 5.2%). Council is not materially exposed to any individual debtor, credit risk exposure is concentrated within the Council's boundaries in the State.

Carrying Amount:

Approximates fair value (after deduction of any allowance).

Receivables - Fees & Other Charges

Accounting Policy:

Initially recognised at fair value and subsequently measured at amortised cost. An impairment provision is recognised using the expected credit loss method.

Terms & Conditions:

Unsecured, and do not bear interest. Council is not materially exposed to any individual debtor, credit risk exposure is concentrated within the Council's boundaries.

Carrying Amount:

Approximates fair value (after deduction of any allowance).

Receivables - Other Levels of Government

Accounting Policy:

Initially recognised at fair value and subsequently measured at amortised cost. An impairment provision is recognised using the expected credit loss method.

Terms & Conditions:

Amounts due have been calculated in accordance with the terms and conditions of the respective programs following advice of approvals, and do not bear interest. All amounts are due by Departments and Agencies of State and Federal Governments.

Carrying Amount:

Approximates fair value.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 13. Financial Instruments (continued)

Receivables - Retirement Home Contributions**Accounting Policy:**

Initially recognised at fair value and subsequently measured at amortised cost. An impairment provision is recognised using the expected credit loss method.

Terms & Conditions:

Amounts due have been calculated in accordance with the terms and conditions of the respective legislation.

Carrying Amount:

Approximates fair value (after deduction of any allowance).

Liabilities - Creditors and Accruals**Accounting Policy:**

Liabilities are recognised for amounts to be paid in the future for goods and services received, whether or not billed to the Council.

Terms & Conditions:

Liabilities are normally settled on 30 day terms.

Carrying Amount:

Approximates fair value.

Liabilities - Retirement Home Contributions**Accounting Policy:**

To avoid inconvenience when complying with the separate audit requirements imposed by the relevant legislation, amounts are carried at nominal values.

Terms & Conditions:

Pursuant to Commonwealth legislation certain intending residents are required to contribute amounts on an interest free basis. The amounts are subject to certain deductions as prescribed by the legislation, the balance being repaid on termination of tenancy.

Carrying Amount:

Approximates fair value for short tenancies; may be non-materially overstated for longer tenancies.

Liabilities - Interest Bearing Borrowings**Accounting Policy:**

Initially recognised at fair value and subsequently at amortised cost using the effective interest rate.

Terms & Conditions:

Secured over future revenues. Borrowings are repayable upon maturity. Interest is charged at a fixed rate **4.6%** (2021: **4.6%**) and paid bi-annually.

Carrying Amount:

Approximates fair value.

Liabilities - Leases**Accounting Policy:**

Accounted for in accordance with AASB 16 as stated in Note 17.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 13. Financial Instruments (continued)

\$ '000	Due < 1 year	Due > 1 year & ≤ 5 years	Due > 5 years	Total Contractual Cash Flows	Carrying Values
Financial Assets and Liabilities					
2022					
Financial Assets					
Cash & Cash Equivalents	3,216	–	–	3,216	3,215
Receivables	2,874	–	–	2,874	2,873
Total Financial Assets	6,090	–	–	6,090	6,088
Financial Liabilities					
Payables	5,735	–	–	5,735	5,737
Current Borrowings	9,206	–	–	9,206	9,206
Non-Current Borrowings	230	5,460	–	5,690	5,000
Total Financial Liabilities	15,171	5,460	–	20,631	19,943
2021					
Financial Assets					
Cash & Cash Equivalents	635	–	–	635	637
Receivables	3,354	–	–	3,354	2,943
Total Financial Assets	3,989	–	–	3,989	3,580
Financial Liabilities					
Payables	4,726	–	–	4,726	4,722
Current Borrowings	5,537	–	–	5,537	5,200
Non-Current Borrowings	230	6,123	–	6,353	5,000
Total Financial Liabilities	10,493	6,123	–	16,616	14,922

The following interest rates were applicable to Council's Borrowings at balance date:

\$ '000	2022		2021	
	Weighted Avg Interest Rate	Carrying Value	Weighted Avg Interest Rate	Carrying Value
Overdraft	1.10%	9,206	1.68%	5,200
Fixed Interest Rates	4.60%	5,575	4.60%	5,425
		14,781		10,625

Net Fair Value

All carrying values approximate fair value for all recognised financial instruments. There is no recognised market for the financial assets of the Council.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 13. Financial Instruments (continued)

Risk Exposures

Credit Risk represents the loss that would be recognised if counterparties fail to perform as contracted. The maximum credit risk on financial assets of the Council is the carrying amount, net of any impairment. All Council investments are made with the SA Local Government Finance Authority and NAB. Except as detailed in Notes 5 & 6 in relation to individual classes of receivables, exposure is concentrated within the Council's boundaries, and there is no material exposure to any individual debtor.

Market Risk is the risk that fair values of financial assets will fluctuate as a result of changes in market prices. All of Council's financial assets are denominated in Australian dollars and are not traded on any market, and hence neither market risk nor **currency risk** apply.

Liquidity Risk is the risk that Council will encounter difficulty in meeting obligations with financial liabilities. In accordance with the model Treasury Management Policy (LGA Information Paper 15), liabilities have a range of maturity dates. Council also has available a range of bank overdraft and standby borrowing facilities that it can access.

Interest Rate Risk is the risk that future cash flows will fluctuate because of changes in market interest rates. Council has a balance of both fixed and variable interest rate borrowings and investments. Cash flow fluctuations are managed holistically in seeking to minimise interest costs over the longer term in a risk averse manner.

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Note 14. Capital Expenditure and Investment Property Commitments

\$ '000	2022	2021
Capital Commitments		
Capital expenditure committed for at the reporting date but not recognised in the financial statements as liabilities:		
Infrastructure	317	985
Plant & Equipment	798	532
	1,115	1,517
These expenditures are payable:		
Not later than one year	1,115	1,517
	1,115	1,517

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 15. Financial Indicators

\$ '000	Amounts 2022	Indicator 2022	Indicators 2021 2020	
Financial Indicators overview				
<i>These Financial Indicators have been calculated in accordance with Information paper 9 - Local Government Financial Indicators prepared as part of the LGA Financial Sustainability Program for the Local Government Association of South Australia.</i>				
1. Operating Surplus Ratio				
Operating Surplus	1,142	2.2%	4.5%	(5.5)%
Total Operating Income	52,457			
<i>This ratio expresses the operating surplus as a percentage of total operating revenue.</i>				
2. Net Financial Liabilities Ratio				
Net Financial Liabilities	24,015	46%	39%	43%
Total Operating Income	52,457			
<i>Net Financial Liabilities are defined as total liabilities less financial assets (excluding equity accounted investments in Council businesses). These are expressed as a percentage of total operating revenue.</i>				
Adjusted Operating Surplus Ratio				
Operating Surplus	500	1.0%	5.3%	(4.9)%
Total Operating Income	51,815			
Adjustments to Ratios				
<i>In recent years the Federal Government has made advance payments prior to 30th June from future year allocations of financial assistance grants, as explained in Note 1. These Adjusted Ratios correct for the resulting distortion in key ratios for each year and provide a more accurate basis for comparison.</i>				
Adjusted Net Financial Liabilities Ratio				
Net Financial Liabilities	25,503	49%	39%	42%
Total Operating Income	51,815			
3. Asset Renewal Funding Ratio				
Asset Renewals	12,337	114%	85%	106%
Infrastructure & Asset Management Plan required expenditure	10,775			
<i>Asset renewals expenditure is defined as capital expenditure on the renewal and replacement of existing assets, and excludes new capital expenditure on the acquisition of additional assets.</i>				

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 16. Uniform Presentation of Finances

\$ '000	2022	2021
<p>The following is a high level summary of both operating and capital investment activities of the Council prepared on a simplified Uniform Presentation Framework basis.</p> <p>All Councils in South Australia have agreed to summarise annual budgets and long-term financial plans on the same basis.</p> <p>The arrangements ensure that all Councils provide a common 'core' of financial information, which enables meaningful comparisons of each Council's finances.</p>		
Income	52,457	52,181
less Expenses	(51,315)	(49,824)
Operating Surplus / (Deficit)	1,142	2,357
Net Outlays on Existing Assets		
Capital Expenditure on Renewal and Replacement of Existing Assets	(12,337)	(7,823)
add back Depreciation, Amortisation and Impairment	9,820	9,451
add back Proceeds from Sale of Replaced Assets	756	604
	(1,761)	2,232
Net Outlays on New and Upgraded Assets		
Capital Expenditure on New and Upgraded Assets (including Investment Property & Real Estate Developments)	(4,839)	(5,372)
add back Amounts Received Specifically for New and Upgraded Assets	2,552	2,409
add back Proceeds from Sale of Surplus Assets (including investment property, real estate developments & non-current assets held for resale)	9	17
	(2,278)	(2,946)
Net Lending / (Borrowing) for Financial Year	(2,897)	1,643

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 17. Leases

(i) Council as a lessee

Set out below are the carrying amounts of right-of-use assets recognised within Infrastructure, Property, Plant and Equipment and the movements during the period:

(a) Right of use assets

\$ '000	ICT Equipment Leases	Property Leases	Total
2022			
Opening balance	595	145	740
Transfer from leased assets (former finance leases)	–	–	–
Additions to right-of-use assets	–	235	235
Adjustments to right-of-use assets due to re-measurement of lease liability	–	(8)	(8)
Depreciation charge	(270)	(132)	(402)
Other	–	–	–
Balance at 30 June	325	240	565
2021			
Opening balance	685	43	728
Transfer from leased assets (former finance leases)	–	–	–
Additions to right-of-use assets	186	167	353
Adjustments to right-of-use assets due to re-measurement of lease liability	–	–	–
Depreciation charge	(276)	(65)	(341)
Other	–	–	–
Balance at 30 June	595	145	740

(b) Lease liabilities

Set out below are the carrying amounts of lease liabilities (included under interest-bearing loans and borrowings) and the movements during the period:

\$ '000	2022	2021
Balance at 1 July	748	732
Additions	227	352
Accretion of interest	16	17
Payments	(416)	(353)
Balance at 30 June	575	748
Classified as:		
Current	375	323
Non Current	200	425

The maturity analysis of lease liabilities is included in Note 13.

Council had total cash outflows for leases of \$480k.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 17. Leases (continued)

\$ '000	2022	2021
The following are the amounts recognised in profit or loss:		
Depreciation expense of Right-of-Use Assets	402	341
Interest expense on lease liabilities	16	17
Expense relating to short term leases	127	49
Total amount recognised in profit or loss	545	407

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 18. Superannuation

The Council makes employer superannuation contributions in respect of its employees to Statewide Super (formerly Local Government Superannuation Scheme). There are two types of membership, each of which is funded differently. Permanent and contract employees of the South Australian Local Government sector with Salarylink benefits prior to 24 November 2009 have the option to contribute to the Accumulation section and/or Salarylink. All other employees (including casuals) have all contributions allocated to the Accumulation section.

Accumulation only Members

Accumulation only members receive both employer and employee contributions on a progressive basis. Employer contributions are based on a fixed percentage of ordinary time earnings in accordance with superannuation guarantee legislation (10.00% in 2021-22; 9.50% in 2020-21). No further liability accrues to the Council as the superannuation benefits accruing to employees are represented by their share of the net assets of the Fund.

Salarylink (Defined Benefit Fund) Members

Salarylink is a defined benefit scheme where the benefit payable is based on a formula determined by the member's contribution rate, number of years and level of contribution and final average salary. Council makes employer contributions to Salarylink as determined by the Fund's Trustee based on advice from the appointed Actuary. The rate is currently 6.3% (6.3% in 2020-21) of "superannuation" salary.

In addition, Council makes a separate contribution of 3% of ordinary time earnings for Salarylink members to their Accumulation account. Employees also make member contributions to the Salarylink section of the Fund. As such, assets accumulate in the Salarylink section of the Fund to meet the member's benefits, as defined in the Trust Deed, as they accrue.

The Salarylink section is a multi-employer sponsored plan. As the Salarylink section's assets and liabilities are pooled and are not allocated by each employer, and employees may transfer to another employer within the local government sector and retain membership of the Fund, the Actuary is unable to allocate benefit liabilities, assets and costs between employers. As provided by AASB 119.34(a), Council does not use defined benefit accounting for these contributions.

The most recent actuarial investigation was conducted by the Fund's actuary, Louise Campbell, FIAA, of Willis Towers Watson as at 30 June 2021. The Trustee has determined that the current funding arrangements are adequate for the expected Salarylink liabilities. However, future financial and economic circumstances may require changes to Council's contribution rates at some future time.

Contributions to Other Superannuation Schemes

Council also makes contributions to other superannuation schemes selected by employees under the "choice of fund" legislation. All such schemes are of the accumulation type, where the superannuation benefits accruing to the employee are represented by their share of the net assets of the scheme, and no further liability attaches to the Council.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 19. Interests in Other Entities

All joint ventures and associates are required to prepare Annual Financial Statements that comply with the SA Local Government Model Financial Statements.

\$ '000	Council's Share of Net Income		Council's Share of Net Assets	
	2022	2021	2022	2021
Council's Share of Net Income				
Joint Ventures	67	751	2,416	2,342
Total Council's Share of Net Income	67	751	2,416	2,342

((a)i) Joint Ventures, Associates and Joint Operations**(a) Carrying Amounts**

\$ '000	Principal Activity	2022	2021
Eastern Waste Management Authority	Waste Management	121	241
Gawler River Floodplain Management Authority	Floodplain Management	1,054	993
Adelaide Hills Regional Waste Management Authority	Waste Management	1,241	1,108
Total Carrying Amounts - Joint Ventures & Associates		2,416	2,342

Eastern Waste Management Authority

Eastern Waste is a regional subsidiary pursuant to S.43 of the Local Government Act 1999. Council has an interest in the assets and liabilities of Eastern Waste. The other member Councils are Burnside, Campbelltown, Mitcham, Norwood, Payneham & St. Peters, Prospect and Walkerville.

Gawler River Floodplain Management Authority

Gawler River Floodplain Management Authority is a regional subsidiary pursuant to S.43 of the Local Government Act 1999. Council has an interest in the assets and liabilities of Gawler River Floodplain Management Authority. Other members are Barossa, Gawler, Light, Adelaide Plains and Playford Councils.

Adelaide Hills Regional Waste Management Authority

Adelaide Hills Regional Waste Management Authority is a regional subsidiary pursuant to S.43 of the Local Government Act 1999. Council has an interest in the assets and liabilities of Adelaide Hills Regional Waste Management Authority. Other members are Alexandrina, Mt. Barker and Murray Bridge Councils.

(b) Relevant Interests

	Interest in Operating Result		Ownership Share of Equity		Proportion of Voting Power	
	2022	2021	2022	2021	2022	2021
Eastern Waste Management Authority	14.29%	14.29%	14.29%	14.29%	14.29%	14.29%
Gawler River Floodplain Management Authority	4.87%	4.54%	4.54%	4.54%	16.67%	16.67%
Adelaide Hills Regional Waste Management Authority	34.63%	35.78%	37.10%	37.40%	25.00%	25.00%

Notes to and forming part of the Financial Statements
for the year ended 30 June 2022

Note 19. Interests in Other Entities (continued)

(c) Movement in Investment in Joint Venture or Associate

\$ '000	Eastern Waste Management Authority		Gawler River Floodplain Management Authority		Adelaide Hills Regional Waste Management Authority	
	2022	2021	2022	2021	2022	2021
Opening Balance	241	138	993	937	1,108	416
Share in Operating Result	(54)	89	(12)	(13)	133	675
Share in Other						
Comprehensive Income	1	14	–	–	–	17
Adjustments to Equity	(67)	–	73	69	1	–
Council's Equity Share in the Joint Venture or Associate	121	241	1,054	993	1,242	1,108

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 20. Contingencies & Assets/Liabilities Not Recognised in the Balance Sheet

The following assets and liabilities do not qualify for recognition in the Statement of Financial Position, but knowledge is considered relevant to the users of the financial report in making and evaluating decisions about the allocation of scarce resources.

1. Land under roads

As reported in the Financial Statements, Council is of the opinion that it is not possible to attribute a value sufficiently reliably for these assets to qualify for recognition, and accordingly land under roads has not been recognised in the reports. Land acquired for road purposes during the year is initially recognised at cost, but transferred to fair value at reporting date, effectively writing off the expenditure.

2. Potential insurance losses

Council is a multi-purpose organisation providing a large range of building, parks infrastructure, playgrounds and other facilities accessible to the public. At any time, it is likely that claims will have been made against Council that remain unsettled.

Council insures against all known insurable risks using a range of insurance policies, each of which is subject to deductible "insurance excesses", the amount of which varies according to the class of insurance.

Council has recognised the potential losses arising from claims known at reporting date based on average historical net cost (including insurance excess) of similar types of claims. Other potential claims not reported to Council may have existed at reporting date.

3. Legal expenses

Council was the planning consent authority for development applications lodged prior to 19 March 2021 under the *Development Act 1993*. From 19 March 2021, the Council Assessment Panel (CAP) and the Council Assessment Manager are the relevant authorities under the *Planning Development & Infrastructure Act 2016* for most types of planning consents. The Building Fire Safety Committee is the relevant authority which issues building fire safety notices and the administration have delegations to issue enforcement notices. Pursuant to the legislation, applicants and certain persons designated under the legislation may lodge an appeal in the Environment, Resource and Development Court against a planning decision, an enforcement notice or, building fire safety notice.

At 30 June 2022, Council was managing one on-going enforcement appeal. All costs have been recognised, however, anticipated legal costs associated with Council's involvement in this appeal will continue into 2022-23. In relation to enforcement matters, Council seeks to have costs reimbursed from the offending party where the unlawful development is proven through the appeal process.

The CAP appeal and building fire safety appeal from 30 June 2021 were resolved in October 2021.

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 21. Events after the Balance Sheet Date

Events that occur after the reporting date of 30 June 2022, up to and including the date when the financial statements are "authorised for issue" have been taken into account in preparing these statements.

Council has adopted the date of receipt of the Auditors' Report as the appropriate "authorised for issue" date relating to these General Purpose Financial Statements.

COVID-19 has been classified as a global pandemic by the World Health Organisation and has developed rapidly in the last couple of years. Measures taken by the Federal and State governments have affected South Australia's economic activity and Council's operations.

At this stage, Council expects that the financial impacts on Council's operations to flow into the 2022-23 financial year will not be material. We refer to Note 1.4 which provides details of the financial impacts caused by COVID-19 during the 2021-22 financial year.

Council is aware of the following "non adjusting event" that merit disclosure;

Retirement Villages

In August 2018, Council resolved to sell its Retirement Village portfolio to Clayton Church Homes (CCH). As a result of contract negotiations and due diligence it was discovered that a portion of the Bridgewater Village is the subject of an unregistered charitable trust and is Community Land. As such, it was necessary to excise the Bridgewater village from the transaction at that time. However, Council has provided CCH with a first right of refusal to purchase the Bridgewater Village if the Trust is able to be varied and the community land classification revoked.

As a result, there is a number of contractual conditions precedent still to be fulfilled prior to the sale of Bridgewater Village being unconditional. Given the highly restrictive definition of a non-current assets held for resale these assets have remained within the land and buildings categories under Infrastructure, Property Plant & Equipment in the Statement for Financial Position.

Notes to and forming part of the Financial Statements

for the year ended 30 June 2022

Note 22. Related Party Transactions

Key Management Personnel

Transactions with Key Management Personnel

The Key Management Personnel of the Council include the Mayor, Councillors, CEO and certain prescribed officers under section 112 of the Local Government Act 1999. In all, 21 persons were paid the following total compensation.

\$ '000	2022	2021
The compensation paid to Key Management Personnel comprises:		
Short-Term Employee Benefits	1,744	1,595
Long-Term Benefits	132	118
Total	1,876	1,713

Amounts paid as direct reimbursement of expenses incurred on behalf of Council have not been included above.

Receipts from Key Management Personnel comprise:

Other than amounts paid as ratepayers or residents (e.g. rates), Council received the following amounts in total:

Planning and Building Application Fees	6	2
Total	6	2

Elected Members are members of the management committees of the following organisations:

- Adelaide Hills (War Memorial) Swimming Centre Inc
- Adelaide Hills Climate Action Group
- Adelaide Hills Reconciliation Working Group
- Adelaide Hills Regional Waste Management Authority (AHRWMA)
- AHC Biodiversity Advisory Group
- AHC Sustainability Advisory Group
- Aldgate Primary School Governing Council
- Australian Labour Party (SA) - Heysen sub-branch & Mayo Federal Electoral Council
- Cemetery Advisory Group
- Eastern Waste Management Authority (East Waste)
- Gawler River Floodplain Management Authority
- Gumeracha & Districts Town Hall
- Heathfield High School Governing Council
- Lenswood Centennial Hall Committee
- Property Advisory Group
- Piccadilly CFS
- Piccadilly Valley Community Recreation Centre
- Southern & Hills Local Government Association (SHLGA)
- Stirling RSL
- The Hut Community Centre Inc.
- Torrens Valley Celebration Committee
- Woodside Hall Committee
- Woodside Recreation Grounds Committee Inc.

Council made payments totalling \$5,550,910 to the above organisations for the period ending 30 June 2022.

Notes to and forming part of the Financial Statements for the year ended 30 June 2022

Note 22. Related Party Transactions (continued)

The most material payments were made to:

- Eastern Waste Management Authority (\$3.525m) for the collection and disposal of waste and recycling materials.
- Adelaide Hills Regional Waste Management Authority (\$1.628m) for the collection and disposal of waste and associated services.
- The Hut Community Centre (\$195k) for the provision of Community Home Support Programs, operating funding, volunteers and event expenditure.

Employees are members of the following Boards/Management Committees

- Adelaide Hills Tourism
- Southern & Hills Local Government Association (SHLGA)

Council made payments totalling \$173,415 to the above organisations for the period ending 30 June 2022.

All Elected Members and employees manage their conflict of interest obligations regarding related parties in accordance with the applicable provisions of the *Local Government Act 1999*.

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL REPORT

To the members of Adelaide Hills Council

Opinion

We have audited the accompanying financial report of Adelaide Hills Council (the Council), which comprises the statement of financial position as at 30 June 2022, the statement of comprehensive income, statement of changes in equity and cash flow statement for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and the Council Certificate of Adelaide Hills Council.

In our opinion, the accompanying financial report presents fairly, in all material respects, the financial position of the Council as at 30 June 2022, and its financial performance and its cash flows for the year then ended in accordance with the Australian Accounting Standards, *Local Government Act 1999* and *Local Government (Financial Management) Regulations 2011*.

Basis for opinion

We conducted our audit in accordance with Australian Auditing Standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Report* section of our report. We are independent of the Council in accordance with the ethical requirements of the Accounting Professional and Ethical Standards Board's APES 110: *Code of Ethics for Professional Accountants (Including Independence Standards)* (the Code) that are relevant to our audit of the financial report in Australia. We have also fulfilled our ethical responsibilities in accordance with the Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Council's responsibility for the financial report

Council is responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations), the *Local Government Act 1999* and the *Local Government (Financial Management) Regulations 2011* and for such internal control as Council determines is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

In preparing the financial report, Council is responsible for assessing the Council's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Council either intends to liquidate the Council or to cease operations, or has no realistic alternative but to do so. Those charged with governance are responsible for overseeing the Council's financial reporting process.

Auditor's responsibility for the audit of the financial report

Our objectives are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of this financial report

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As part of an audit of the financial report in accordance with Australian Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial report, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Council's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of Council's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Council's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial report or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Council to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial report, including the disclosures, and whether the financial report represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

GALPINS ACCOUNTANTS, AUDITORS & BUSINESS CONSULTANTS



Tim Muhlhausler CA, Registered Company Auditor
Partner

01 November 2022

**To the members of Adelaide Hills Council****Opinion**

We have audited the compliance of Adelaide Hills Council (the Council) with the requirements of Section 125 of the *Local Government Act 1999* in relation only to the Internal Controls established by the Council to ensure that financial transactions relating to the receipt, expenditure and investment of money, acquisition and disposal of property and incurring of liabilities for the period 1 July 2021 to 30 June 2022 have been conducted properly and in accordance with law.

In our opinion, Adelaide Hills Council has complied, in all material respects, with *Section 125 of the Local Government Act 1999* in relation to Internal Controls established by the Council in relation to the receipt, expenditure and investment of money, acquisition and disposal of property and incurring of liabilities so as to provide reasonable assurance that the financial transactions of the Council have been conducted properly and in accordance with law for the period 1 July 2021 to 30 June 2022.

Basis for opinion

We conducted our engagement in accordance with applicable Australian Standards on Assurance Engagement ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* and ASAE 3150 *Assurance Engagements on Controls*, issued by the Australian Auditing and Assurance Standards Board, in order to state whether, in all material respects, the Council has complied with Section 125 of the *Local Government Act 1999* in relation only to the internal controls specified above for the period 1 July 2021 to 30 June 2022. ASAE 3000 also requires us to comply with the relevant ethical requirements of the Australian professional accounting bodies.

We believe that the evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

The Council's responsibility for internal controls

The Council is responsible for implementing and maintaining an adequate system of internal controls, in accordance with Section 125 of the *Local Government Act 1999* to ensure that the receipt, expenditure and investment of money, acquisition and disposal of property, and incurring of liabilities have been conducted properly and in accordance with law.

Our independence and quality control

We have complied with the independence and other relevant ethical requirements relating to assurance engagements, and apply Auditing Standard ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements* in undertaking this assurance engagement.

Auditor's responsibility

Our responsibility is to express an opinion on the Council's compliance with Section 125 of the *Local Government Act 1999* in relation only to the internal controls established by the Council to ensure that financial transactions relating to receipt, expenditure and investment of money, acquisition and disposal of property and incurring of liabilities have been conducted properly and in accordance with law, based on our procedures. Our engagement has been conducted in accordance with applicable Australian Standards on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Information* and ASAE 3150 *Assurance Engagements on Controls*, issued by the Australian Auditing and Assurance Standards Board, in order to state whether, in all material respects, the Council has complied with Section 125 of the *Local Government Act 1999* in relation only to the internal controls specified above for the period 1 July 2021 to 30 June 2022. ASAE 3000 also requires us to comply with the relevant ethical requirements for the Australian professional accounting bodies.

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Galpins Trading Pty Ltd
ABN: 89 656 702 886

Liability limited by a scheme approved
under Professional Standards Legislation

Limitations of controls

Because of the inherent limitations of any internal control structure it is possible that, even if the controls are suitably designed and operating effectively, the control objectives may not be achieved so that fraud, error, or non-compliance with laws and regulations may occur and not be detected.

An assurance engagement on controls is not designed to detect all instances of controls operating ineffectively as it is not performed continuously throughout the period and the tests performed are on a sample basis. Any projection of the outcome of the evaluation of controls to future periods is subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

Limitation of use

This report has been prepared for the members of the Council in Accordance with Section 129 of the *Local Government Act 1999* in relation to the internal controls specified above. We disclaim any assumption of responsibility for any reliance on this report to any persons or users other than the members of the Council, or for any purpose other than that for which it was prepared.

GALPINS ACCOUNTANTS, AUDITORS & BUSINESS CONSULTANTS

Tim Muhlhausler CA, Registered Company Auditor
Partner

01 November 2022

Adelaide Hills Council

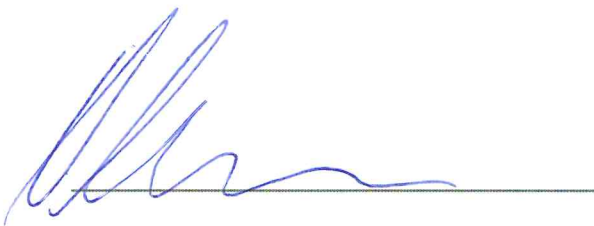
Financial Statements 2022

General Purpose Financial Statements
for the year ended 30 June 2022

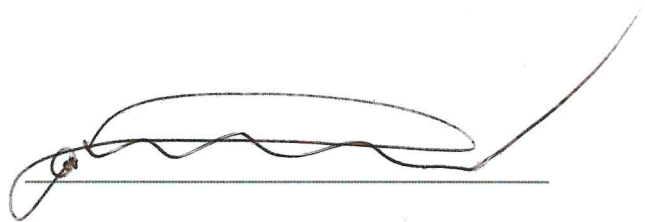
Certification of Auditor Independence

To the best of our knowledge and belief, we confirm that, for the purpose of the audit of Adelaide Hills Council for the year ended 30 June 2022, the Council's Auditor, Galpins has maintained its independence in accordance with the requirements of the *Local Government Act 1999* and the *Local Government (Financial Management) Regulations 2011* made under that Act.

This statement is prepared in accordance with the requirements of Regulation 22(3) *Local Government (Financial Management) Regulations 2011*.



David Waters
Acting Chief Executive Officer



Malcolm Herrmann
Presiding Member Audit Committee

Date: 17/10/22

ADELAIDE HILLS COUNCIL

GENERAL PURPOSE FINANCIAL STATEMENTS

For the year ended 30 June 2022



Statement by Auditor

I confirm that, for the audit of the financial statements of Adelaide Hills Council for the year ended 30 June 2022, I have maintained my independence in accordance with the requirements of APES 110 – *Code of Ethics for Professional Accountants (including Independence Standards)*, Part 4A, published by the Accounting Professional and Ethical Standards Board, in accordance with the *Local Government Act 1999* and the *Local Government (Financial Management) Regulations 2011* made under that Act.

This statement is prepared in accordance with the requirements of Regulation 22 (5) *Local Government (Financial Management) Regulations 2011*.

GALPINS ACCOUNTANTS, AUDITORS & BUSINESS CONSULTANTS

A handwritten signature in blue ink, appearing to read 'Tim Muhlhausler'.

Tim Muhlhausler CA, Registered Company Auditor
Partner

Date: 12 October 2022

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Appendix 2: Subsidiary Annual Reports

(Will be included in the final published Annual Report)

Appendix 3: Strategic plan objectives and priorities

Goal 1 – A functional BUILT ENVIRONMENT

Objective	B1 - Our district is easily accessible for community, our businesses and visitors	B2 - Preserve and enhance the unique character of the Hills for current and future generations	B3 - Consider external influences in our long term asset management and adaptation planning	B4 - Sustainable management of our built assets ensures a safe, functional and well serviced community
Priority	<ul style="list-style-type: none"> • B1.1 - Increase accessibility to our district through the development and delivery of high priority trails and routes for all cyclists (on-road, off road, commuters, recreational) and pedestrians • B1.2 - Improve outcomes for the elderly by incorporating Council's Age Friendly Strategic Plan into built environment design and delivery • B1.3 - Progress state-wide and inter-regional connectivity of cyclist routes by partnering with neighbouring councils. • B1.4 - Ensure that the key road network is accessible for heavy vehicles used by the primary production, tourism and construction sectors through engagement with industry and Government. • B1.5 - Provide accessibility for the full range of users by ensuring Council's road, footpath and trails network is adequately maintained and service levels for all users are developed and considered. 	<ul style="list-style-type: none"> • B2.1 - Continue to embrace and support community led public place revitalisation across our district. • B2.2 - Incorporate Water Sensitive Urban Design principles within Council developments and projects and advocate for other developments within the region to do the same • B2.3 - Proactively work with developers to ensure that built form complements or enhances existing local character whilst preserving the character and amenity of our towns, historic buildings and scenic environment • B2.4 - Ensure our planning framework, council policies and guidelines support privately owned local heritage places. • B2.5 - Continue to collaborate with other councils and stakeholders in pursuing our World Heritage Bid to protect the landscapes, sites and facilities that represent the State's aboriginal and early colonial history • B2.6 - Support communities recovering from natural disasters with expedited development assessment services 	<ul style="list-style-type: none"> • B3.1 - Improve water security by maximising water reuse opportunities, reducing reliance on ground water and improving water efficiencies for open space irrigation and building facilities • B3.2 - Aim to achieve 100% renewable energy use for our corporate operations and strive towards carbon neutrality • B3.3 - Investigate and source recyclable materials for asset renewal projects wherever practical and in doing so promote the circular economy • B3.4 - Proactively adapt our built environment to changes in social and environmental factors to minimise the impact from natural hazards such as fire and flood. 	<ul style="list-style-type: none"> • B4.1 - Ensure the long term management of the built form and public spaces occurs in consideration of the relevant financial, social and environmental management matters. • B4.2 - Embrace innovative and new technology solutions to proactively maintain our built assets that further enhance the provision of efficient services to the community • B4.3 - Ensure Council owned or managed assets, including staff accommodation, are functional and adaptive to meet service requirements. Also, where appropriate and endorsed by Council, equitably assist community owned site (halls and recreation sites) to ensure their facilities are functional and meet service standards. • B4.4 - Improve road safety through a safe system approach to road design, construction and maintenance including on-going applications to the State and Federal Road Blackspot program • B4.5 - Explore and provide the infrastructure to support Electric Vehicles (EV) and investigate infrastructure requirements for emerging technological transport such as Connected and Automated Vehicles (CAV)

Goal 2 – COMMUNITY Wellbeing

Objective	C1 - A community for everyone - that is inclusive, welcoming and accessible	C2 - A connected, engaged and supported community	C3 - A community that grows together	C4 - An active, healthy, thriving and resilient community	C5 - Respect for Aboriginal Culture and values	C6 - Celebrate our community's unique culture through arts, heritage and events
Priority	<ul style="list-style-type: none"> • C1.1 - Provide welcoming spaces and places for the community through our libraries, community centres, and Council and community facilities • C1.2 - Support and promote opportunities for social inclusion and celebration of our cultural diversity • C1.3 - Make the district more accessible and welcoming for all with a focus on youth participation, positive ageing, disability inclusion and multiculturalism • C1.4 – Advocate and Seek opportunities to improve transport options for those who need it most • C1.5 - Encourage more housing opportunities where provided for in the Development Plan 	<ul style="list-style-type: none"> • C2.1 - Work with community to provide a range of programs and opportunities to connect and engage around shared interests • C2.2 - Support our ageing community to access services and continue to participate and contribute to community life • C2.3 - Facilitate opportunities for our youth to develop skills, build resilience and be actively involved in and connected to their community. • C2.4 - Increase participation from the broadest range of our community and engage with them to shape policies, places and decisions that affect them • C2.5 - Continue to work with government agencies and non-governmental organisations to support the community recovery from natural disasters and the COVID-19 pandemic. 	<ul style="list-style-type: none"> • C3.1 - Provide and support programs and services that encourage and enhance personal growth, lifelong learning and professional development • C3.2 - Support volunteering both organisationally and in the community as an essential element in delivering community outcomes and building wellbeing • C3.3 - Empower our community groups and leaders to shape and determine change in their community through the provision of training opportunities, grants that meet strategic priorities, building relationships and supporting communities to be cohesive in progressing local projects. • C3.4 - Build partnerships with community and other stakeholders to enhance our capacity to provide and support opportunities for them to thrive 	<ul style="list-style-type: none"> • C4.1 - Support community wellbeing through our contribution to public health planning, disaster recovery activities and the implementation of strategies that aim to measure and enhance wellbeing. • C4.2 - Support the provision of formal and informal sport, recreation and play spaces for the community to enjoy • C4.3 - Recognise that trails are a destination in their own right and support both commuter and recreational trail opportunities • C4.4 - Support clubs and groups to continue to provide sport and recreation activities to the community • C4.5 - Take an all hazards approach to emergency management so we can support the emergency services and the community before, during and after disaster events. 	<ul style="list-style-type: none"> • C5.1 - Partner with the Aboriginal and Torres Strait Islander community to develop our second Reconciliation Action Plan (Innovate) and actively participate in Reconciliation Week • C5.2 - Celebrate and recognise Aboriginal culture and heritage through participation in and the delivery of programs and activities that engage our community in cultural experience and learning 	<ul style="list-style-type: none"> • C6.1 - Develop Fabrik as a vibrant cultural hub for the Adelaide Hills, fostering community connections and creativity and presenting the significant history of the Woollen Mill site • C6.2 - Develop, support or bring events to our district that have social, cultural, environmental or economic benefits • C6.3 - Recognise, encourage and support artists, emerging artists, writers and performers through promotion of the Arts and supporting opportunities to exhibit and perform • C6.4 - Foster the development of Public Art that adds value to public spaces and supports place making in our community

Goal 3 – A prosperous ECONOMY

Objective	E1 - Support and grow our region's existing and emerging industries	E2 - Provide local infrastructure to drive growth and productivity	E3 - Encourage, attract and retain a creative, talented and skilled workforce in our region	E4 - Cultivate a clear, unique and consistent regional identity that can be leveraged to attract national and international attention
Priority	<ul style="list-style-type: none"> • E1.1 - Support and encourage local and international tourists to visit the Adelaide Hills • E1.2 - Take advantage of the full potential of our region's primary production and associated value adding activities • E1.3 - Support and encourage the growth and development of our region's creative industry micro businesses • E1.4 – Promote, support and encourage our existing and emerging businesses to respond to economic changes by being creative, innovative, productive and resilient to unexpected impacts. • E1.5 - Engage and assist our region's key business and industry groups to be resilient, proactive and successful • E1.6 - Encourage and facilitate local supplier participation in all level of Government tendering processes 	<ul style="list-style-type: none"> • E2.1 - Work with all levels of Government to ensure the region's infrastructure needs are understood and prioritised • E2.2 - Explore and advocate for the opportunities that new technologies could bring to our region • E2.3 - Support changes to planning and development that leverages and encourages sustainable economic development • E2.4 - Manage and maintain Council assets to maximise their utilisation and benefit to the community 	<ul style="list-style-type: none"> • E3.1 - Attract and encourage professional and business development and networking activities • E3.2 - Understand the nature of skills our region's businesses will require to prosper into the future • E3.3 - Work with our local communities and businesses to create active, attractive and vibrant places • E3.4 - Enable start-ups and home based business through services, information and networking opportunities 	<ul style="list-style-type: none"> • E4.1 - Work with key stakeholders to develop a realistic, yet inspiring, collective vision to connect the region and its industries • E4.2 - Work with our communities and businesses to encourage co-ordinated and strategic regional projects that enhance and support the regional identity • E4.3 - Support and encourage events that supports the region's identity and generates social, cultural and economic benefits • E4.4 - Support the continued development and community engagement for the World Heritage nomination of the region

Goal 4 – A valued NATURAL ENVIRONMENT

Objective	N1 - Conserve and enhance the regional natural landscape character and amenity values of our region	N2 - Recognise the benefits of ecosystem services and improve environmental resilience by reducing environmental impacts	N3 - Nurture valuable partnerships and collaborations and engage the local community in the management of our natural environment	N4 - Reduce the impact of waste to landfill by maintaining a robust waste and resource management framework	N5 - Assist our community to reduce the impact of waste to landfill on the environment
Priority	<ul style="list-style-type: none"> • N1.1 - Enhance and manage horticultural amenity, including succession planning for street trees that contribute to and reinforce our distinctive streetscapes and villages • N1.2 - Manage reserves and open space to support the community, whilst balancing biodiversity conservation, resource use and environmental impacts 	<ul style="list-style-type: none"> • N2.1 - Monitor and manage areas of high biodiversity or habitat value on Council reserves and Native Vegetation Marker Scheme (NVMS) sites using best practice methodologies • N2.2 - Explore opportunities and take appropriate actions to monitor current and emerging threats to biodiversity including feral cats and Phytophthora • N2.3 - Mitigate bushfire risks across the landscape by undertaking fuel reduction activities including woody weed control, maintenance of asset protection zones and educate & enforcement to reduce fuels on private property • N2.4 - Work with supporting organisations and agencies to foster the restoration of native flora and fauna habitat following the 2019-20 bushfire. 	<ul style="list-style-type: none"> • N3.1 - Increase knowledge and environmental awareness within the community through engagement and education • N3.2 - Collaborate and engage with public and private organisations, schools and community members (including the Aboriginal community as the first nation peoples), to improve biodiversity outcomes and land management practices. • N3.3 - Continue to work in partnership with the Resilient Hills and Coasts region to build Council and community resilience to the impacts of climate change 	<ul style="list-style-type: none"> • N4.1 - We will work with partners to analyse the benefits and feasibility of introducing a fee incentive to property owners to produce less waste in relation to the kerbside bin service • N4.2 - We will explore more Green Organics options to achieve improved environmental and financial outcomes. • N4.3 - We will provide specific education to the community to increase their level of food scrap recycling • N4.4 - Implement new or improved waste service opportunities whilst continuing to provide ongoing resource recovery and waste service to our community 	<ul style="list-style-type: none"> • N5.1 - Encourage and educate the community to help minimise the generation of household waste by advocating the principles of the Waste Management Hierarchy to avoid, reduce and reuse • N5.2 - Support and assist the community to prevent valuable resources going to landfill and reduce contamination in kerbside recycling bins

Goal 5 – A Progressive ORGANISATION

Objective	O1 - We have the right people with the right knowledge and skills in the right jobs and they are supported and developed	O2 - Our customers find it easier to interact and do business with Council and have an improved customer experience	O3 - Our organisation is financially sustainable for both current and future generations	O4 - We actively represent our community	O5 - We are accountable, informed, and make decisions in the best interests of the whole community	O6 - Technology and innovation is utilised to better meet our community's expectations and deliver value for money
Priority	<ul style="list-style-type: none"> • O1.1 - Progressively enhance our safe systems of work to maintain emotional and physical safety of our people • O1.2 - Continue to develop a positive culture through supporting an equitable, diverse and continuously improving work environment • O1.3 - Support our people leaders in further developing the skills necessary to lead engaged and productive teams • O1.4 - Continue to support all staff through training, mentoring, coaching and development to enable the achievement of organisational and community goals 	<ul style="list-style-type: none"> • O2.1 - Develop our digital channels to better meet customers' current and future needs • O2.2 - Modernise our services and enhance the customer experience by making service delivery faster, more convenient and more proactive • O2.3 - Build the capabilities of our people through a focus on two-way communication, cooperation and placing customers at the centre of everything we do • O2.4 - Continuously strive to measure and improve performance and service delivery across all functions 	<ul style="list-style-type: none"> • O3.1 - Ensure the delivery of agreed strategic plan requirements whilst meeting endorsed long term targets for a sustainable operating surplus and level of debt • O3.2 - Ensure that renewal of assets and the associated maintenance is based on current asset management plans which consider reviewed service levels and whole of life costing • O3.3 - Actively pursue alternative funding opportunities to reduce reliance on rates income • O3.4 - Assess the range and level of services undertaken to ensure they fulfil Council's legislative and strategic intent 	<ul style="list-style-type: none"> • O4.1 - Optimise opportunities for the community to access and provide input into the decision-making processes • O4.2 - Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community • O4.3 - Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region • O4.4 - Explore council boundary reform options that best serve the community. 	<ul style="list-style-type: none"> • O5.1 - Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations • O5.2 - Make evidence-based decisions and prudently assess the risks and opportunities to our community before taking action. • O5.3 - Demonstrate accountability through robust corporate planning and reporting that enhances performance, is relevant and easily accessible by the community 	<ul style="list-style-type: none"> • O6.1 - Progressively strengthen Council's systems security to minimise the impact of cyber attack • O6.2 - Utilise technology to enable more evidence based and efficient delivery of services to the community • O6.3 - Provide more resilient business systems by utilising cloud technologies where appropriate • O6.4 - Utilise our online engagement tools to reach a wider range of community members to obtain their views and input. • O6.5 - Support the delivery of services to the community through improved utilisation and connectivity of existing business systems • O6.6 - Ensure the way in which we provide our digital services delivers an enhanced experience for our community

Appendix 2

Annual Report Legislative Compliance

The Local Government Act 1999 and the Local Government (General) Regulations 2013

Requirements	Section of the Annual Report
<p>Section 131, Local Government Act</p> <p>(1) A council must, on or before 30 November in each year, prepare and adopt an annual report relating to the operations of the council for the financial year ending on the preceding 30 June.</p> <p>(1a) The annual report must include the amount of legal costs incurred by the council in the relevant financial year.</p> <p>(2) The annual report must include the material, and include specific reports on the matters, specified in Schedule 4 as amended from time to time by regulation.</p> <p>(3) The annual report must comply with any requirement prescribed by the regulations.</p> <p>(4) A copy of the annual report must be provided by the council to each member of the council.</p> <p>(5) A copy of the annual report must be submitted by the council to the persons or bodies prescribed by the regulations on or before a day determined under the regulations.</p> <p>Regulation 10 of the Local Government (General) Regulations 2013</p> <p>(1) Pursuant to section 131(5) of the Act, the South Australian Local Government Grants Commission is a prescribed body</p> <p>(2) For the purposes of section 131(5) of the Act, the relevant day by which an annual report must be submitted by a council under that subsection is 31 December in the financial year immediately following the end of the financial year to which the annual report relates.</p> <p>(7) A council may provide to the electors for its area an abridged or summary version of its annual report.</p>	<p>Overarching rules for Annual Report – not specific to any section.</p>
<p>Schedule 2, Local Government Act</p> <p>Schedule 2 of the Local Government Act prescribes reporting requirements for (single) council subsidiaries (clause 12), and for regional subsidiaries established by two or more councils (clause 28) as follows:</p> <p>Clause 12:</p> <p>(2) A subsidiary must, on or before a day determined by the council, furnish to the council a report on the work and operations of the subsidiary for the preceding financial year.</p> <p>(3) A report under subclause (2) must—</p>	<p>Appendices – Annual reports of Subsidiaries</p>

Requirements	Section of the Annual Report
<p>(a) incorporate the audited financial statements of the subsidiary for the relevant financial year; and</p> <p>(b) contain any other information or report required by the council or prescribed by the regulations.</p> <p>(4) A report under subclause (2) must be incorporated into the annual report of the council.</p> <p>Clause 28:</p> <p>(1) A regional subsidiary must, on or before a day determined by the constituent councils, furnish to the constituent councils a report on the work and operations of the subsidiary for the preceding financial year.</p> <p>(2) A report under subclause (1) must—</p> <p>(a) incorporate the audited financial statements of the subsidiary for the relevant financial year; and</p> <p>(b) contain any other information or report required by the council or prescribed by the regulations.</p> <p>(3) A report under subclause (1) must be incorporated into the annual report of each constituent council.</p>	
Schedule 4, Local Government Act	
<p>Clause 1 of Schedule 4 specifies the material to be included in the annual report as follows:</p> <p>(a) a copy of the audited financial statements of the council for the relevant financial year</p>	Appendix 1 – Financial Statements
<p>(b) a list of registers required to be kept under the Local Government Act or Local Government (Elections) Act 1999</p>	“Our Governance” Section
<p>(c) a list of codes of conduct or practice required under the Local Government Act or Local Government (Elections) Act 1999</p>	“Our Governance” Section
<p>(f) information on allowances paid to members of the council or a council committee</p> <p><i>This reporting obligation commenced on 23 December 2021. There are no prescribed requirements as to how this content is presented. The minimum reporting requirement is for total expenditure</i></p>	“Our Governance” Section
<p>(g) information on the number of senior executive officers and information on the kinds of allowances, bonuses and benefits that are made available to those officers as part of a salary package</p>	“Our Governance” Section
<p>(ga) a report on the use of sections 90(2) and 91(7) by the council and its council committees containing the information required by the regulations.</p> <p>Regulation 35(1), Local Government (General) Regulations 2013 provides the following information to be reported:</p>	“Our Governance” Section

Requirements	Section of the Annual Report
<p>(a) in the case of a report on the use of section 90(2) of the Act, the following information is required:</p> <ul style="list-style-type: none"> (i) the total number of orders made under that subsection in the financial year; (ii) the date and subject of each order within the ambit of subparagraph (i); (iii) in relation to each paragraph ((a) to (o)) of section 90(3) of the Act—the number of times in the financial year that an order made under section 90(2) was made on the basis that the information or matter fell within the ambit of the paragraph; and <p>(b) in the case of a report on the use of section 91(7) of the Act, the following information is required:</p> <ul style="list-style-type: none"> (i) the total number of orders made under that subsection in the financial year; (ii) the number of orders made under that subsection that expired, ceased to apply or were revoked during the financial year; (iii) the number of orders made under that subsection that remained operative at the end of the financial year (but not including orders made before 15 November 2010); (iv) the date and subject of each order within the ambit of subparagraph (i) or (iii). 	
<p>(gb) a report on the applications made to the council under the Freedom of Information Act 1991 during the relevant financial year containing the information required by the regulations⁶ (As at the date of publication of this document there were no regulations specifying information required in relation to reporting applications made to the council under the Freedom of Information Act 1991)</p> <p>Separate to the requirement to report on the number of applications received, Section 9(1a) of the Freedom of Information Act 1991 requires councils to publish a freedom of information statement, at intervals of not more than 12 months. Regulation 5 of the Freedom of Information (General) Regulations 2017 provides that an information must be published in one or both of the following ways:</p> <ul style="list-style-type: none"> - in the annual report of the agency; - on a website maintained by the agency. <p>Section 9(2) and (3) of the Freedom of Information Act 1991 provide the following requirements for inclusion in an information statement:</p> <p>(2) An information statement must contain:</p>	<p>“Our Governance” Section</p>

Requirements	Section of the Annual Report
<p>(a) a description of the structure and functions of the agency (including of any board, committee or other body constituted by two or more persons that is part of the agency or has been established for the purpose of advising the agency and whose meetings are open to the public or the minutes of whose meetings are available for public inspection); and</p> <p>(b) a description of the ways in which the functions (including, in particular, the decision-making functions) of the agency affect members of the public; and</p> <p>(c) a description of any arrangements that exist to enable members of the public to participate in the formulation of the agency's policy and the exercise of the agency's functions; and</p> <p>(d) a description of the various kinds of documents that are usually held by the agency, including—</p> <ul style="list-style-type: none"> (i) a description of the various kinds of documents that are available for inspection at the agency (whether as part of a public register or otherwise) in accordance with the provisions of a legislative instrument other than this Act, whether or not inspection of any such document is subject to a fee or charge; and (ii) a description of the various kinds of documents that are available for purchase from the agency; and (iii) a description of the various kinds of documents that are available from the agency free of charge; and <p>(e) a description of the arrangements that exist to enable a member of the public to obtain access to the agency's documents and to seek amendment of the agency's records concerning his or her personal affairs; and</p> <p>(f) a description of the procedures of the agency in relation to the giving of access to the agency's documents and to the amendment of the agency's records concerning the personal affairs of a member of the public, including—</p> <ul style="list-style-type: none"> (i) the designation of the officer or officers to whom inquiries should be made; and (ii) the address or addresses at which applications under this Act should be lodged. <p>(3) An information statement—</p> <ul style="list-style-type: none"> (a) must identify each of the agency's policy documents; and (c) must specify the designation of the officer or officers to whom inquiries concerning the procedures for inspecting and purchasing the agency's policy documents should be made; and 	

Requirements	Section of the Annual Report
<p>(d) must specify the address or addresses at which, and the times during which, the agency's policy documents may be inspected and purchased.</p> <p>(4) Nothing in this section requires the publication of information if its inclusion in a document would result in the document being an exempt document.</p>	
<p>(h) a statement of—</p> <ul style="list-style-type: none"> (i) the council's representation quota; and (ii) the average representation quota for councils of a similar size and type (taking into account various factors prescribed by the regulations); and (iii) when the council is next required to conduct a review under Chapter 3 Part 1 Division 2 <p>(ha) the annual report of any subsidiary received by the council under Schedule 2 for the relevant financial year</p>	<p>“Our Governance” Section</p>
<p>(i) other material prescribed by the regulations ;</p> <ul style="list-style-type: none"> - The annual report required by section 270(8) of the Local Government Act relating to review of decisions and applications. <p>Regulation 35(2), Local Government (General) Regulations 2013</p> <p>(a) the report required under section 270(8) of the Act;</p> <p>Section 270(8) of the Local Government Act 1999 provides:</p> <p>(8) A council must, on an annual basis, initiate and consider a report that relates to—</p> <ul style="list-style-type: none"> (a) the number of applications for review made under this section; and (b) the kinds of matters to which the applications relate; and (c) the outcome of applications under this section; and (d) such other matters as may be prescribed by the regulations <ul style="list-style-type: none"> - a summary of the details (including the cost) of any interstate and international travel (excluding prescribed interstate travel) undertaken by members of the council during the relevant financial year funded in whole or in part by the council (Regulation 35(2)(b)) - a summary of the details (including the cost) of any interstate and international travel (excluding prescribed interstate travel) undertaken by employees of the council during the relevant financial year funded in whole or in part by the council; (Regulation 35(2)(c)) 	<p>“Our Governance” Section</p>

Requirements	Section of the Annual Report
<p>- a summary of the details (including the cost) of any gifts above the value of \$50 provided to members of the council during the relevant financial year funded in whole or in part by the council;</p> <p>- a summary of the details (including the cost) of any gifts above the value of \$50 provided to employees of the council during the relevant financial year funded in whole or in part by the council;</p> <p>- a statement of the total amount of expenditure incurred using credit cards provided by the council for use by members or employees of the council during the relevant financial year.</p> <p>Regulation 35 (3) and (4) provides the following information to assist with accurate reporting:</p> <p>(3) In this regulation— cost of travel includes accommodation costs and other costs and expenses associated with the travel; gift includes hospitality; prescribed interstate travel means—</p> <p>(a) travel by a member or employee (as the case may be) of a council the area of which shares a border with another State or a Territory of the Commonwealth if the travel is within that other State or that Territory and is in the course of ordinary business of the council; or</p> <p>(b) travel of a kind included within the ambit of this definition by the Minister by notice in the Gazette.</p> <p>(4) For the purposes of the definition of prescribed interstate travel, travel is taken not to be in the course of ordinary business of a council if the travel is for the purposes of a member or employee of the council attending a conference or training or development activities in another State or a Territory</p>	
<p>(j) other information to be included in the annual report under this or another Act - The information required by section 128(9) of the Local Government Act concerning the council auditor</p> <p>(9)(a) information on the remuneration payable to its auditor for work performed during the relevant financial year, distinguishing between—</p> <p>(i) remuneration payable for the annual audit of the council's financial statements; and</p> <p>(ii) other remuneration;</p> <p>(9)(b) if a person ceased to be the auditor of the council during the relevant financial year, other than by virtue of the expiration of his or her term of appointment and not being reappointed to the office—the reason or reasons why the appointment of the council's auditor came to an end.</p>	<p>“Our Governance” Section</p>

2021-22 Annual Report compliance to the *Local Government Act 1999, Local Government (General) Regulations 2013* and Other requirements.

Requirements	Section of the Annual Report
- (as noted above), section 131(1a) of the Local Government Act requires the annual report to include the amount of legal costs incurred by the council in the relevant financial year.	
<p>Clause 2 of Schedule 4 requires that the following matters must be reported on in the annual report of a council:</p> <p>(a) the council's performance in implementing its strategic management plans during the relevant financial year, and the council's projections and targets under its plans for the next financial year;</p> <p>(ab) the council's performance against its annual business plan for the relevant financial year;</p>	<p>"Delivering on our plans" section; and</p> <p>"Our focus 2022-23" section</p>
(b) the extent to which activities of the council have been subjected to competitive tender or other measures to ensure services are delivered cost-effectively, and the extent (if any) to which the council has pursued policies for purchasing local goods and services	"Our Governance" Section
(ca) the training and development activities for members of the council during the relevant financial year;	"Our Governance" Section
(e) the progress of the council in preparing or finalising any management plans for community land required under Chapter 11;	"Our Governance" Section
(f) other matters prescribed by the regulations.	

Other Requirements

Requirements	Section of the Annual Report
<p>Local Nuisance and Litter Control Act 2016</p> <p>Section 8 of the Local Nuisance and Litter Control Act 2016. A council must, in its annual report prepared pursuant to section 131 of the Local Government Act 1999 in relation to a particular financial year, include details of the performance by the council during that year of functions conferred on it under this Act.</p> <p>Regulation 5 of the Local Nuisance and Litter Control Regulations 2017</p> <p>For the purposes of section 8 of the Act, a council's annual report should include details of—</p> <p>(a) the number of complaints of local nuisance or littering received by the council; and</p> <p>(b) the number and nature of—</p> <p style="padding-left: 40px;">(i) offences under the Act that were expiated; and</p>	"Our Governance" Section

<p>(ii) offences under the Act that were prosecuted; and</p> <p>(iii) nuisance abatement notices or litter abatement notices issued; and</p> <p>(iv) civil penalties negotiated under section 34 of the Act; and</p> <p>(v) applications by the council to the Court for orders for civil penalties under section 34 of the Act and the number of orders made by the Court on those applications; and</p> <p>(c) any other functions performed by the council under the Act.</p>	
<p>Government Business Enterprises (Competition) Act 1996</p>	
<p>Pursuant to section 16 of the <i>Government Business Enterprises (Competition) Act 1996</i>, the State Government has issued a <i>Competitive Neutrality Policy Statement</i>. The Policy Statement notes that the application of competitive neutrality to local government is set out in the <i>Revised Clause 7 Statement on the application of competition principles to Local Government under the Competition Principles Agreement</i>.</p> <p>The Revised Clause 7 Statement requires councils to:</p> <p>...include in its annual report, wherever relevant, information in relation to:</p> <ul style="list-style-type: none"> - the commencement or cessation of significant business activities controlled by the agency; - the competitive neutrality measure applied to each significant business activity controlled by the agency; - the review and reform of by-laws which restrict competition, including proposals for new by-laws; - complaints received alleging a breach of competitive neutrality principles by the agency; - the structural reform of public monopolies. The information included in the annual report may be in summary form 	<p>“Our Governance” Section</p>

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	12.4
Responsible Officer:	Steven Watson Governance and Risk Coordinator Office of the CEO
Subject:	Audit Committee Membership – Council Member and Presiding Member Appointments
For:	Decision

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 whether to amend the Audit Committee's Terms of Reference (the 'TOR'), to determine its Council Member and Presiding Member appointments for a specified term.

RECOMMENDATION

Council resolves:

Decision 1

- 1. That the report be received and noted**
- 2. To retain the Audit Committee Terms of Reference, as contained 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.**

Decision 2

5. To appoint _____ and _____ as members of the Audit Committee for amonth term to commence 30 November 2022 and conclude on 30 November 20__ (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.

Decision 3

8. To appoint _____ to the position of Audit Committee Presiding Member for a ____ month term to commence 30 November 2022 and conclude on 30 November 20XX (inclusive).

1. 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.

At its 8 September 2020 special meeting, in relation to the two Council Member positions on the Audit Committee, Council resolved as follows:

7.2.1 Audit Committee Membership – Appointment of Council Members

Moved Cr Ian Bailey
S/- Cr John Kemp

188/20

Council resolves to appoint Cr Malcolm Herrmann and Cr Leith Mudge as members of the Audit Committee for a 24 month term to commence from 27 November 2020 until the conclusion of this Council term.

Carried Unanimously

In relation to the three Independent Member positions on the Audit Committee, Council resolved as follows:

- on 27 October 2020 Council appointed Natalie Johnston as an Independent Member until 30 April 2022, and on 25 January 2022 Council extended this term until 30 April 2023.

RELEASED 18 NOVEMBER 2020

18.1.1 Audit Committee Independent Member Appointment - Confidential Item

Moved Cr Leith Mudge
S/- Cr Malcolm Herrmann

255/20

Council resolves:

1. That the report be received and noted
2. That in relation to the Audit Committee Independent Membership:
 - a. To appoint Natalie Johnston to the position of Audit Committee Independent Member for a term to commence from 1 December 2020 until 30 April 2022 (inclusive).

Carried Unanimously

RELEASED 30 JANUARY 2022

18.1.1 Audit Committee Independent Member Extension of Term – Confidential Item

Moved Cr Malcolm Herrmann
S/- Cr Leith Mudge

19/22

Council resolves:

1. That the report be received and noted
2. To extend the term of office for Natalie Johnston to the Audit Committee Independent Member position for the period 1 May 2022 to 30 April 2023.

Carried unanimously

On 14 December 2021 Council appointed Peter Brass and David Moffatt as Independent Members until 30 November 2023

RELEASED 15 DECEMBER 2021

18.1.1 Audit Committee Independent Member Appointment – Confidential Item

9.26pm Cr Bailey returned to the meeting

Moved Cr Malcolm Herrmann
S/- Cr Leith Mudge

284/21

Council resolves:

1. That the report be received and noted
2. To appoint David Moffatt and Peter Brass to the position of Audit Committee Independent Member for a term to commence from 14 December 2021 until 30 November 2023 (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 of 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.

At its 23 November 2021 meeting, in relation to the Audit Committee Presiding Member role, Council resolved as follows:

12.11.4 Election of Audit Committee Presiding Member

**Moved Cr Mark Osterstock
S/- Cr Ian Bailey**

260/21

To appoint Cr Malcolm Herrmann to the position of Audit Committee Presiding Member to commence 27 November 2021 until the conclusion of the Council term in November 2022.

Carried Unanimously

Audit Committee Independent Member Sitting Fees

At its 28 August 2021 meeting Council resolved the sitting fees for Audit Committee Independent Members as follows:

- i. Independent Presiding Member - \$575 (excl GST) per attended meeting.**
- ii. Independent Ordinary Member - \$450 (excl GST) per attended meeting.**

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.2	Attract and develop a diverse and capable elected body that represents, promotes, and reflects the composition of the community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

➤ **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 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.

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member's private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed may have a General COI and should consider declaring the interest and acting in accordance with *s75B – Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council's Information or Briefing Sessions Policy created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information or Briefing Session if it occurs.

➤ **Risk Management Implications**

The Council’s consideration of membership of the Audit Committee will assist in mitigating the risk of:

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

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

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

➤ **Financial and Resource Implications**

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 2 of 2022 – Allowances for Members of Local Government Councils*.

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 Audit Committee is deemed a prescribed committee.

The Determination sets 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. This amount will be adjusted in accordance with the consumer price index at the next anniversary of the 2022 Local Government election in accordance with statutory requirements.

There is no allowance payment for Council Members who are members of Council Committees.

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 Ordinary and Presiding Member roles.

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

There is a high expectation that Council has appropriate governance and accountability mechanisms in place in relation to its meeting structures and that Council Committee members are competent and understand the role and functions of the committee and their individual obligations with regard to conduct.

➤ **Sustainability Implications**

Not applicable.

➤ **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.

➤ **Additional Analysis**

Audit Committee Terms of Reference

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

Clause 4.8 of the TOR provides that, at least once in its term the Committee will review its own performance and terms of reference. The Audit Committee workplan provided for a TOR review with a recommendation provided to Council for consideration.

The Audit Committee has been closely following the proposed legislative changes that will come into effect on 30 November 2023 regarding audit and risk committees. The Committee has acknowledged that the vast majority of the proposed changes have been the standard practice for the AHC Audit Committee for many years and, as such, minimal changes will be required when the new legislation comes into effect.

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 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 Presiding Members, Council may wish to consider, in addition to the requirements of clause 5.4 of the TOR, 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

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 General and Material Conflict of Interest provisions (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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the 'Policy'). As an Information or Briefing Session, 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 Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak to the Briefing Session in support of the candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) 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).
- m) 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 information sessions.

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 current Audit Committee 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. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 Audit Committee Member roles would be advised to consider their obligations to declare a General or Material COI, as appropriate.

- VI. Council can then resolve for the preferred persons to be appointed as the Audit Committee Members for an identified term. 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 Material 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 Audit Committee Presiding Member role. Council would give effect to this by dealing with Recommendation 6 (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 7 (or a variant) at this time.
- IX. Steps V. to VIII. are all grouped as Decision 2 in the recommendation section.
- X. 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 *s75C – 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 5). Council would give effect to this by dealing with Recommendation 8 (or a variant) at this time.

- XI. Step X. is under the heading of Decision 3 in the recommendation section.

3. OPTIONS

The Council has the following options:

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

4. APPENDIX

(1) *Audit Committee Terms of Reference*

Appendix 1

Audit Committee Terms of Reference

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 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.5

Responsible Officer: Steven Watson
Governance and Risk Coordinator
Office of the Chief Executive

Subject: Chief Executive Officer Performance Review Panel Membership
- Council Member and Presiding Member Appointments

For: Decision

SUMMARY

The Chief Executive Officer Performance Review Panel (the CEOPRP) 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 Terms of Reference (the 'TOR'), and to determine its Council Member and Presiding Member appointments for a specified term.

RECOMMENDATION

Decision 1

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, as contained 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.**

Decision 2

5. To appoint two (2) Council Members, _____ and _____ as members of the Chief Executive Officer Performance Review Panel for a _____ month term to commence 30 November 2022 and conclude on 30 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.

Decision 3

8. To appoint _____ to the position of Chief Executive Officer Performance Review Panel Presiding Member for a _____ month term to commence 30 November 2022 and conclude on 30 November 20XX (inclusive).
-

1. BACKGROUND

CEOPRP Terms of Reference

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

At its 27 November 2018 meeting, in relation to the TOR, Council resolved (283/18) to retain the CEOPRP and the TOR as follows:

Cr Herrmann, with the consent of Cr Stratford, sought and was granted leave of the meeting to vary the motion as follows.

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. Council resolves 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 with an amendment to part (k) in that after all votes have been counted, the Returning Officer will formally declare the result of the election.
4. Council resolves 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.

Carried Unanimously

CEOPRP 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.

At its 8 September 2020 Special Council Meeting, in relation to the two Council Member positions on the CEOPRP, Council resolved as follows:

7.4.1 CEO Performance Review Panel Membership – Council Members

**Moved Cr Kirsty Parkin
S/- Cr Ian Bailey**

191/20

Council resolves to appoint Cr Mark Osterstock and Cr Chris Grant as members of the Chief Executive Officer Performance Review Panel for a 24 month term to commence from 27 November 2020 until the conclusion of this Council Term.

Carried Unanimously

CEOPRP Presiding Member

Council, at its 24 November 2020 meeting, in relation to the CEOPRP Presiding Member role resolved as follows:

**Moved Cr Kirsty Parkin
S/- Cr Kirrilee Boyd**

276/20

MOTION 2

To appoint Cr Mark Osterstock to the position of Chief Executive Officer Performance Review Panel Presiding Member for a 24 month term to commence 27 November 2020 until the conclusion of the Council Term 2022.

Carried Unanimously

Council, at its 27 September 2022 meeting, in relation to the CEOPRP Independent Member role resolved as follows:

RELEASED 30 SEPTEMBER 2022

18.1.1 CEO Performance Review Panel Independent Member – Confidential Item

**Moved Cr Mark Osterstock
S/- Cr Kirsty Parkin**

267/22

Council resolves:

- 1. That the report be received and noted.**
- 2. To extend the appointment term of Independent Member, Ms Janet Miller, to the CEO Performance Review Panel by one year until 20 November 2023.**

Carried Unanimously

CEOPRP Independent Member Sitting Fees

Council, at its 24 August 2021 meeting, resolved the sitting fees for CEOPRP Independent Members as follows:

- i. Independent Presiding Member - \$575 (excl GST) per attended meeting.**
- ii. Independent Ordinary Member - \$450 (excl GST) per attended meeting.**

2. ANALYSIS

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

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.3 Attract and develop a diverse and capable elected body that represents, promotes, and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

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

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

➤ **Legal Implications**

Section 41 of the *Local Government Act 1999* (the 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.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council’s Information or Briefing Sessions Policy created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information or Briefing Session if it occurs.

The *Local Government Act 1999, Chapter 7 – Council Staff* contains provisions for the requirement for a CEO, vacancies in the Office of CEO, appointment procedures and the role of the CEO, remuneration of the CEO, ability to have a deputy CEO, delegation by the CEO, person to act as CEO and CEO Performance reviews.

Section 99A details the Remuneration Tribunal will determine (from time to time) the minimum and maximum remuneration that may be paid or provided to chief executive officers of councils. Section 102A details a Council must review the performance of the Chief Executive Officer (CEO) at least once annually and before reappointment occurs. The Section goes on to detail Council must obtain and consider the advice of a qualified independent person on a review and before reappointment. Council has previously appointed a qualified independent person and that is not the subject of this report.

For clarity, while *s102A—Chief executive officer—performance review* requires that a council review the performance of the CEO annually, there is no requirement for a council to have a performance review committee/panel.

➤ **Risk Management Implications**

The Council’s consideration of membership of the 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)	Low (3E)	Low (3E)

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 2 of 2022 – Allowances for Members of Local Government Councils*.

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 CEOPRP is deemed a prescribed committee.

The Determination sets 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. This amount will be adjusted in accordance with the consumer price index at the next anniversary of the 2022 Local Government election in accordance with statutory requirements.

There is no allowance payment for Council Members who are members of Council Committees.

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 Ordinary and Presiding Member roles.

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

There is a high expectation that Council has appropriate governance and accountability mechanisms in place in relation to its meeting structures and that Council Committee members are competent and understand the role and functions of the committee and their individual obligations with regard to conduct.

➤ **Sustainability Implications**

Not applicable.

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

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

➤ **Additional Analysis**

CEOPRP Terms of Reference

Clause 4.5 of the TOR provides that, at least once in its term the Panel will review its own performance and terms of reference.

At this time there do not appear to be any concerns with the current function of the CEOPRP and therefore no changes to the TOR are proposed.

Should Council determine not to continue with the CEOPRP or that the functions undertaken by the CEOPRP are more appropriately undertaken by Council, it will resolve at Recommendation 2 not to retain the CEOPRP.

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.

CEOPRP Presiding Member

Clause 7.1 of 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.

Characteristics of a Presiding Member

The CEOPRP TOR does not set out any specific qualifications or experience for the CEOPRP Presiding Member position however Council may wish to consider general suitability factors including (but not limited to):

- understanding or the ability to acquire the same of the role and functions of the CEOPRP;
- 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 CEOPRP meetings;
- ability to manage conflict and differing opinions;
- integrity, good conduct, and diligence;
- the opportunity to further strengthen 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 General and Material Conflict of Interest provisions (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 CEOPRP Member and then again separately for the role of CEOPRP 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the 'Policy'). As an Information or Briefing Session, 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 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 Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak to the Briefing Session in support of the candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) 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).
- m) 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 considers 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. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 CEOPRP Member roles would be advised to consider their obligations to declare a General or Material COI as appropriate.

- VI. 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.

- VII. 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.
- 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 7 (or a variant) at this time.
- IX. Steps V. to VIII. are all grouped as Decision 2 in the recommendation section.
- X. 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 *s75C – 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.

- XI. Step X. is under the heading of Decision 3 in the recommendation section.

3. OPTIONS

The Council has the following options:

- I. To resolve to appoint the CEOPRP Council Member and Presiding Member appointments for a determined period and to undertake the processes as outlined in the report (**Recommended**).
- II. To determine not to resolve the CEOPRP Council Member and Presiding Member appointments (**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.

4. APPENDIX

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

Appendix 1

CEO Performance Review Panel Terms of Reference

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 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.6

Responsible Officer: Steven Watson
Governance and Risk Coordinator
Office of the Chief Executive

Subject: Boundary Change Committee Membership - Council Member
and Presiding Member Appointments

For: Decision

SUMMARY

The Boundary Change Committee 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 Boundary Change Committee with/without amendment to the Terms of Reference (the 'TOR'), and to determine its Council Member and Presiding Member appointments for a specified term.

RECOMMENDATION

Decision 1

That Council resolves:

- 1. That the report be received and noted**
- 2. To retain the Boundary Change Committee for the term of the Council with the Terms of Reference, as contained in Appendix 1.**
- 3. To determine that the method of selecting the Boundary Change 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 Boundary Change Committee Member roles and for the meeting to resume once the results of the indicative vote have been declared.**

Decision 2

5. To appoint four (4) Council Members, _____, _____, _____, and _____ as members of the Boundary Change Committee for a _____ month term to commence 30 November 2022 and conclude on 30 November 20XX (inclusive).
6. To determine that the method of selecting the Boundary Change 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 Boundary Change Committee Presiding Member role and for the meeting to resume once the results of the indicative vote have been declared.

Decision 3

8. To appoint _____ to the position of Boundary Change Committee Presiding Member for a _____ month term to commence 30 November 2022 and conclude on 30 November 20XX (inclusive).
-

1. BACKGROUND

Boundary Change Committee Terms of Reference

At its 9 August 2022 special meeting, Council established the Boundary Change Committee adopted a revised Terms of Reference (TOR) (**Appendix 1**).

Boundary Change Committee Membership

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

5. MEMBERSHIP

5.1 The Committee will comprise five (5) members as follows:

5.1.1 The Deputy Mayor of the Council; and

5.1.2 Four (4) Council Members.

5.2 All members of the Committee will be appointed by the Council for a period of three (3) years but will expire at each periodic local government election.

5.3 It is desirable for the Council Members to be appointed to the Committee to have a sound understanding of provisions of Chapter 3, Part 2 of the Act and the Campbelltown City Council Woodforde/Rostrevor boundary change proposal.

5.4 In considering appointments to the Committee, Council should give consideration to the diversity of the membership.

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

5.6 The Committee may be assisted by independent advisors that the Committee may determine from time to time.

At its 9 August 2022 special meeting, in relation to the four Council Member positions on the Boundary Change Committee and the Presiding Member role, Council resolved as follows:

6.1.2 Establishment of a Boundary Change Committee – Membership

**Moved Cr Mark Osterstock
S/- Cr John Kemp**

202/22

- 1. To appoint Deputy Mayor Nathan Daniell, Cr Kirsty Parkin, Cr John Kemp, Cr Mark Osterstock and Cr Ian Bailey as Members of the Boundary Change Committee for a term to commence from 9 August 2022 and conclude at the conclusion of the Council Term.**
- 2. To appoint Deputy Mayor Nathan Daniell as the Presiding Member of the Boundary Change Committee for a term to commence from 9 August 2022 and conclude at the conclusion of the Council Term.**
- 3. To authorise the Chief Executive Officer to determine the date of the first Boundary Change Committee meeting.**

Carried Unanimously

2. ANALYSIS

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

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.3 Attract and develop a diverse and capable elected body that represents, promotes, and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

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

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

➤ **Legal Implications**

Section 41 of the *Local Government Act 1999* (the 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 Boundary Change Committee is a s41 Committee.

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member’s private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed may have a General COI and should consider declaring the interest and acting in accordance with s75B – *Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council's *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information or Briefing Session if it occurs.

The *Local Government Act 1999, Chapter 3 – Constitution of councils, Part 2 – Reform proposals* contains provisions relating to administrative and general boundary change proposals. It is that latter in the form of the Campbelltown City Council general proposal for the realignment of the boundary between the two councils in the area of Woodforde and Rostrevor (AHC) that gave rise to the creation of the Boundary Change Committee.

➤ **Risk Management Implications**

The Council's consideration of membership of the Boundary Change Committee will assist in mitigating the risk of:

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

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

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

➤ **Financial and Resource Implications**

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 2 of 2022 – Allowances for Members of Local Government Councils*.

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 Boundary Change Committee is deemed a prescribed committee.

The Determination sets 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. This amount will be adjusted in accordance with the consumer price index at the next anniversary of the 2022 Local Government election in accordance with statutory requirements.

There is no allowance payment for Council Members who are members of Council Committees.

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

Council's current budget has provision for the costs associated with the Boundary Change Committee Ordinary and Presiding Member roles.

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

There is a high expectation that Council has appropriate governance and accountability mechanisms in place in relation to its meeting structures and that Council Committee members are competent and understand the role and functions of the committee and their individual obligations with regard to conduct.

➤ **Sustainability Implications**

Not applicable.

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

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

➤ **Additional Analysis**

Boundary Change Committee Terms of Reference

Clause 4.1.4 of the TOR provides that, at least once in its term the Boundary Change Committee will review its own performance and terms of reference.

At this time there do not appear to be any concerns with the current function of the Boundary Change Committee and therefore no changes to the TOR are proposed.

Should Council determine not to continue with the Boundary Change Committee or that the functions undertaken by the Committee are more appropriately undertaken by Council, it will resolve at Recommendation 2 not to retain the Committee.

Boundary Change Committee Membership

As identified in the Background section above, the discretionary Council Member membership of the Boundary Change Committee is limited to four (4) Council Members.

Clause 5.2 provides that members of the Committee will be appointed for a period of three (3) years.

Clause 5.3 of the Boundary Change Committee TOR provides that it is desirable for the Council Members to be appointed to the Committee to have a sound understanding of the of provisions of Chapter 3, Part 2 of the Act, and the Campbelltown City Council Woodforde/Rostrevor boundary change proposal.

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

Boundary Change Committee Presiding Member

Clause 6.1 of the 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 5.2.

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.

Characteristics of a Presiding Member

The Boundary Change Committee TOR does not set out any specific qualifications or experience for the Boundary Change Committee Presiding Member position however Council may wish to consider general suitability factors including (but not limited to):

- understanding or the ability to acquire the same of the role and functions of the Boundary Change 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 Boundary Change 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 Boundary Change Committee meetings;
- ability to manage conflict and differing opinions;
- integrity, good conduct, and diligence;
- the opportunity to further strengthen 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 General and Material Conflict of Interest provisions (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 Boundary Change Committee Member and then again separately for the role of Boundary Change 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the 'Policy'). As an Information or Briefing Session, 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 Boundary Change Committee Members or the Presiding Member, as appropriate.
- 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 Council Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak to the Briefing Session in support of the candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) 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).
- m) 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 Boundary Change 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 four 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. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 Boundary Change Committee Member roles would be advised to consider their obligations to declare a General or Material COI as appropriate.

- VI. Council can then resolve for the preferred persons to be appointed as the Boundary Change 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.
- VII. Council will then consider the process that it will use to choose the preferred person for the Committee Presiding Member role. Council would give effect to this by dealing with Recommendation 6 (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 7 (or a variant) at this time.
- IX. Steps V. to VIII. are all grouped as Decision 2 in the recommendation section.
- X. 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 *s75C – Dealing with material conflicts of interest*.

Council can then resolve for the preferred person to be appointed as the Boundary Change 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.

- XI. Step X. is under the heading of Decision 3 in the recommendation section.

3. OPTIONS

The Council has the following options:

- I. To resolve to appoint the Boundary Change Committee Council Member and Presiding Member appointments for a determined period and to undertake the processes as outlined in the report (**Recommended**).
- II. To determine not to resolve the Boundary Change Committee Council Member and Presiding Member appointments (**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.

4. APPENDIX

- (1) *Boundary Change Committee Terms of Reference*

Appendix 1

Boundary Change Committee Terms of Reference

ADELAIDE HILLS COUNCIL

Boundary Change Committee



TERMS OF REFERENCE

1. ESTABLISHMENT

- 1.1 The Boundary Change Committee (the 'Committee') of Council is established under Section 41 of the *Local Government Act 1999* (the 'Act').
- 1.2 The Committee does not have executive powers or authority to implement actions in areas which management has responsibility.
- 1.3 The Committee and its Members do not have any delegations except as provided for in this Terms of Reference.

2. ROLE

- 2.1 The role of the Committee is to assist Council to fulfil its role and functions by providing advice regarding the operation and implications of Chapter 3 – Constitution of councils, Part 2 – Reform proposals of the Act associated with the Campbelltown City Council Woodforde/Rostrevor boundary change proposal.

3. SPECIFIC FUNCTIONS

- 3.1 Within the context of the role of the Committee, its specific functions are:
 - 3.1.1 To review and provide advice to Council regarding any correspondence or reports produced by the South Australian Boundaries Commission (the 'Boundaries Commission');
 - 3.1.2 To oversee and provide advice to Council on:
 - 3.1.2.1 the development of submissions to the Boundaries Commission or its associated parties; and
 - 3.1.2.2 the development of communications strategies to the affected residents and ratepayers.
 - 3.1.3 To seek legal and/or other professional advice to enable the Committee to discharge its role and functions within the limits of its applicable financial delegation.

4. OTHER MATTERS

- 4.1 The Committee shall:
 - 4.1.1 Have access to reasonable resources in order to carry out its duties, recognising the constraints within Council's Budget.
 - 4.1.2 Be provided with appropriate and timely training, both in the form of an induction programme for new committee members and on an ongoing basis for all committee members.

- 4.1.3 Have delegated financial responsibility as resolved by Council in Resolution 179/22 and any subsequent resolutions. Any procurement activity resulting from the Committee's use of its delegation will be undertaken by the Administration. For clarity, individual Committee Members do not have any authority to commit Council funds.
- 4.1.4 At least once in each full term, review its own performance and these Terms of Reference to ensure it is operating at maximum effectiveness and recommend changes it considers necessary to the Council for approval.
- 4.1.5 Upon being provided notification by the Boundaries Commission and/or the Minister for Local Government that the Campbelltown City Council Woodforde/Rostrevor boundary change proposal has either been withdrawn or will not be proceeding in a timely manner, the Committee will provide advice to the Council on the continuance of the Committee.
- 4.2 The Principal Member of Council will be the principal spokesperson for the Committee and for all matters associated with the Campbelltown City Council Woodforde /Rostrevor boundary change proposal. Consistent with clause 4.1 of the *Council Member Conduct Policy*, the Principal Member may delegate this role to another Council Member or Officer on agreed terms.
- 4.3 Where information is required to be provided to the Boundaries Commission or an associated party in a timeframe that does not reasonably allow:
 - 4.3.1 the Committee to make a recommendation to Council, the Committee has the delegation to approve the provision of the requested information directly to the requesting party. A report will be provided to the next meeting of Council on the exercise of this delegation; or
 - 4.3.2 the Committee to meet to consider the requested information, the Committee Presiding Member has the delegation, following consultation with the Mayor (or the Deputy Mayor if the Mayor is the Presiding Member) and CEO, to approve the provision of the requested information directly to the requesting party. A report will be provided to the next meeting of the Committee on the exercise of this delegation.

5. MEMBERSHIP

- 5.1 The Committee will comprise five (5) members as follows:
 - 5.1.1 The Deputy Mayor of the Council; and
 - 5.1.2 Four (4) Council Members.
- 5.2 All members of the Committee will be appointed by the Council for a period of three (3) years but will expire at each periodic local government election.
- 5.3 It is desirable for the Council Members to be appointed to the Committee to have a sound understanding of provisions of Chapter 3, Part 2 of the Act and the Campbelltown City Council Woodforde/Rostrevor boundary change proposal.
- 5.4 In considering appointments to the Committee, Council should give consideration to the diversity of the membership.

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

5.6 The Committee may be assisted by independent advisors that the Committee may determine from time to time.

6. PRESIDING MEMBER

6.1 The Council will appoint the Presiding Member of the Committee.

6.2 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.

6.3 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.

6.4 The role of the Presiding Member includes:

6.4.1 overseeing and facilitating the conduct of meetings in accordance with the Act and the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations); and

6.4.2 Ensuring all Committee members have an opportunity to participate in discussions in an open and encouraging manner.

7. SITTING FEES

7.1 No additional allowance will be paid to the Members of the Committee over and above the allowance already received by Council Members in accordance with the determination of the Remuneration Tribunal.

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 Minutes of a meeting of the Panel will be provided to all Committee members as soon as practicable after the meeting and, in accordance with the Act, to all Council members within five (5) days after the meeting. Minutes shall be presented to Council at the next Ordinary Council Meeting.

8.1.2 All resolutions of the Committee, including recording the names of those present will be minuted and the minutes will otherwise comply with the requirements of the Regulations.

8.1.3 Agendas and Reports of the Committee forwarded to the Committee will also be forwarded to Council members for their information prior to the Committee meeting, having regard for any confidentiality provisions that may apply.

- 8.1.4 The minutes of each Committee meeting will be included in the agenda papers of the next ordinary meeting of the Council;
- 8.1.5 Agenda, Reports and Minutes will be made available to the public consistent with legislative requirements.
- 8.1.6 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;
- 8.1.7 The Committee shall make whatever recommendations to the Council it deems appropriate on any area within these terms of reference where in its view action or improvement is needed; and
- 8.1.8 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.
- 8.1.9 The Committee shall report to Council on an as-needs basis or upon Council's request with a summary of its activities.

9. CONFLICTS OF INTEREST

Where a member of the committee has a conflict of interest in a matter before the Committee, the member must act in accordance with the requirements of section 73 and 75 of the *Local Government Act 1999*.

10. QUORUM

A quorum for a meeting of the Committee will be three (3) members. No business can be transacted at a meeting of the Committee unless a quorum is present.

11. MEETING PROCEDURE

- 11.1 The 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.
- 11.2 In accordance with Section 90(7a) of the Act, 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.
- 11.3 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.
- 11.4 All decisions of the Committee shall be made on the basis of a majority decision of the Members present and in the event of a tied vote the matter be referred to the Council for decision.
- 11.5 Council Employees may attend any meeting as observers, to provide advice and/or be responsible for preparing papers for the Committee.

11.6 The Committee can request and/or engage other persons or organisations to make presentations and/or provide advice and/or respond to questions.

11.7 The Committee does not enjoy the delegation of any powers, functions and duties of the Council. All decisions of the Committee will, therefore, constitute recommendations to the Council.

12. SECRETARIAL RESOURCES

12.1 The Chief Executive Officer shall provide sufficient administrative resources to the Committee to enable it to adequately carry out its functions.

13. FREQUENCY OF MEETINGS

13.1 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.

13.2 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.

14. NOTICE OF MEETINGS

14.1 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:

14.1.1 To members of the Committee by email or as otherwise agreed by Committee members; and

14.1.2 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 principle office and on the Council's website.

14.2 PUBLIC ACCESS TO MEETINGS & DOCUMENTS

14.3 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.

14.4 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.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	12.7
Responsible Officer:	Steven Watson Governance & Risk Coordinator Office of the CEO
Subject:	Section 43 Regional Subsidiary Membership – Eastern Waste Management Authority
For:	Decision

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)

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 one of these regional subsidiaries, East Waste, and the process for the nomination and election to these board member positions.

RECOMMENDATION

Decision 1

Council resolves:

- 1. That the report be received and noted.**
- 2. To determine that the method of selecting the Eastern Waste Management Authority 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 Eastern Waste Management Authority Board Member roles and for the meeting to resume once the results of the indicative voting for the Board Member roles have been declared.**

Decision 2

- 1. That in relation to the Eastern Waste Management Authority Board:**
 - a. To appoint _____ to the Board Member position for a term to commence from 30 November 2022 and conclude on 29 November 2025 (inclusive)**
 - b. To appoint _____ to the Deputy Board Member position for a term to commence from 30 November 2022 and conclude on 29 November 2025 (inclusive)**
 - 2. To authorise the Chief Executive Officer to lodge all required documentation to give effect to Council’s resolutions regarding Eastern Waste Management Authority Board Membership.**
-

1. BACKGROUND

East Waste Charter and Board

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, City of Unley 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 nine directors with one person appointed by 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 three 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 appointed director if the director is unable to be present at a meeting of the Board.

Previous Board Membership

At its 8 September 2020 Special meeting, in relation to the East Waste Board Member and Deputy Board Member positions, Council resolved as follows:

7.5.1 S43 Regional Subsidiary Membership – Appointment of Members

Moved Cr Kirrilee Boyd
S/- Cr Chris Grant

193/20

4. That in relation to the Eastern Waste Management Authority Board:
 - a. To appoint Cr Linda Green to the Board Member position for a term to commence from 27 November 2020 and conclude at the end of the current Council term (inclusive)
 - b. To appoint John McArthur to the Deputy Board Member position for a term to commence from 27 November 2020 and conclude on 23 December 2022 (inclusive).

The East Waste Board has historically met at 5.30pm on the 4th Thursday of every second month, at the City of Norwood, Payneham & St Peters. The meetings are of approximately two hours duration. During 2022, there were alternate monthly Special Meetings.

There are no sitting fees payable for Board Members or Deputy Board Members, except the Independent Chairperson.

2. ANALYSIS

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

Strategic Plan 2020-24 – A brighter future

Goal 5	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.2	Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region
Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

The appointment of members to the East Waste Board 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* (the 'Act') 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.

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member’s private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed to the East Waste Board may have a General COI and should consider declaring the interest and acting in accordance with *s75B – Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed to the East Waste Board may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council’s *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information Session, if it occurs.

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)	Low (1D)	Low (1D)

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 East Waste; however this report concerns the appointment of Council representatives to the East Waste Board rather than the operations of the Subsidiary.

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

Should Council determine to appoint an independent person to the Board, i.e. not a Council Member or staff member, then that person may reasonably expect to be compensated. In this case, it would be the responsibility of the Council and not East Waste to recruit an appropriate person to the position and negotiate and pay the relevant fee. There is currently no budget allocation for this.

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

There are no direct end-user customer service implications regarding the appointment of Council representatives to the East Waste Board acknowledging however that Council itself is a customer of East Waste.

➤ **Sustainability Implications**

Not directly applicable.

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

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Nil

Community: Not Applicable

➤ **Additional Analysis**

Legal Obligations

A Board Member of a Regional Subsidiary has different fiduciary responsibilities to that of a Council Member or a Council Officer. In simple terms, the Board Member's duty is to act in the best interests of the Subsidiary (which might not necessarily be in the best interest of the Council). There are also more complex provisions relating to conflict of interest management.

It is important that aspiring and newly-appointed Board Members have a sound understanding of these matters. Training should be provided by the Subsidiary and can be assisted by Council's Governance & Performance Team.

Board Membership Suitability

Council's membership on East Waste is important given its ability to both provide services and financial returns and to incur risks and liabilities for Council.

While it is a Subsidiary 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 and the Subsidiary Executive.

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

- Ability to bring the Adelaide Hills Council's unique perspective to Board deliberations;
- 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;
- where specifically stated, skills and/or knowledge detailed in the respective Charter for Board Members;
- whether an Independent Member (where permissible), recruited and remunerated by the Constituent Council, would be more effective in the fulfilling the role of a Board Member given the ability to recruit for specific skill sets;
- 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 and Independents on Regional Subsidiaries

The Acting Chief Executive Officer has sought expressions of interest from senior Council Officers for appointment to East Waste.

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

- Board Member (can be a Member, Officer or Independent) – Executive Manager Governance & Performance, Lachlan Miller
- Deputy Board Member (can be a Member, Officer or Independent) – As above

Mr Miller has been put forward for consideration on account of his expertise in the areas of risk management, governance and audit. The Acting Chief Executive Officer is of the view that these areas are of particular relevance to East Waste in the current climate of change and uncertainty in waste management. Although the make up of the East Waste Board will not be known until all constituent councils have made their appointments, there is a risk these areas of expertise will not be represented.

It should be noted that the East Waste Board has historically comprised a mix of elected Council Members and Council staff from its constituent councils.

The nine person Board immediately prior to the Council elections comprised:

- Independent Chairperson
- One Mayor
- Four Councillors
- One council Chief Executive Officer
- Two other senior council staff members

The Acting Chief Executive Officer has not undertaken a process to determine potential independent members as it has not been the Council's past practice to do so, it would require the allocation of additional resourcing to conduct such a process and, in the Acting Chief Executive Officer's opinion, the appropriate skill set for the Board exists within the potential Council Member or Council staff nominees.

Indicative Voting Process for Determining Council Appointed Positions

If Council determines to recruit the services of an Independent Member to sit on a Regional Subsidiary, the following process will not be used and instead Council will need to resolve to commence a recruitment process.

Due to the implications of the General and Material Conflict of Interest provisions (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 persons for the East Waste 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, 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 Board Member position.

Note that the Council Officer(s) identified above will be included as nominations for the Councils consideration.

- 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 Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak in the Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall return to the Briefing Session and publicly declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.
- n) The process a) – j) will then be undertaken for the Deputy Board Member position

Proposed Chronology of Events

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and information sessions, 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 East Waste 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. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.
- IV. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 Board Member roles would be advised to consider their obligations to declare a General or Material, COI, as appropriate.
- VI. Council can then resolve for the preferred persons to be appointed to each Board Member and Deputy Board Member position. Council would give effect to this by dealing with Decision 2 -Recommendation 1 (or a variant) at this time.
- VII. The final recommendation Decision 2 – Recommendation 2 is for the CEO to communicate the Council's resolutions to East Waste.

3. OPTIONS

The Council has the following options:

- I. To resolve to make appointments to the East Waste Board Member positions as identified following the established process to fill each position. (**Recommended**) or
- II. To resolve to recruit an Independent Member, to approve a recruitment process and appoint a selection panel. (**Not Recommended**) or
- II. To decide not to make any or all of the appointments the East Waste Board Member positions at this time. (**Not Recommended**). Doing so would mean that the East Waste Board would not have a full complement of members which could affect their functioning.

4. APPENDIX

- (1) East Waste Charter

Appendix 1

East Waste Charter

LOCAL GOVERNMENT ACT 1999 EASTERN WASTE MANAGEMENT AUTHORITY
Charter

PART I—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.

Common Fleet Collection Percentage means the proportion of the Authority's total time required to undertake waste collection activities for a Constituent Council (represented as a percentage) calculated in accordance with clause 57.

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, City of Prospect, City of Unley, Corporation of the Town of Walkerville,.

Core Activity means activities associated with the collection, recycling and/or disposal of waste along with community behaviour change and ancillary services.

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 1993 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 along with community behaviour change and ancillary services.;
 - 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 and behaviour change 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, 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 nine 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 three-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 three-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 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.
- 29.12 The Chief Executive Officer will, at least annually, hold a meeting collectively with each of the Mayors and CEO's of the Constituent Councils at a venue to be notified to the Constituent Councils at least 14 days prior to the date of the meeting.

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 virtual Board meeting.
- 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 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 Common Fleet Collection Percentages 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.

Rob Gregory, General Manager East Waste

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.8

Responsible Officer: Steven Watson
Governance & Risk Coordinator
Office of the CEO

Subject: Section 43 Regional Subsidiary Membership – Adelaide Hills
Region Waste Management Authority

For: Decision

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)

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 one of these regional subsidiaries, AHRWMA, and the process for the nomination and election to these board member positions.

RECOMMENDATION

Council resolves:

Decision 1a;

1. That the report be received and noted.
2. To note that John McArthur's term of appointment (Res: 146/22) as the Adelaide Hills Region Waste Management Authority Board Member continues until 14 June 2024 (inclusive).
3. To determine that the method of selecting the Adelaide Hills Region Waste Management Authority Deputy Board Member to be by an indicative vote to determine the preferred persons for the relevant 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 Adelaide Hills Region

Waste Management Authority Deputy Board Member role and for the meeting to resume once the results of the indicative voting for the Deputy Board Board Member role has been declared.

OR

Decision 1b

1. That the report be received and noted.
2. To determine that the method of selecting the Adelaide Hills Region Waste Management Authority Board Member and Deputy Board Member 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 Adelaide Hills Region Waste Management Authority Board Member and Deputy Board Member roles and for the meeting to resume once the results of the indicative voting for the Board Member roles have been declared.

Decision 2

1. That in relation to the Adelaide Hills Region Waste Management Authority Board:
 - a. To appoint _____ to the Board Member position for a term to commence from 30 November 2022 and conclude on 29 November 2024 (inclusive) – *Note: not required if Decision 1a is selected*
 - b. To appoint _____ to the Deputy Board Member position for a term to commence from 30 November 2022 and conclude on 29 November 2024 (inclusive)
2. To authorise the Chief Executive Officer to lodge all required documentation to give effect to Council's resolutions regarding Adelaide Hills Region Waste Management Authority Board Membership.

1. **BACKGROUND**

AHRWMA Charter and Board

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

The purpose of AHRWMA (see Charter at **Appendix 1**) is to facilitate, co-ordinate and undertake waste management including waste collection, treatment, disposal and recycling within the Region

Clause 3.3.1 of the Charter provides that the Board will consist of five members appointed as follows:

- One (1) person (who may be an elected member, an employee or an Independent Member) appointed by each Constituent Council with skills and/or knowledge in any of the following:
 - Financial management
 - Legal/corporate governance
 - Marketing and promotions
 - Waste management
 - Business management
- One (1) person appointed jointly by Absolute Majority of the Constituent Councils, with relevant professional expertise, who is not a member or officer of a Constituent Council to be the Chairperson of the Board. The Chairperson of the Board shall be selected through a process determined by a panel comprising the Chief Executive Officers of the Constituent Councils.
- One (1) Deputy Board Member for each Constituent Council appointed in the same manner as a Board Member.

The term of office for the Board Member and Deputy Board Member will be as determined by the Constituent Council.

Previous Board Membership

Council, at its 14 June 2022 Special meeting, in relation to the AHRWMA Board Member and Deputy Board Member positions resolved as follows:

8.1.1 Adelaide Hills Region Waste Management Authority Board Member Appointments – Confidential Item (Out of Confidence)

Moved Cr John Kemp
S/- Cr Linda Green

146/22

Council resolves:

1. **That the report be received and noted**
2. **To rescind the Adelaide Hills Region Waste Management Authority Board Member appointments as resolved in Resolution 193/20 of 8 September 2020.**
3. **To appoint:**
 - a. **John McArthur as an Adelaide Hills Region Waste Management Authority Board Member to commence from 15 June 2022 and conclude on 14 June 2024 (inclusive); and**
 - b. **Councillor Ian Bailey as an Adelaide Hills Region Waste Management Authority Deputy Board Member to commence from 15 June 2022 and conclude at the end of the current Council term.**
4. **To authorise the Chief Executive Officer to advise the Authority's Executive Officer of Council's appointments.**

Carried Unanimously

The AHRWMA Board meets 4th Thursday each month, 3.00pm, Mt Barker District Council. The meetings are of approximately two hours duration.

There are no sitting fees payable for Board Members or Deputy Board Members, except the Independent Chairperson.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.2	Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region
Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

The appointment of members to the AHRWMA Board 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* (the 'Act') 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.

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member's private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed to the AHRWMA Board may have a General COI and should consider declaring the interest and acting in accordance with *s75B – Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed to the AHRWMA Board may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council's *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information Session, if it occurs.

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)	Low (1D)	Low (1D)

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 AHRWMA; however this report concerns the appointment of Council representatives to the AHRWMA Board rather than the operations of the Subsidiary.

Neither Council nor AHRWMA pay allowances for attendance at meetings for Constituent Council Board Members. Council Members are however entitled to claim travel reimbursement in accordance with the *Council Member Allowance & Support Policy*.

Should Council determine to appoint an independent person to the Board, i.e. not a Council Member or staff member, then that person may reasonably expect to be compensated. In this case, it would be the responsibility of the Council and not AHRWMA to recruit an appropriate person to the position and negotiate and pay the relevant fee. There is currently no budget allocation for this.

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

There are no direct end-user customer service implications regarding the appointment of Council representatives to the AHRWMA Board acknowledging however that Council itself is a customer of AHRWMA.

➤ **Sustainability Implications**

Not directly applicable.

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

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Nil

Community: Not Applicable

➤ **Additional Analysis**

Legal Obligations

A Board Member of a Regional Subsidiary has different fiduciary responsibilities to that of a Council Member or a Council Officer. In simple terms, the Board Member's duty is to act in the best interests of the Subsidiary (which might not necessarily be in the best interest of the Council). There are also more complex provisions relating to conflict of interest management.

It is important that aspiring and newly-appointed Board Members have a sound understanding of these matters. Training should be provided by the Subsidiary and can be assisted by Council's Governance & Performance Team.

Board Membership Suitability

Council's membership on the AHRWMA Board is important given its ability to both provide services and financial returns and to incur risks and liabilities for Council.

While it is a Subsidiary 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 and the Subsidiary Executive.

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

- ability to bring the Adelaide Hills Council's unique perspective to Board deliberations;
- 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;
- where specifically stated, skills and/or knowledge detailed in the respective Charter for Board Members;
- whether an Independent Member (where permissible), recruited and remunerated by the Constituent Council, would be more effective in the fulfilling the role of a Board Member given the ability to recruit for specific skill sets;

- 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 and Independents on Regional Subsidiaries

The Acting Chief Executive Officer has sought expressions of interest from senior Council Officers for appointment to AHRWMA.

Given that the (then) Council appointed the Manager Sustainability, Waste, & Emergency Management, John McArthur to the AHRWMA Board Member position until 14 June 2024, the preference is that this appointment is confirmed as per Decision 1a in the Recommendation Section. If however Council determines to make a new appointment as per Decision 1b, Mr McArthur is nominated as candidate for the Deputy Board Member position.

The Board immediately prior to the Council elections comprised:

- Independent Chairperson
- Four senior council staff members

The Acting Chief Executive Officer has not undertaken a process to determine potential independent members as it has not been the Council's past practice to do so, it would require the allocation of additional resourcing to conduct such a process and, in the Acting Chief Executive Officer's opinion, the appropriate skill set for the Board exists within the potential Council Member or Council staff nominees.

Indicative Voting Process for Determining Council Appointed Positions

If Council determines to accept that John McArthur's term of appointment (Res: 146/22) continues until 14 June 2024 (inclusive), there will be no requirement to identify a Board Member candidate(s).

Further, if Council determines to recruit the services of an Independent Member to sit on a Regional Subsidiary, the following process will not be used and instead Council will need to resolve to commence a recruitment process.

However if Council determines to identify a Board Member candidate(s), due to the implications of the General and Material Conflict of Interest provisions (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 persons for the AHRWMA 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, 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 Board Member position.
Note that the Council Officer(s) identified above can also 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.
- 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 Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak in the Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall return to the Briefing Session and publicly declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.
- n) The process a) – j) will then be undertaken for the Deputy Board Member position

Proposed Chronology of Events

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

- I. Council will need to initially determine whether it wishes for the appointment of John McArthur as AHRWMA Board Member to continue. If so it should progress with the Decision 1a group of recommendations, if however Council wishes to appoint to the Board Member position at this time it should progress with the Decision 1b group of recommendations.
- II. 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 Board Member roles would be advised to consider their obligations to declare a General or Material, COI, as appropriate
- III. Council can then resolve for the preferred persons to be appointed to each Board Member and Deputy Board Member position. Council would give effect to this by dealing with Decision 2 -Recommendation 1 (or a variant) at this time.
- IV. The final recommendation Decision 2 – Recommendation 2 is for the CEO to communicate the Council’s resolutions to East Waste.

3. OPTIONS

The Council has the following options:

- I. To resolve to make appointments to the AHRWMA Board Member positions as identified following the established process to fill each position, either by continuing with the current Board Member appointment or to make a new appointment. **(Recommended)** or
- II. To resolve to recruit an Independent Member, to approve a recruitment process and appoint a selection panel. **(Not Recommended)** or
- II. To decide not to make any or all of the appointments the AHRWMA Board Member positions at this time. **(Not Recommended)**. Doing so would mean that the AHRWMA would not have a full complement of members which could affect their functioning.

4. APPENDIX

- (1) AHRWMA Charter

Appendix 1

AHRWMA Charter

LOCAL GOVERNMENT ACT 1999

ADELAIDE HILLS REGION WASTE MANAGEMENT AUTHORITY CHARTER

JUNE 2022

1. INTRODUCTION

1.1. Definitions

'Absolute Majority' means a majority of the whole number of the Constituent Councils;

'Act' means the *Local Government Act 1999* and includes all regulations made under that Act;

'Annual Contribution' means the volume of rubbish and waste deposited in a financial year by a Constituent Council at landfill operations undertaken by the Authority, unless otherwise determined by the Authority;

'Asset Management Plan' means the asset management plan prepared under clause 5.5.1;

'Authority' means the Adelaide Hills Region Waste Management Authority;

'Board' means the board of management of the Authority as described in clause 3;

'Board Member' means a member of the Board appointed in accordance with clause 3.3 and, unless the context requires otherwise, includes a Deputy Board Member;

'Budget' means the annual budget adopted by the Authority in accordance with clause 5.2;

'Business Plan' means a business plan adopted by the Authority in accordance with clause 4.2;

'CCI Schedule' means the schedule compiled for the purposes of clause 5.1.1.

'Chairperson' means the member of the Board appointed in accordance with clause 3.3.1.2;

'Constituent Councils' means the Constituent Councils of the Authority as identified in clause 1.2.2 subject to any adjustment under clauses 8.2 or 8.3;

'Council' means a Council constituted under the Act;

'Deputy Board Member' means a deputy member of the Board appointed in accordance with clause 3.3.2;

'Equity Interest' means the interest of a Constituent Council in the Net Assets of the Authority as recorded in the CCI Schedule;

'Equity Interest Percentage' means the Equity Interest of a Constituent Council as a proportion of the Equity Interest of all Constituent Councils expressed as a percentage;

'Executive Officer' means the person appointed in accordance with clause 6.1 as the Executive Officer of the Authority;

'Fees' are fees for services or facilities provided by the Authority;

'Financial Contribution' means a monetary contribution of a Constituent Council to the Authority including under clause 5.3, but excludes Fees paid by the Constituent Council for services or facilities provided by the Authority;

'Financial Statements' has the same meaning as in the *Local Government (Financial Management) Regulations 2011*;

'Financial Year' means 1 July in each year to 30 June in the subsequent year;

'Long Term Financial Plan' means the long term financial plan adopted by the Authority and approved by the Constituent Councils in accordance with clause 5.5;

'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;

'Region' means the collective geographical areas of the Constituent Councils; and

'Strategic Plan' means a strategic plan adopted by the Authority in accordance with clause 4.

1.2. Establishment

1.2.1. The Authority is a regional subsidiary established under section 43 of the Act by the Constituent Councils and must conduct its affairs in accordance with Parts 2 and 3, Schedule 2 of the Act except as modified by this Charter in a manner permitted by the Act.

1.2.2. The Constituent Councils are:

1.2.2.1. Mount Barker District Council;

1.2.2.2. Adelaide Hills Council;

1.2.2.3. Rural City of Murray Bridge; and

1.2.2.4. Alexandrina Council.

1.3. Purpose of the Authority

The Authority is established to facilitate, co-ordinate and undertake waste management including waste collection, treatment, disposal and recycling within the Region.

1.4. Common Seal

- 1.4.1. The Authority will have a common seal.
- 1.4.2. The common seal of the Authority must not be affixed to a document except to give effect to a resolution of the Board.
- 1.4.3. The affixing of the common seal of the Authority must be attested by two (2) Board Members.
- 1.4.4. The Executive Officer must 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 to the affixing of the seal and the date on which this occurred.
- 1.4.5. The Authority may by instrument under common seal authorise a person to execute documents on behalf of the Authority subject to any limitations specified in the instrument of authority.

2. FUNCTIONS AND POWERS OF THE AUTHORITY

2.1. Functions

- 2.1.1. The Authority has the following functions to:
 - 2.1.1.1. develop and implement policies designed to improve waste management and recycling programmes and practices within the Region;
 - 2.1.1.2. regularly review the Region's waste management and recycling practices and policies;
 - 2.1.1.3. 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 or provided by agreement with any other person;
 - 2.1.1.4. 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;
 - 2.1.1.5. minimise the volume of waste collected in the areas of the Constituent Councils which is required to be disposed of to landfill;
 - 2.1.1.6. educate and motivate the community to achieve the practical reduction of waste through reuse and recycling initiatives; and
 - 2.1.1.7. undertake activities associated with its purpose outside the areas of the Constituent Councils where that activity has been approved by the Board as being necessary or expedient to the performance by the Authority of its functions.

2.1.2. In carrying out its functions, the Authority must:

2.1.2.1. consider measures to achieve financial sustainability; and

2.1.2.2. give due weight to economic, social and environmental considerations.

2.2. Powers

In addition to those powers specified in the Act, the powers of the Authority are:

2.2.1. subject to clause 2.5, to acquire, deal with and dispose of real or personal property (wherever situated) and rights in relation to real and personal property in accordance with the long-term financial plan, business plan and annual budget;

2.2.2. subject to clause 2.5, to lease, licence, hire or rent any real or personal property;

2.2.3. subject to clause 2.4, to sue in its corporate name provided that any litigation is subject to an immediate information report to the Constituent Councils by the Executive Officer;

2.2.4. subject to the requirements of this Charter, to enter into any kind of contract or arrangement;

2.2.5. to establish a reserve fund or funds clearly identified for the upkeep or replacement of fixed assets of the Authority or for meeting any deferred liability of the Authority;

2.2.6. to invest any surplus funds of the Authority in the Local Government Finance Authority of South Australia;

2.2.7. to distribute surplus funds to the Constituent Councils on a basis determined by the Board and included in the Budget;

2.2.8. to enter into arrangements with the Constituent Councils for the purpose of operating and managing sites for the treatment, recycling, disposal and transfer of waste;

2.2.9. to determine the types of refuse and waste which will be received and the method of collection, treatment, recycling and disposal of the waste;

2.2.10. subject to clause 2.4, to undertake projects and to undertake all manner of things relating to and incidental to the collection, treatment, recycling and disposal of waste;

2.2.11. subject to clause 2.4, 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 unincorporated joint venture with the other body to give effect to the project;

- 2.2.12. subject to clause 2.4, to employ, engage, remunerate, remove, suspend or dismiss the Executive Officer of the Authority;
- 2.2.13. to open and operate bank accounts;
- 2.2.14. 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;
- 2.2.15. to charge fees for services or facilities provided by the Authority; and
- 2.2.16. subject to the Act and this Charter to do anything else necessary or convenient for, or incidental to, the exercise, performance or discharge of its powers, functions or duties.

2.3. Delegated Functions and Powers

The Authority may exercise such other functions, powers and duties as are delegated to the Authority by the Constituent Councils from time to time.

2.4. Borrowings and Expenditure

- 2.4.1. The Authority has the power to incur expenditure as follows:
 - 2.4.1.1. in accordance with a Budget and approved by the Constituent Councils as required by the Act or this Charter;
 - 2.4.1.2. with the prior approval of the Constituent Councils; or
 - 2.4.1.3. in accordance with the Act, in respect of expenditure not contained in a Budget for a purpose of genuine emergency or hardship.
- 2.4.2. The Authority has the power to borrow money as follows:
 - 2.4.2.1. in accordance with a Budget and approved by the Constituent Councils as required by the Act or this Charter;
 - 2.4.2.2. in respect of an overdraft facility or facilities up to a maximum amount as determined by the Authority's Treasury Management Policy; or
 - 2.4.2.3. with the prior approval of the Constituent Councils.

2.5. Property

No real property of the Authority may be sold, encumbered or otherwise dealt with without the prior approval of the Constituent Councils and the approval of the Authority by a resolution of the Board.

2.6. National Competition Policy

The Authority will apply the principles of competitive neutrality to any significant business activity of the Authority in accordance with, and to the extent required by, the State of South Australia's *Revised Clause 7 Statement on the Application of Competition Principles to Local Government under the Competition Principles Agreement* (September 2002).

3. THE BOARD OF MANAGEMENT

3.1. Role of the Board

The Board is responsible for the administration of the affairs of the Authority and ensuring that the Authority acts in accordance with this Charter and all relevant legislation including the Act.

3.2. Functions of the Board

In addition to the functions set out in the Act, the functions of the Board are:

- 3.2.1. formulating Strategic Plans and Business Plans in accordance with clauses 4.1 and 4.2 of this Charter and developing strategies aimed at improving the business of the Authority;
- 3.2.2. providing policy direction to the Authority;
- 3.2.3. monitoring, overseeing and measuring the performance of the Executive Officer of the Authority;
- 3.2.4. subject to this Charter, ensuring that the business of the Authority is undertaken in an open and transparent manner;
- 3.2.5. ensuring that ethical behaviour and integrity is established and maintained by the Authority and Board Members in all activities undertaken by the Authority;
- 3.2.6. exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
- 3.2.7. ensuring that the Authority functions in accordance with its purpose and within its approved budget.

3.3. Board Members

- 3.3.1. The Board will be comprised of five (5) members appointed as follows:
 - 3.3.1.1. One (1) person (who may be an elected member, an employee or an Independent Member) appointed by each Constituent Council with skills and/or knowledge in any of the following:
 - a. financial management;
 - b. legal / corporate governance;

- c. marketing and promotions;
- d. waste management;
- e. business management.

3.3.1.2. One (1) person appointed jointly by Absolute Majority of the Constituent Councils, with relevant professional expertise, who is not a member or officer of a Constituent Council to be the Chairperson of the Board.

3.3.1.3. The Chairperson of the Board shall be selected through a process determined by a panel comprising the Chief Executive Officers of the Constituent Councils.

3.3.1.4. A panel comprising each Constituent Council's Chief Executive Officers or nominee will meet collectively to develop a position description/information package for prospective Board Members, outlining the responsibilities and desired skills. The panel will meet to discuss their proposed appointees, prior to final appointment, for the purpose of ensuring that the Board will have an appropriate skill mix.

3.3.2. Each Constituent Council must also appoint one Deputy Board Member.

3.3.3. A Deputy Board Member will be appointed in the same manner as a Board Member.

3.3.4. The Deputy Board Member is entitled to act in place of a Board Member appointed by the same Constituent Council that appointed the Deputy Board Member, if the Board Member is absent or unable for any reason to act as a Board Member, for the period of the Board Member's absence or inability to act as a Board Member.

3.3.5. The Chairperson of the Board shall preside at all meetings of the Board and in the event of the Chairperson being absent from a meeting the Board shall appoint a Board Member present to be the chairperson for that meeting.

3.3.6. Each Constituent Council must give notice in writing to the Authority of its appointment of Board Members and Deputy Members, the term of appointment if applicable and any termination or revocation of those appointments. A notice in writing signed by the Chief Executive Officer of a Constituent Council will be sufficient evidence of an appointment, termination or revocation of an appointment and will constitute notice as required by this clause 3.3.6.

3.4. Term of Office

3.4.1. Subject to clause 3.4.3 the term of office of a Board Member appointed under clause 3.3.1.1 and a Deputy Board Member, shall be for a term

determined by the Constituent Council appointing that Board Member. At the conclusion of a such a Board Member's term of office, the Board Member will be eligible for re-appointment.

- 3.4.2. Subject to clauses 3.4.3 and 3.4.5, the term of office of the Chairperson of the Board shall be for a period of three (3) years. At the conclusion of the term of office the Chairperson of the Board will be eligible for re-appointment.
- 3.4.3. The office of a Board Member will become vacant if:
 - 3.4.3.1. any of the grounds or circumstances set out in the Act as to when a Board Member's office becomes vacant arise;
 - 3.4.3.2. the Constituent Council which appointed the Board Member under clause 3.3.1.1 terminates or revokes the Board Member's appointment;
 - 3.4.3.3. the Board Member is an elected member of a Constituent Council, upon ceasing to be an elected member of the Constituent Council which appointed him or her; or
 - 3.4.3.4. the Board Member is an employee of a Constituent Council, upon ceasing to be employed by the Council which appointed him or her.
- 3.4.4. The Authority may, by a resolution of the Board supported by at least two-thirds majority of the Board Members currently in office (excluding the Board Member subject to this clause) ignoring any fraction, make a recommendation to a Constituent Council that it terminate the appointment of a Board Member appointed by that Constituent Council in the event of any behaviour of that Board Member which in the opinion of the Authority amounts to:
 - 3.4.4.1. impropriety;
 - 3.4.4.2. serious neglect of duty in attending to the responsibilities as a Board Member;
 - 3.4.4.3. breach of fiduciary duty to the Authority;
 - 3.4.4.4. breach of the duty of confidentiality to the Authority; or
 - 3.4.4.5. any other behaviour which may discredit the Board, the Authority or a Constituent Council.
- 3.4.5. The Independent Chair appointed pursuant to clause 3.3.1.2 may be removed by a decision being a resolution in the same or similar terms passed by an Absolute Majority of the Constituent Councils.
- 3.4.6. Where any vacancy occurs in the membership of the Board it must be filled in the same manner as the original appointment and the person appointed to fill the vacancy will be appointed for the balance of the term

of the original appointment and at the expiry of that term shall be eligible for re-appointment.

3.5. Reimbursement of Expenses of Board Members and Remuneration of Chairperson

- 3.5.1. All Board Members will receive from the Authority reimbursement of expenses properly incurred in performing or discharging official functions and duties as determined by the Authority and set out in a policy adopted by the Authority for the purposes of this clause.
- 3.5.2. The Chairperson will be eligible for a sitting fee from the funds of the Authority as determined by the Constituent Councils.
- 3.5.3. Board Members appointed by Constituent Councils will not be entitled to a sitting fee from the funds of the Authority.

3.6. Propriety of Board Members

- 3.6.1. Subject to the express provisions of Schedule 2 to the Act and this Charter, all provisions governing propriety and duties of members of a Council and public officers under the law of South Australia will be applicable to Board Members.
- 3.6.2. Subject to clauses 20(6) and 20(7) of Schedule 2 to the Act, the provisions regarding conflict of interest prescribed in the Act apply to all Board Members as if they were members of a Council.
- 3.6.3. 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.
- 3.6.4. The Authority must adopt a Code of Conduct for Board Members.
- 3.6.5. Each Board Member is required to submit returns under Chapter 5, Part 4, Division 2 of the Act as if the Board Member was a member of a Council.

3.7. Proceedings of the Board

3.7.1. Board Meetings

- 3.7.1.1. Ordinary 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 (1) ordinary meeting of the Board every three (3) months.
- 3.7.1.2. An ordinary meeting of the Board will constitute an ordinary meeting of the Authority. The Board shall administer the business of the Authority at the ordinary meeting.

- 3.7.1.3. Any Constituent Council, the Chairperson or two Board Members may, by delivering a written request to the Executive Officer, require a special meeting of the Board to be held and any such special meeting shall constitute a special meeting of the Authority. The written request for a special meeting must be accompanied by the agenda for the special meeting or the request will be of no effect.
- 3.7.1.4. On receipt of a written request pursuant to clause 3.7.1.3 the Executive Officer must send a notice to all Board Members at least four hours prior to the commencement of the special meeting.
- 3.7.1.5. For the purposes of this clause 3.7.1, the contemporary linking together by telephone, audio-visual or other instantaneous means ('telecommunications meeting') 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 or her presence to all other Board Members taking part in the meeting. A Board Member must not leave a telecommunications meeting by disconnecting his or her telephone, audio-visual or other communication equipment, unless that Board Member has previously notified the Chairperson of the meeting.
- 3.7.1.6. A proposed resolution in writing and given to all Board Members in accordance with procedures 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 will be as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- 3.7.1.7. Ordinary 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. Chapter 6, Part 3 of the Act extends to the Authority as if the Authority were a Council and the Board Members were members of a Council. 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.
- 3.7.1.8. Where the Board has considered any information or a matter in confidence under clause 3.7.1.7, it may subsequently resolve to keep minutes and/or documents considered during that part of the meeting relating to that information or matter

confidential in accordance with section 91 of the Act as if the Authority were a Council.

3.7.2. Notice of Meetings

3.7.2.1. Subject to clause 3.7.2.2, notice to Board Members and the public of all meetings of the Board will be given in accordance with the requirements applicable to a meeting of a Council under the Act as if the Authority were a Council, the Board Members were members of a Council and the Executive Officer a Chief Executive Officer of a Council.

3.7.2.2. The Executive Officer must, in relation to a notice of meeting of the Board for the purpose of considering the making of a recommendation to the Constituent Councils to wind up the Authority, provide the notice to all Board Members at least four (4) months before the date of the meeting.

3.7.3. Quorum

No meeting of the Board will commence until a quorum of Board Members is present and no meeting may continue if there is not a quorum of Board Members present. A quorum of Board Members will comprise one-half of the Board Members in office, ignoring any fraction, plus one.

3.7.4. Majority Decision-Making

3.7.4.1. Unless otherwise required at law or by this Charter, all matters for decision at a meeting of the Board will be decided by a simple majority of the Board Members present and entitled to vote on the matter.

3.7.4.2. All Board Members including the Chairperson present and entitled to vote on the matter are required to cast a vote.

3.7.4.3. All Board Members including the Chairperson are entitled to a deliberative vote only and if the votes are equal, the Chairperson (or person acting as the chairperson in accordance with this Charter) only will have a casting vote.

3.7.5. Confidentiality

All Board Members must at all times keep confidential all documents and reports provided to them for their consideration prior to a meeting of the Board that is subject to an indication by the Executive Officer that information or matter contained in or arising from a document or report may, if the Authority determines be considered in confidence or that relates to a matter dealt with by the Board on a confidential basis in accordance with clause 3.7.1.7 and Chapter 6, Part 3 of the Act.

3.7.6. Minutes

- 3.7.6.1. 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. Where the Executive Officer is excluded from attendance at a meeting of the Board pursuant to clause 3.7.1.7 the person presiding at the meeting shall cause the minutes to be kept.
- 3.7.6.2. The Executive Officer must, within five (5) days after a meeting of the Board, provide to each Board Member a copy of the draft minutes of the meeting of the Board.
- 3.7.6.3. A copy of the minutes of a meeting of the Board must be placed on the Authority website within five days after the meeting at which the minutes are confirmed.
- 3.7.6.4. Clause 3.7.6.3 does not apply to the minutes of a meeting of the Board that relates to information or a matter dealt with by the Board on a confidential basis in accordance with clause 3.7.1.7 and Chapter 6, Part 3 of the Act.

3.7.7. Code of Practice

- 3.7.7.1. The Board must adopt a Code of Practice for Meeting Procedures to apply to the proceedings and conduct of meetings of the Board. The Code of Practice for Meeting Procedures must not be inconsistent with the Act or this Charter.
- 3.7.7.2. The Code of Practice for Meeting Procedures may be reviewed by the Board at any time and must be reviewed at least once every four (4) years.
- 3.7.7.3. In the event of any inconsistency between this Charter and the Code of Practice for Meeting Procedures, this Charter shall prevail.

3.7.8. Committees

- 3.7.8.1. The Board may from time to time as it sees fit establish committees, including their associated terms of reference, for the purposes of assisting it in the performance of its functions. A committee established by the Board under this clause may be comprised of such persons that the Board determines.
- 3.7.8.2. Every committee shall operate in accordance with the terms of reference and general procedures applicable to the Board itself subject to any variation prescribed by the Board when establishing the committee.

4. STRATEGIC MANAGEMENT

4.1. Strategic Plan

- 4.1.1. The Authority must:
 - 4.1.1.1. prepare, and subject to clause 4.1.1.2, adopt a ten year Strategic Plan for the conduct of its business which will identify the Authority's objectives over the period of the Strategic Plan and the principal activities that the Authority intends to undertake to achieve its objectives;
 - 4.1.1.2. submit the Strategic Plan to the Constituent Councils for their approval; and
 - 4.1.1.3. in consultation with the Constituent Councils, review the Strategic Plan at least once in every four years.
- 4.1.2. In preparing and when reviewing a Strategic Plan, the Board must at a minimum have regard to the following:
 - 4.1.2.1. 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;
 - 4.1.2.2. any initiatives proposed by the Commonwealth of Australia or the State Government which may impact upon or affect proper waste management in the area;
 - 4.1.2.3. any plan or policy of a Constituent Council for waste management then in force and any proposed changes to such plan or policy;
 - 4.1.2.4. the current strategic management plans of each Constituent Council; and
 - 4.1.2.5. the current annual business plan and budget of each Constituent Council.

4.2. Business Plan

The Authority:

- 4.2.1. must in consultation with the Constituent Councils prepare and adopt an annual 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;
- 4.2.2. must before 31 March of each year submit a draft business plan and draft budget to the Constituent Councils for the ensuing Financial Year in accordance with the Act and obtain approval of the draft budget by an Absolute Majority of the Constituent Councils;

- 4.2.3. following approval of the draft business plan by the Constituent Councils, after 31 May and before 30 June each year, the Authority must adopt the draft business plan as the Business Plan for the ensuing Financial Year;
- 4.2.4. may, after consultation with the Constituent Councils, amend its Business Plan at any time; and
- 4.2.5. must ensure the contents of the Business Plan are in accordance with the Act.

4.3. Annual Report

The Authority must submit to the Constituent Councils by 30 September in each financial year an annual report on the work and operations of the Authority detailing achievement of the objectives described in the Business Plan and incorporating the audited Financial Statements of the Authority for the preceding Financial Year and any other information or reports as required by the Constituent Councils.

4.4. Audit

- 4.4.1. The Authority must cause adequate and proper books of account to be kept in relation to all the affairs of the Authority and must establish and maintain effective auditing of its operations.
- 4.4.2. The Authority must appoint an auditor in accordance with the Act on such terms and conditions as determined by the Authority.
- 4.4.3. The audited Financial Statements of the Authority, together with the accompanying report from the Auditor, shall be submitted to both the Board and the Constituent Councils by 30 September in each year.

4.5. Audit Committee

- 4.5.1. The Authority will establish an audit committee as required by clause 30, Schedule 2 of the Act.

5. FINANCIAL MANAGEMENT

5.1. Equity Interest

- 5.1.1. The Authority will by the end of every calendar year prepare or update as required a schedule setting out the interest of each Constituent Council in the Net Assets of the Authority (**CCI Schedule**).
- 5.1.2. The CCI Schedule will set out each Constituent Council's Equity Interest in the Authority as at 30 June that year calculated in accordance with clause 5.1.3.
- 5.1.3. The Equity Interest of a Constituent Council as at the end of a Financial Year will be determined by adjusting the Equity Interest of the Constituent Council calculated for the previous Financial Year by the Annual Contribution of the Council.

- 5.1.4. The Equity Interest of a Constituent Council as at the date on which this Charter comes into operation will be equal to the cumulative tonnes of rubbish and waste deposited by the Constituent Council at a landfill operated by the Authority in period commencing 1 July 2001 until 30 June of the financial year immediately preceding the commencement of this Charter.

5.2. Annual Budget

- 5.2.1. The Board will determine annually, and will include within the draft budget submitted to the Constituent Councils for approval, the funds required to enable the Authority to operate and to fulfil its purpose and undertake its functions.
- 5.2.2. The Authority must before 31 March of each year prepare and submit a draft budget (including proposed Fees and Financial Contributions) to the Constituent Councils for the ensuing Financial Year in accordance with the Act and obtain approval of the draft budget by an Absolute Majority of the Constituent Councils.
- 5.2.3. Following approval of the draft budget by the Constituent Councils, after 31 May and before 30 June each year, the Authority must adopt the draft budget as the Budget for the ensuing Financial Year in accordance with the Act.
- 5.2.4. 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.
- 5.2.5. The Authority must each Financial Year provide a copy of its Budget to the Constituent Councils within five (5) business days after adoption by the Authority.
- 5.2.6. Reports summarising the financial position and performance of the Authority against the Budget shall be prepared and presented to the Board at each ordinary meeting of the Board and copies provided to the Constituent Councils.
- 5.2.7. The Authority must reconsider its Budget in accordance with the Act in a manner consistent with the Act and may with the approval of the Constituent Councils amend its Budget for a Financial Year at any time before the Financial Year ends.

5.3. Financial Contributions

- 5.3.1. The Authority may include in the Budget submitted to the Constituent Councils for approval Financial Contributions to be paid by the Constituent Councils.
- 5.3.2. The Authority may during any Financial Year for purposes of genuine emergency, extraordinary circumstances or hardship determine that additional Financial Contributions are required by the Authority for the

continuing functioning of the Authority and request these funds from the Constituent Councils.

- 5.3.3. Any additional financial contributions to be paid by the Constituent Councils will be submitted to the Constituent Councils for approval.

5.4. Financial Standards and Reporting

- 5.4.1. The Authority must ensure that the Financial Statements of the Authority for each Financial Year are audited by the Authority's auditor.
- 5.4.2. The Financial Statements must be finalised and audited by 31 August each year.

5.5. Long Term Financial Plan

- 5.5.1. The Board must prepare a Long Term Financial Plan covering a period of at least ten (10) years and an Asset Management Plan in a form and including such matters which, as relevant, is consistent with section 122 of the Act and the *Local Government (Financial Management) Regulations 2011* as if the Authority were a Council.
- 5.5.2. The Authority must undertake:
- 5.5.2.1. a comprehensive review of its Long Term Financial Plan every four (4) years;
 - 5.5.2.2. a review of the Long Term Financial Plan as soon as practicable after the annual review of its Business Plan and concurrently with any review of its Strategic Plan and may undertake a review of the Long Term Financial Plan at any other time.
- 5.5.3. The Long Term Financial Plan and the Asset Management Plan will be taken to form part of the Strategic Plan.

5.6. Banking

- 5.6.1. The Authority must establish and maintain a bank account with such banking facilities and at a bank to be determined by the Authority. The Authority will appoint no less than two (2) authorised operators of the bank accounts at any one time. The authorised operators must be Board Members, Authority staff or Constituent Council staff.
- 5.6.2. All payments made by the Authority must be authorised by an authorised operator appointed under clause 5.6.1 and be in accordance with a finance management policy adopted by the Board.

6. ADMINISTRATIVE MATTERS

6.1. Executive Officer and Staff

- 6.1.1. The Authority may employ staff and the Board must appoint an Executive Officer on a fixed term performance based employment

contract, which does not exceed five (5) years in duration and on such other terms as determined by the Board. The Board may at the end of the contract term enter into a new contract not exceeding five (5) years in duration with the same person.

- 6.1.2. The Executive Officer is responsible for appointing, managing, suspending and dismissing the other employees of the Authority on behalf of the Authority.
- 6.1.3. In the absence of the Executive Officer for any period exceeding three (3) weeks, the Executive Officer must after consultation appoint a suitable person as Acting Executive Officer. If the Executive Officer does not make or is incapable of making such an appointment, a suitable person must be appointed by the Board.
- 6.1.4. The functions of the Executive Officer include:
 - 6.1.4.1. ensuring the decisions of the Authority are implemented in a timely and efficient manner;
 - 6.1.4.2. carrying out such duties as the Authority may direct;
 - 6.1.4.3. attending at all meetings of the Board unless excluded by resolution of the Board;
 - 6.1.4.4. providing information to assist the Authority to assess the Authority's performance against the Strategic Plan and Business Plan;
 - 6.1.4.5. appointing, managing, suspending and dismissing all other employees of the Authority;
 - 6.1.4.6. determining the conditions of employment of all other employees of the Authority, within budgetary constraints set by the Board;
 - 6.1.4.7. providing advice and reports to the Authority on the exercise and performance of its powers and functions under this Charter or any Act;
 - 6.1.4.8. ensuring that the assets and resources of the Authority are properly managed and maintained;
 - 6.1.4.9. ensuring that records required under the Act or any other legislation are properly kept and maintained;
 - 6.1.4.10. achieving financial and other outcomes in accordance with adopted plans and budgets of the Authority;
 - 6.1.4.11. ensuring the efficient and effective management of the operations and affairs of the Authority; and

6.1.4.12. 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.

6.1.5. The Authority must undertake an annual performance review of the Executive Officer.

6.1.6. The Executive Officer and other senior staff of the Authority as determined by the Authority, are required to submit returns under Chapter 7, Part 4, Division 2 of the Act, as if the Executive Officer and other staff of the Authority were employees of a Council and the Authority was a Council.

6.1.7. The Executive Officer must act prudently in the handling of all financial transactions for the Authority and must provide quarterly financial and corporate reports to the Board and the Constituent Councils.

6.2. Engagement of Consultants and Advisers

The Authority may engage consultants and advisers 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 personnel management prescribed by this Charter.

7. DISPUTES BETWEEN CONSTITUENT COUNCILS

7.1. General

Where a dispute arises between the Constituent Councils or between a Constituent Council and the Authority (the parties to this Charter) which relates to this Charter or the Authority ('the Dispute'), the parties will use their best endeavours to resolve the Dispute and to act at all times in good faith.

7.2. Mediation

7.2.1. A party is not entitled to initiate arbitration or court proceedings (except proceedings seeking urgent equitable or injunctive relief) in respect of a Dispute unless it has complied with this clause 7.2.

7.2.2. If the parties are unable to resolve the Dispute within thirty (30) days, the parties must refer the Dispute for mediation in accordance with the Mediation Rules of the Resolution Institute within seven (7) days of a written request by any party to the other party that the Dispute be referred for mediation, to:

7.2.2.1. a mediator agreed by the parties; or

7.2.2.2. if the parties are unable to agree on a mediator at the time the Dispute is to be referred for mediation, a mediator nominated by the President of the Law Society.

7.2.3. In the event the parties fail to refer the matter for mediation in accordance with clause 7.2.2, one or more of the parties may refer the matter for mediation in accordance with the Mediation Rules of the

Resolution Institute to a mediator nominated by the President of the Law Society.

- 7.2.4. The role of any mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on a party unless that party has so agreed in writing.
- 7.2.5. If mediation does not resolve the Dispute within twenty-eight (28) days of referral of the Dispute for mediation or such longer period agreed unanimously by the parties as evidenced by resolutions of each of the parties, any party may then refer the Dispute to Arbitration in accordance with clause 7.3.

7.3. Arbitration

- 7.3.1. An arbitrator may be appointed by agreement between the parties.
- 7.3.2. Failing agreement as to an arbitrator, the Chief Executive Officer of the Resolution Institute or his or her successor shall nominate an arbitrator pursuant to these conditions.
- 7.3.3. A submission to arbitration shall be deemed to be a submission to arbitration within the meaning of the *Commercial Arbitration Act 2011*.
- 7.3.4. Upon serving a notice of arbitration, the party serving the notice shall lodge with the arbitrator a deposit by way of security for the cost of the arbitration proceedings.
- 7.3.5. Upon each submission to arbitration, the costs of and incidental to the submission and award shall be at the discretion of the arbitrator who may in his or her sole discretion determine the amount of costs, how costs are to be proportioned and by whom they are to be paid.
- 7.3.6. Whenever reasonably possible, performance of the obligations of the parties pursuant to this Charter shall continue during the mediation or arbitration proceedings and no payment by or to a party shall be withheld on account of the mediation and arbitration proceedings.

8. MISCELLANEOUS MATTERS

8.1. Alteration to Charter

- 8.1.1. Subject to the Act, this Charter may be amended at any time by the agreement of all Constituent Councils after taking into account the recommendations of the Authority.
- 8.1.2. This Charter will be reviewed by the Constituent Councils acting in concurrence at least once in every four (4) years.
- 8.1.3. The Executive Officer must ensure that the amended Charter is published as required by the Act and a copy of the amended Charter provided to the Minister.

8.2. Withdrawal of a Constituent Council

- 8.2.1. Subject to ministerial approval and clause 8.2.2, a Constituent Council may withdraw from the Authority by giving not less than twenty-four (24) months' notice of its intention to do so to the Board and to the Executive Officer, unless a shorter withdrawal period is agreed by the Constituent Councils and approved by the Board.
- 8.2.2. On receipt of a notice under clause 8.2.1, the Authority will undertake an assessment of the impact of the withdrawal on the Authority for the purposes of determining the ongoing viability of the Authority. Should the Authority resolve following a consideration of the assessment that the Authority will no longer be financially viable then the Constituent Councils (including the Constituent Council which has notified its intention to withdraw) will work together to determine an orderly winding up of the Authority under clause 8.4 and a notice provided under clause 8.2.1 will be of no further effect.
- 8.2.3. Subject to clause 8.2.2, a withdrawal becomes effective from 30 June (or such later date as agreed by the Constituent Councils) following the expiry of the twenty-four (24) month notice period. Until the date on which the withdrawal becomes effective (**Withdrawal Date**), the withdrawing Constituent Council:
- 8.2.3.1. must continue to pay Financial Contributions to the Authority as required by this Charter; and
 - 8.2.3.2. through its Board Members and Deputy Board Members, retains responsibility for ensuring the continued proper conduct of the affairs of the Authority.
- 8.2.4. A withdrawing Constituent Council will remain liable in proportion to the Constituent Council's Equity Interest Percentage calculated at the date of providing the notice under clause 8.2.1 for:
- 8.2.4.1. liabilities of the Authority up to the Withdrawal Date;
 - 8.2.4.2. Financial Contributions towards any actual or contingent deficiency in the Net Assets of the Authority at the end of the financial year in which the Withdrawal Date occurs; and
 - 8.2.4.3. any ongoing or newly arising liability of the Authority existing or arising after the Withdrawal Date which relates to circumstances existing or acts, omissions or decisions of the Authority prior to the Withdrawal Date.
- 8.2.5. Upon withdrawal taking effect and subject to clause 8.2.7, a Constituent Council will be entitled at the discretion of the Board to be paid not more than 50% of the Constituent Council's Equity Interest (**Equity Payment**).
- 8.2.6. The withdrawing Constituent Council will be entitled to receive the Equity Payment by quarterly instalments to be paid over a period of two

(2) years with the first instalment being due on 1 January following the Withdrawal Date.

- 8.2.7. A withdrawing Constituent Council will not be entitled to be paid any amount in respect of any reserve fund established by the Authority.

8.3. Addition of New Member

- 8.3.1. 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.
- 8.3.2. An incoming Constituent Council's Equity Interest will be calculated from the date on which the Constituent Council becomes a member of the Authority, subject to clause 8.3.3.
- 8.3.3. For the purposes of determining an incoming Council's Equity Interest, profits or liabilities of the Authority which relate to circumstances or acts, omissions or decisions of the Authority which existed or occurred prior to the incoming Council becoming a Constituent Council will be excluded in accordance with any applicable resolution of the Board.

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 that there is a proposal to wind up the Authority, initiated by the Authority, a Constituent Council or the Minister, the Authority will recommend to the Constituent Councils a process and timeframe for the orderly winding up of the Authority.
- 8.4.3. 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 Constituent Councils on the basis of their Equity Interest Percentage.
- 8.4.4. In the event of there being any unfunded liabilities of the Authority at the time of a winding up or otherwise, each Constituent Council will be responsible (as between the Constituent Councils) to fund a proportion of the unfunded liabilities calculated on the basis of the Equity Interest Percentage of that Constituent Council.

8.5. Insurance

- 8.5.1. The Authority must obtain and maintain a prudent level of insurance to cover its anticipated risks and civil liabilities (including workers' compensation) and assets.
- 8.5.2. The Authority must take out a suitable policy of insurance insuring Board Members and their spouses or other persons who may be accompanying a Board Member against risks associated with the

performance or discharge of their official functions and duties or on official business of the Authority.

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 jointly direct and control the Authority by resolution passed by each Constituent Council expressed in the same or similar terms.
- 8.6.3. For the purpose of clause 8.6.2, any direction given by the Constituent Councils must be given in writing to the Executive Officer of the Authority together with a copy of the relevant resolutions of the Constituent Councils.
- 8.6.4. Where the Authority is required pursuant to the Act or this Charter to obtain the consent or approval of one or more of the Constituent Councils, that approval must only be granted and must be evidenced by a resolution passed by each of the Constituent Councils granting such approval.
- 8.6.5. Unless otherwise stated in this Charter, where the Authority is required to obtain the consent or approval of the Constituent Councils, this means the consent and approval of all the Constituent Councils expressed in the same or similar terms.

8.7. Circumstances not provided for

- 8.7.1. 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.
- 8.7.2. The Chairperson shall report any such decision at the next ordinary meeting of the Authority.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	12.9
Responsible Officer:	Steven Watson Governance & Risk Coordinator Office of the CEO
Subject:	Section 43 Regional Subsidiary Membership – Gawler River Floodplain Management Authority
For:	Decision

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)

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 one of these regional subsidiaries, GRFMA, and the process for the nomination and election to these board member positions.

RECOMMENDATION

Decision 1

Council resolves:

- 1. That the report be received and noted.**
- 2. To note that the Chief Executive Officer has nominated Ashley Curtis to the Board Member (Chief Executive Officer) position.**
- 3. To determine that the method of selecting the Gawler River Floodplain Management Authority Board Member and Deputy 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.**
- 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 Gawler River**

Floodplain Management Authority Board Member roles and for the meeting to resume once the results of the indicative voting for the Board Member roles have been declared.

Decision 2

1. That in relation to the Gawler River Floodplain Management Authority Board:
 - a. To appoint _____ to the Board Member position for a term to commence from 30 November 2022 and conclude on 29 November 2024 (inclusive)
 - b. To appoint _____ to the Deputy Board Member position for a term to commence from 30 November 2022 and conclude on 29 November 2024 (inclusive)
 2. To authorise the Chief Executive Officer to lodge all required documentation to give effect to Council’s resolutions regarding Gawler River Floodplain Management Authority Board Membership.
-

1. BACKGROUND

GRFMA Charter and Board

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

The purpose of GRFMA (see Charter at **Appendix 1**) is of coordinating the planning, construction, operation and maintenance of flood mitigation infrastructure for the Gawler River, and for the following functions:

- 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 flooding of the Gawler River;
- to advocate on behalf of the Constituent Councils and their communities where required to State and Federal Governments for legislative policy changes on matters related to flood mitigation and management and associated land use planning with Gawler River flood mitigation;
- to facilitate sustainable outcomes to ensure a proper balance between economic, social, environmental and cultural consideration; and
- to provide advice as appropriate to the Constituent Councils in relation to development applications relevant to the Authority’s roles and functions.

Clause 4.2 of the Charter provides that the Board will consist of 13 Board Members comprising:

- the Chief Executive Officers of each of the Constituent Councils (including any persons acting in those offices from time to time) or his or her nominee who shall be an employee of the same Constituent Council as the Chief Executive Officer nominating the employee; and
- one member of each Constituent Council appointed by each Constituent Council;
- an Independent Chairperson

Each Constituent Council must also appoint a Deputy Board Member for each of the Board Member positions.

The term of office for the Board Member and Deputy Board Member will be as determined by the Constituent Council.

Previous Board Membership

At its 8 September 2020 Special meeting, in relation to the GRFMA Board Member and Deputy Board Member positions, Council resolved as follows:

- 6. That in relation to the Gawler River Floodplain Management Authority Board:**
 - a. To note that the Chief Executive Officer has nominated Ashley Curtis to the Board Member (Chief Executive Officer) position for a term to commence from 27 November 2020 and conclude on 23 December 2022 (inclusive)**
 - b. To appoint Cr Malcolm Herrmann to the Board Member (Council Member) position for a term to commence from 27 November 2020 and conclude at the end of the current Council term (inclusive)**
 - c. To appoint Cr Ian Bailey as a Deputy Board Member to the Board Member (Council Member) position for a term to commence from 27 November 2020 and conclude at the end of the current Council term (inclusive).**

The GRFMA Board meets 2nd Thursday every 2 months, 9.45am at each constituent council in rotation. The meetings are of approximately two hours duration.

There are no sitting fees payable for Board Members or Deputy Board Members, except the Independent Chairperson.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.2 Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community

Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region
Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

The appointment of members to the GRFMA Board 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* (the 'Act') 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.

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member's private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed to the GRFMA Board may have a General COI and should consider declaring the interest and acting in accordance with *s75B – Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed to the GRFMA Board may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council's *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information Session, if it occurs.

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)	Low (1D)	Low (1D)

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 GRFMA; however this report concerns the appointment of Council representatives to the GRFMA Board rather than the operations of the Subsidiary.

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

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

There are no direct end-user customer service implications regarding the appointment of Council representatives to the GRFMA Board.

➤ **Sustainability Implications**

Not directly applicable.

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

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Nil

Community: Not Applicable

➤ **Additional Analysis**

Legal Obligations

A Board Member of a Regional Subsidiary has different fiduciary responsibilities to that of a Council Member or a Council Officer. In simple terms, the Board Member's duty is to act in the best interests of the Subsidiary (which might not necessarily be in the best interest of the Council). There are also more complex provisions relating to conflict of interest management.

It is important that aspiring and newly-appointed Board Members have a sound understanding of these matters. Training should be provided by the Subsidiary and can be assisted by Council's Governance & Performance Team.

Board Membership Suitability

Council's membership on GRFMA is important given its ability to both provide services and financial returns and to incur risks and liabilities for Council.

While it is a Subsidiary 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 and the Subsidiary Executive.

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

- ability to bring the Adelaide Hills Council's unique perspective to Board deliberations;
- 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;
- where specifically stated, skills and/or knowledge detailed in the respective Charter for Board Members;
- whether an Independent Member (where permissible), recruited and remunerated by the Constituent Council, would be more effective in the fulfilling the role of a Board Member given the ability to recruit for specific skill sets;
- 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 Acting Chief Executive Officer has sought expressions of interest from senior Council Officers for appointment to GRFMA.

In continuation of the current arrangement, the Manager Civil Services (Ashley Curtis) will continue to be the CEO's Board Member nominee.

The Acting Chief Executive Officer provides the following Council Officer suggestions for Council's consideration:

- Deputy Board Member – (CEO or nominee) – Director Development & Regulatory Services, Natalie Armstrong

It should be noted that the GRFMA Board has historically comprised a mix of elected Council Members and Council staff from its constituent councils.

The Board immediately prior to the Council elections comprised:

- Independent Chairperson
- One Mayor
- Four Councillors
- Two council Chief Executive Officer
- Four other senior council staff members

Indicative Voting Process for Determining Council Appointed Positions

Due to the implications of the General and Material Conflict of Interest provisions (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 persons for the GRFMA 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, 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 Board Member position.
Note that the Council Officer(s) identified above can also 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.
- 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 Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak in the Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall return to the Briefing Session and publicly declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.
- n) The process a) – j) will then be undertaken for the Deputy Board Member positions.

Proposed Chronology of Events

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

- I. Council will determine to receive the report and to note the CEO advice regarding the CEO's nominee. Council would give effect to these 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 GRFMA Board 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. Steps I. to III. are all grouped as Decision 1 in the recommendation section.

- 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 Board Member roles would be advised to consider their obligations to declare a General or Material, COI, as appropriate
- VI. Council can then resolve for the preferred persons to be appointed to each Board Member and Deputy Board Member positions. Council would give effect to this by dealing with Decision 2 -Recommendation 1 (or a variant) at this time.
- VII. The final recommendation Decision 2 – Recommendation 2 is for the CEO to communicate the Council’s resolutions to GRFMA.

3. OPTIONS

The Council has the following options:

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

4. APPENDIX

- (1) GRFMA Charter

Appendix 1

GRFMA Charter

GAWLER RIVER FLOODPLAIN MANAGEMENT AUTHORITY

CHARTER

28/1/2020

1. INTRODUCTION

1.1 Name

The name of the subsidiary is the Gawler River Floodplain Management Authority (referred to as 'the Authority' in this Charter).

1.2 Definitions

'**AASB124**' means Australian Accounting Standards Board's Accounting Standard AASB124 Related Party Disclosure;

'**Act**' means the Local Government Act 1999 and includes all regulations made thereunder;

'**Annual Business Plan**' means the business plan adopted by the Authority pursuant to Clause 12.2;

'**Asset Management Plan**' means the asset management plan adopted by the Authority and approved by the Constituent Councils in accordance with Clause 13.3;

'**Board**' means the Board of the Authority set out at Clause 4;

'**Board Member**' means a member of the Board appointed pursuant to Clause 4.2;

'**Budget**' means the annual budget adopted by the Authority pursuant to Clause 12.1;

'**Chairperson**' means the member of the Board appointed pursuant to Clause 4.4;

'**Constituent Councils**' means those councils identified at Clause 2.2.

'**Council**' means a council constituted under the Act;

'**Council Member**' means a member of a Council;

'**Deputy Board Member**' means a deputy member of the Board appointed pursuant to Clause 4.3;

'Dispute' means a difference between one or more Constituent Councils and the Authority concerning the operations or affairs of the Authority and includes where a Constituent Council fails or refuses to approve the draft asset management plan, budget, long term financial plan, or charter amendment as advised by the Authority;

'Financial Statements' has the same meaning as in the Act;

'Financial Year' means 1 July each year to 30 June in the subsequent year;

'Long Term Financial Plan' means the long term financial plan adopted by the Authority and approved by the Constituent Councils pursuant to Clause 13.1;

'Executive Officer' means the person appointed pursuant to Clause 10.1 as the Executive Officer of the Authority;

'Region' means the collective geographical areas of the Constituent Councils;

'Strategic Plan' means the strategic plan adopted by the Authority pursuant to Clause 13.2.

1.2.1 In the calculation of 'days':

1.2.1.1 the day on which the notice, document, report, etc is given will not be taken into account; and

1.2.1.2 Saturdays, Sundays and public holidays will be taken into account.

1.3 Interpretation

In this Charter, unless the context otherwise requires:

1.3.1 the singular includes the plural and vice versa;

1.3.2 words importing a gender include other genders;

1.3.3 words importing natural persons include corporates;

1.3.4 reference to a section is to a section of the Act and includes any section that substantially replaces that section and deals with the same matter;

1.3.5 headings are for ease of reference only and do not affect the construction of this clause;

1.3.6 an unenforceable provision or part of a provision of this Charter may be severed and the remainder of this Charter continues in force, unless this would materially change the intended effect of this Charter.

1.4 **Local Government Act**

- 1.4.1 This Charter must be read in conjunction with Parts 2 and 3 of Schedule 2 to the Act.
- 1.4.2 The Authority shall conduct its affairs in accordance with and comply with Schedule 2 to the Act except as modified by this Charter in a manner permitted by Schedule 2.

2. **ESTABLISHMENT**

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

3. **PURPOSE AND FUNCTIONS**

- 3.1 The Authority has been established for the purpose of coordinating the planning, construction, operation and maintenance of flood mitigation infrastructure for the Gawler River, and for the following functions:
 - 3.1.1 to raise finance for the purpose of developing, managing and operating and maintaining works approved by the Board;
 - 3.1.2 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 flooding of the Gawler River;
 - 3.1.3 to advocate on behalf of the Constituent Councils and their communities where required to State and Federal Governments for legislative policy changes on matters related to flood mitigation and management and associated land use planning with Gawler River flood mitigation;
 - 3.1.4 to facilitate sustainable outcomes to ensure a proper balance between economic, social, environmental and cultural consideration;and
 - 3.1.5 to provide advice as appropriate to the Constituent Councils in relation to development applications relevant to the Authority's roles and functions.
- 3.2 One or more of the Constituent Councils may request the Authority to undertake a function set out in Clause 3.1 of this Charter for the Constituent Council(s), which function will be additional and separate to those undertaken by the Authority for all of the Constituent Councils.

- 3.3 Where one or more Constituent Councils makes a request provided for under Clause 3.2, the Constituent Council(s) and the Authority must enter into a written agreement which amongst other things provides for the Constituent Council(s) to pay to the Authority annual subscription amounts and/or equal percentages of classes of subscription to meet the costs of the Authority in undertaking the additional function(s) and which also provides, with the ownership and maintenance of any resultant infrastructure.
- 3.4 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 OF MANAGEMENT

4.1 The Board

- 4.1.1 The Authority will be governed by a Board and all decisions of the Board constitute decisions of the Authority.
- 4.1.2 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 complies with all legislative obligations including this Charter, that information provided to the Constituent Councils is accurate and that the 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.

4.2 Board Members

- 4.2.1 The Board will consist of 13 Board Members comprising:
- 4.2.1.1 the Chief Executive Officers of each of the Constituent Councils (including any persons acting in those offices from time to time) or his or her nominee who shall be an employee of the same Constituent Council as the Chief Executive Officer nominating the employee; and
 - 4.2.1.2 one member of each Constituent Council appointed by each Constituent Council;
 - 4.2.1.3 a Chairperson appointed pursuant to Clause 4.4.
- 4.2.2 A Board Member is at the expiry of his or her term of office eligible for reappointment.
- 4.2.3 Board Members (with the exception of the Chairperson) shall not be entitled to receive a sitting fee or other fee or remuneration for undertaking their role as a Board Member.
- 4.2.4 Written confirmation from the Chief Executive Officer of a Constituent Council will be sufficient evidence of that Constituent Council's appointment or revocation of the appointment of a Board Member.

- 4.2.5 In the event the office of a Board Member becomes vacant, the Constituent Council who appointed that Board Member will appoint another elected member to fill that vacancy:
- 4.2.5.1 if the Board Member whose office has become vacant was an elected member of a Constituent Council;
- 4.2.5.2 if the Board Member whose office has become vacant was a person nominated by the Chief Executive Officer of a Constituent Council, the Chief Executive Officer of that Constituent Council will act as a Board Member or nominate a person to be a Board Member.
- 4.2.6 The Constituent Councils will endeavour as far as practicable to ensure the Board comprises a gender balance and Board Members with a range of expertise including:
- environmental management;
 - corporate financial management;
 - general management;
 - public sector governance;
 - public works engineering management.

4.3 **Deputy Board Member**

- 4.3.1 Each Constituent Council must appoint:
- 4.3.1.1 an employee of that Constituent Council as a deputy Board Member who may act in the place of the Board Member being the Chief Executive Officer (or his or her nominee) of that Constituent Council as provided for in Clause 4.2.1.1 if that Board Member is unable for whatever reason to attend a meeting of the Board or otherwise able to act as a Board Member whilst the Board Member is unable to attend a meeting of the Board or to act as a Board Member; and
- 4.3.1.2 a member of that Constituent Council as a deputy Board Member who may act in the place of the Board Member appointed by that Constituent Council pursuant to Clause 4.2.1.2 if that Board Member is unable for whatever reason to attend a meeting of the Board or otherwise unable to act as a Board Member whilst the Board Member is unable to attend a meeting of the Board or act as a Board Member.
- 4.3.2 A deputy Board Member in attendance at a meeting of the Board may speak but is only entitled to vote on a matter to be decided by the Board if acting and in attendance at the meeting in accordance with Clauses 4.3.1.

4.4 **Chairperson**

- 4.4.1 A person who is neither an officer, employee or member of a Constituent Council will be appointed by the Constituent Councils as a Board Member and the Chairperson for a term of up to three years and on such other terms and conditions as determined by the Constituent Councils and who the Constituent Councils consider has expertise in one or more of the following areas:
- (a) environmental management;
 - (b) corporate financial management;
 - (c) general management;
 - (d) public sector governance.
- 4.4.2 In the event the Chairperson is absent or unable for whatever reason to act as Chairperson, the Board will elect a Board Member as the Acting Chairperson for the period the Chairperson is absent or unable to act as Chairperson.
- 4.4.3 The Chairperson is, at the expiry of his or her term of office, eligible for reappointment.
- 4.4.4 The Authority may at the expiry of the Chairperson's term of office as Chairperson appoint the Chairperson for a further term of up to three years and otherwise on the same terms and conditions as the Chairperson's original appointment.
- 4.4.5 The Authority may pay a sitting fee to the Chairperson in such amount as determined by the Authority.
- 4.4.6 The Chairperson will preside at all meetings of the Board and in the event the Chairperson is absent from a meeting, the Board must select a Board Member present to preside at that meeting only.
- 4.4.7 In the event there is a vacancy in the office of Chairperson, the Board will elect a Board Member to act as Chairperson for the balance of the original term or the appointment of a Chairperson, whichever occurs first.

5. **TERM OF OFFICE**

- 5.1 Subject to Clause 5.2, the term and other conditions of office of a Board Member, will be as determined by the Constituent Council appointing that Board Member.
- 5.2 The Constituent Councils will as far as practicable appoint Board Members, other than those Board Members who are the Chief Executive Officers of the Constituent Councils, following each periodic election of the Constituent Council until the next periodic election of the Constituent Council.

- 5.3 The Board may by a two-thirds majority vote of the Board Members present (excluding the member subject to this clause) make a recommendation to the Constituent Council that appointed the relevant Board Member, that the Constituent Council terminate the appointment of that Board Member in the event of:
- 5.3.1 any behaviour of the Board Member which in the opinion of the Authority amounts to impropriety;
 - 5.3.2 serious neglect of duty in attending to the responsibilities of a Board Member and/or Chairperson of the Board;
 - 5.3.3 breach of fiduciary duty to the Authority;
 - 5.3.4 breach of the duty of confidentiality to the Authority or the Constituent Councils;
 - 5.3.5 breach of the conflict of interest requirements applying to the Board Member; or
 - 5.3.6 any other behaviour which may discredit the Authority or a Constituent Council.
- 5.4 The Authority may by a two-thirds majority vote of the Board Members present at a Board meeting (excluding the Chairperson) make a recommendation to the Constituent Councils that the appointment of the Chairperson be terminated in the event of:
- 5.4.1 any behaviour of the Chairperson which in the opinion of the Authority amounts to impropriety;
 - 5.4.2 serious neglect of duty in attending to the responsibilities of a Board Member and/or Chairperson of the Board;
 - 5.4.3 breach of fiduciary duty to the Authority;
 - 5.4.4 breach of the duty of confidentiality to the Authority or the Constituent Councils;
 - 5.4.5 breach of the conflict of interest requirements applying to a Board Member; or
 - 5.4.6 any other behaviour which may discredit the Authority or a Constituent Council.
- 5.5 The Constituent Council which appointed the member whose term of office has become vacant will be responsible to appoint a Board Member to fill the vacancy.
- 5.6 A Board Member will cease to hold office and his or her office will become vacant:

- 5.6.1 if any of the grounds or circumstances in the Act as to when a Board Member's office becomes vacant arises;
- 5.6.2 if he or she is convicted of an indictable offence punishable by imprisonment;
- 5.6.3 if the Constituent Council which appointed the Board Member ceases to be a Constituent Council;
- 5.6.4 in relation to a Board Member who is the Chief Executive Officer (or his or her nominee) of a Constituent Council, if the Board Member ceases to be an employee of the Constituent Council that he or she was an employee of at the time he or she was appointed or the Constituent Council by which the Chief Executive Officer or his or her nominee is employed ceases to be a Constituent Council;
- 5.6.5 upon the happening of any other event through which the Board Member would be ineligible to remain as a Board Member; or
- 5.6.6 if a Constituent Council revokes the appointment of a Board Member appointed by that Constituent Council.

6. **ROLE, FUNCTIONS AND PROCEEDINGS OF THE BOARD**

6.1 **Role of the Board**

The Board is the Authority's governing body and has the responsibility for the administration of the affairs of the Authority ensuring that the Authority acts in accordance with this Charter and all relevant legislation including the Act.

6.2 **Functions of the Board**

In addition to the functions of the Board set out in the Act, the functions of the Board include:

- 6.2.1 the formulation of Strategic and Business Plans in accordance with Clause 13;
- 6.2.2 providing professional input and policy direction to the Authority;
- 6.2.3 ensuring strong accountability and stewardship of the Authority;
- 6.2.4 monitoring, overseeing and measuring the performance of the Executive Officer of the Authority;
- 6.2.5 ensuring that ethical behaviour and integrity is established and maintained by the Authority, the Board and Board Members in all activities undertaken by the Authority;
- 6.2.6 developing and adopting such policies and procedures as give effect to good governance and administrative practices;

- 6.2.7 exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
- 6.2.8 avoiding investments that are speculative or hazardous by nature.

6.3 **Proceedings of the Board**

- 6.3.1 All meetings of the Authority shall be meetings of the Board.
- 6.3.2 Ordinary meetings of the Board will be held at such times and places as determined by the Board except that there must be at least one ordinary meeting of the Board every two months.
- 6.3.3 An ordinary meeting of the Board will constitute an ordinary meeting of the Authority. The Board shall administer the business of the Authority at the ordinary meeting.
- 6.3.4 For the purpose of this Clause 6.3, the contemporary linking together by telephone, audio-visual or other instantaneous means (telecommunications meeting) 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.
- 6.3.5 A proposed resolution in writing and given to all Board Members in accordance with procedures determined by the Board will be a valid decision of the Board and will constitute a valid decision of the Authority 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 will be deemed a resolution of the Board and will be as valid and effective as if it had been passed at a meeting of the Board duly convened and held.
- 6.3.6 Subject to Clause 6.3.7, meetings of the Board will be open to the public and Chapter 6 Part 3 extends to the Authority as if it were a Council and the Board Members were members of the Council.
- 6.3.7 Any Constituent Council, the Chairperson or three Board Members may by delivering a written request to the Executive Officer require a special meeting of the Board to be held and any such special meeting shall constitute a special meeting of the Authority. The written request must be accompanied by the agenda for the special meeting and if an agenda is not provided the request has no effect.

- 6.3.8 On receipt of a written request pursuant to Clause 6.3.7, the Executive Officer must give notice to all Board Members at least four hours prior to the commencement of the special meeting.
- 6.3.9 A meeting of the Board must not commence until a quorum of Board Members is present and a meeting must not continue if there is not a quorum of Board Members present. A quorum of Board Members will comprise one half of the Board Members in office, ignoring any fraction, plus one.
- 6.3.10 The Board must adopt a Code of Practice for Meeting Procedures to apply to the proceedings at and conduct of meetings of the Board. The Code of Practice for Meeting Procedures must not be inconsistent with the Act or this Charter.
- 6.3.11 The Code of Practice for Meeting Procedures may be reviewed by the Board at any time and must be reviewed at least once every three years.
- 6.3.12 In the event of any inconsistency between this Charter and the Code of Practice for Meeting Procedures, this Charter shall prevail.

7. PROPRIETY OF MEMBERS OF THE BOARD

- 7.1 Subject to Clauses 20(6) and 20(7) of Schedule 2 to the Act, the provisions regarding conflict of interest prescribed in the Act apply to all Board Members as if they were elected members of a Council and the Authority was a Council.
- 7.2 Board Members must comply with Division 2, Chapter 5 (Register of Interests) of the Act and to use all reasonable efforts to assist the Authority to comply with any obligations including regarding related party disclosures as set out in AASB124.
- 7.3 Board Members must act in accordance with their duties of confidence and other legal and fiduciary duties including honesty and the exercise of reasonable care and diligence to the Authority as required by Part 4, Division 1, Chapter 5 of the Act and Clause 23 of Schedule 2, Part 2 of the Act.
- 7.4 Subject to the express provisions of Schedule 2 to the Act and this Charter, all provisions governing the propriety and duties of members of a Council and public officers under the Act and other South Australian legislation apply to Board Members.

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 subject, where relevant to Clauses 8.3, 8.4 and 8.5:
 - 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;

- 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, in accordance with Clause 9;
 - 8.2.9 the power to delegate any function or duty except for the power to compulsorily acquire land as set out in Clause 8.2.2 and any of the powers set out in section 44 of the Act, (where such powers are applicable to the Authority); 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 has the power to incur expenditure as follows:
- 8.3.1 in accordance with a budget adopted by the Authority under Clause 12.1; or
 - 8.3.2 with the prior approval of the Constituent Councils; or
 - 8.3.3 in accordance with the Act, in respect of expenditure not contained in a budget adopted by the Authority for a purpose of genuine emergency or hardship.
- 8.4 Subject to Clause 8.5, the Authority has the power to borrow money as follows:
- 8.4.1 in accordance with a budget adopted by the Authority under Clause 12; or
 - 8.4.2 with the prior approval of the Constituent Councils.
- 8.5 Unless otherwise approved by the Constituent Councils, any and all borrowings (except overdraft facilities) taken out by the Authority:
- 8.5.1 must be from the Local Government Financial Authority or a registered bank or financial institution within Australia; and

- 8.5.2 the Authority shall not act outside of the areas of the Constituent Councils without their prior approval and that approval shall only be granted upon the basis that the Constituent Councils consider it necessary or expedient for the performance of their or the Authority's functions.
- 8.6 The Authority will have a common seal which may be affixed to documents requiring execution under common seal and must be witnessed by the Chairperson and one other Board Member.
- 8.7 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.
- 8.8 The Board may by instrument under the 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. ESTABLISHMENT OF COMMITTEES

- 9.1 The Authority may establish committees.
- 9.2 A member of a committee holds office at the pleasure of the Board.
- 9.3 Without limiting the Board's power to establish additional committees, the following committee is established:
- 9.3.1 Audit Committee.
- 9.4 **Audit Committee**
- 9.4.1 The Audit Committee shall be composed of no more than three members of whom at least one shall be a person who is not a member of the Board ('Independent Member').
- 9.4.2 Members of the Audit Committee will be appointed by the Board biennially and at the expiry of a term of appointment are eligible for reappointment.
- 9.4.3 The Independent Member (or one of the Independent Members if there is more than one) shall be appointed by the Authority as the Chair of the Audit Committee. The Chair of the Audit Committee shall be paid such honorarium as the Authority determines.
- 9.4.4 Members of the Audit Committee must as far as practicable have recent and relevant financial, risk management or internal audit experience relevant to the functions of the Audit Committee as determined by the Authority.

- 9.4.5 The functions of the Audit Committee include:
- 9.4.5.1 reviewing annual Financial Statements of the Authority to ensure they provide a timely and fair view of the state of affairs of the Board; and
 - 9.4.5.2 liaising with the external auditors of the Authority; and
 - 9.4.5.3 reviewing the adequacy of the accounting, internal auditing, reporting, internal control and other financial management systems and practices of the Authority on a regular basis;
 - 9.4.5.4 Considering and advising the Authority on risk management.

10. ADMINISTRATIVE MATTERS

- 10.1 There will be an Executive Officer of the Authority appointed by the Authority on terms and conditions to be determined by the Authority.
- 10.2 The Executive Officer will be responsible to the Board:
- 10.2.1 to ensure that the policies and lawful decisions of the Authority are implemented in a timely manner;
 - 10.2.2 for the efficient and effective management of the operations and affairs of the Authority;
 - 10.2.3 to provide advice and reports to the Board on the exercise and performance of the Authority's powers and functions; and
 - 10.2.4 to give effect to the principles of human resource management generally applicable within the local government industry.
- 10.3 The Executive Officer has such powers, functions and duties prescribed by this clause and as determined necessary by the Authority from time to time to ensure the efficient and effective management of the operations and affairs of the Authority.
- 10.4 The Authority 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.
- 10.5 The Authority 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.

11. FINANCIAL CONTRIBUTIONS TO THE AUTHORITY

- 11.1 The contributions of the Constituent Councils shall be based on the percentage shares for capital works, maintenance of assets of the Authority and operational costs of the Authority in accordance with Schedule 1.

Where the capital and/or maintenance cost exceeds \$1 Million in any given year, Clause 11.7 shall apply.

- 11.2 The Authority 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 each financial year. This will be achieved via the business plan and the annual budget.
- 11.3 The Authority will determine annually the funds required by the Authority to enable it to function. The Constituent Councils shall contribute the funds requested by the Authority, in the annual budget and approved by the Constituent Councils, and any additional funds that are required for the continuing function of the Authority and approved by the Constituent Council. The Authority must provide full details regarding the need for additional funds to the Constituent Councils.
- 11.4 The annual contribution will be paid by each Constituent Council in advance by six monthly instalments.
- 11.5 Additional contributions (of any) will be paid by each Constituent Council in the manner and at the time determined by the Authority.
- 11.6 The Authority is accountable to each Constituent Council to ensure that the Authority functions in accordance with its business plan and approved budgets.
- 11.7 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.
- 11.8 Where a Constituent Council or Constituent Councils enter into an agreement with the Authority under Clauses 3.2 and 3.3 of this Charter the subscriptions payable under that agreement shall be additional to the subscriptions payable under this Clause.

12. BUDGET AND ANNUAL BUSINESS PLAN

12.1 Budget

- 12.1.1 The Authority must prepare a budget for each financial year.

- 12.1.2 The Budget must:

- 12.1.2.1 deal with each principal activity of the Authority on a separate basis;

- 12.1.2.2 be consistent with and account for activities and circumstances referred to in the Authority's Annual Business Plan;
 - 12.1.2.3 be submitted in draft form to each Constituent Council before 31 March for approval;
 - 12.1.2.4 not be adopted by the Authority until after 31 May but before 30 September;
 - 12.1.2.5 identify the amount of and the reasons for the financial contributions to be made by each Constituent Council to the Authority.
- 12.1.3 The Budget may only be adopted where two thirds of the Board Members present vote in favour of the Budget.
 - 12.1.4 The Authority must provide a copy of the adopted Budget to each Constituent Council within five clear days after adoption.
 - 12.1.5 The Authority must reconsider its Budget in accordance with Regulation 9 of the Local Government (Financial Management) Regulations 2011.
 - 12.1.6 The Authority must submit to each Constituent Council for approval, any proposed amendment to the Budget.
 - 12.1.7 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 21 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.

12.2 **Annual Business Plan**

- 12.2.1 The Authority shall have an Annual Business Plan in respect of the ensuing 12 months.
- 12.2.2 The Annual Business Plan must:
 - 12.2.2.1 state the services to be provided by the Authority;
 - 12.2.2.2 identify how the Authority intends to manage service delivery;
 - 12.2.2.3 identify the performance targets which the Authority is to pursue;
 - 12.2.2.4 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

12.2.2.5 specify the performance measures that are to be used to monitor and assess performance against targets.

13. MANAGEMENT FRAMEWORK

13.1 Long Term Financial Plan

- 13.1.1 The Authority must develop and adopt in consultation with the Constituent Councils a Long Term Financial Plan covering a period of at least ten (10) years in a form and including such matters which, as relevant, is consistent with Section 122 of the Act and the Local Government (Financial Management) Regulations 2011 as if the Authority were a council.
- 13.1.2 The Authority must review its Long Term Financial Plan in consultation with the Constituent Councils.
- 13.1.3 The Authority may at any time review the Long Term Financial Plan but must undertake a review of the Long Term Financial Plan as soon as practicable after the annual review of its Business Plan and concurrently with any review of its Strategic Plan.
- 13.1.4 In any event, the Authority must undertake a comprehensive review of its Long Term Financial Plan every four years.

13.2 Strategic Plan

- 13.2.1 The Authority must prepare and adopt in consultation with the Constituent Councils a Strategic Plan for the conduct of its business which will identify the Authority's objectives over the period of the Strategic Plan and the principal activities that the Authority intends to undertake to achieve its objectives.
- 13.2.2 The Authority must review its Strategic Plan in consultation with the Constituent Councils.
- 13.2.3 The Authority must undertake a comprehensive review of its Strategic Plan every four years.

13.3 Asset Management Plan

- 13.3.1 The Authority must prepare and adopt in consultation with the Constituent Councils an Asset Management Plan in a form and including such matters which, as relevant, is consistent with Section 122 of the Act as if the Authority were a council.
- 13.3.2 The Authority must review its Asset Management Plan in consultation with the Constituent Councils.
- 13.3.3 The Authority may at any time review its Asset Management Plan but must undertake a review of the Asset Management Plan as soon as

practicable after the annual review of its Business Plan and concurrently with any review of its Strategic Plan.

- 13.3.4 In any event, the Authority must undertake a comprehensive review of its Asset Management Plan every four years.

14. **ACCOUNTING**

- 14.1 The Authority must ensure that its accounting records, accounts and financial statements are prepared and maintained in accordance with all relevant Australian Accounting Standards and legislation including the Local Government (Financial Management) Regulations 2011.

15. **AUDIT**

- 15.1 The Authority must appoint an auditor.
- 15.2 The Audit Committee must approve the audit strategy submitted by the external auditor before submission to the Board.
- 15.3 The Authority must provide its audited financial statements to the Chief Executive Officer of each Constituent Council by 30 September.

16. **FINANCE**

- 16.1 The Authority may establish and maintain a bank account with such banking facilities and at a bank to be determined by the Authority.
- 16.2 All cheques to be authorised must be signed by two Board Members or one Board Member and the Executive Officer.
- 16.3 Any payments made by Electronic Funds Transfer must be made in accordance with procedures which have received the prior approval of the auditor and been adopted by the Authority.
- 16.4 The Executive Officer must act prudently in the handling of all financial transactions for the Authority and must provide quarterly financial and corporate reports to the Authority and if requested, the Constituent Councils.
- 16.5 The Authority will, at the end of each financial year prepare a schedule of assets and liabilities. In addition, the Authority must maintain a record to be known as the 'Schedule of Constituent Councils' Interests in Net Assets'.
- 16.6 The Schedule of Constituent Councils Interests in Net Assets will reflect the proportionate contribution each Constituent Council has made to capital, operations and maintenance costs incurred by the Authority having regard to the proportionate contribution by way of subscriptions for each function undertaken by the Authority. The Schedule when updated by the Authority at the end of each financial year will reflect the proportionate contribution of each Constituent Council since the establishment 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.

16.7 Where there is any dispute as to the Schedule, Clause 21 shall apply.

17. **REPORTS AND INFORMATION**

17.1 The Authority must submit an annual report on its work and operations including its audited financial statements, to each Constituent Council before 30 September.

17.2 The Authority 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.

18. **ALTERATION TO THE CHARTER**

18.1 This charter may be amended by unanimous resolution of the Constituent Councils.

18.2 Before the Constituent Councils vote on a proposal to alter this Charter they must take into account any recommendations of the Authority.

19. **WITHDRAWAL OF A CONSTITUENT COUNCIL**

19.1 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.

19.2 In any event a withdrawal will not become effective until 30 June following the expiry of the six months notice as required by Clause 19.1 in the preceding sub-clause. Until a withdrawal becomes effective, the Constituent Council proposing withdrawal from the Authority will remain liable for all financial contributions whilst still a Constituent Council and will continue to be responsible for ensuring the proper conduct of the affairs of the Authority.

19.3 A withdrawing Constituent Council is not entitled to any refunds of any contributions made.

20. **ADDITION OF NEW MEMBER**

20.1 The Authority may consider the addition of a Council as a Constituent Council.

20.2 The Constituent Councils must resolve unanimously to approve the addition of a Council as a Constituent Council.

20.3 The Charter shall be amended in accordance with the provisions of this Charter to provide for a Council becoming a Constituent Council.

21. **DISPUTES**

21.1 In the event of any dispute or difference between the Constituent Councils or between one or more Constituent Councils and the Authority concerning this Charter or the Authority (**the Dispute**), a party may initiate the dispute process set out in this clause by serving a notice of dispute on all other Constituent

Councils with a contemporaneous copy being served on the Authority. The parties:

- 21.1.1 will attempt to settle the dispute or difference by negotiating in good faith;
- 21.1.2 if good faith negotiations do not settle the dispute within one month of the Dispute arising or such longer time as the parties to the Dispute may agree, 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'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;
- 21.1.3 if the Dispute is unable to be resolved by the expert within six months then any Constituent Council may request the Minister wind up the Authority; and
- 21.1.4 notwithstanding the existence of a Dispute, the Constituent Councils will continue to meet their obligations to the Authority.

22. LIMIT OF LIABILITY

- 22.1 Except insofar as Clause 3.2 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 16 of this Charter.
- 22.2 The liability of a Constituent Council to the Authority for any function undertaken by the Authority under Clause 3.2 is limited to the requesting Constituent Council or Constituent Councils and as reflected in the agreement entered into with the Authority for those purposes.

23. DISSOLUTION OF THE AUTHORITY

- 23.1 The Authority may be dissolved by the Minister in the circumstances envisaged by Clause 33, Part 2 of Schedule 2 of the Act.
- 23.2 In the event of there being net assets upon the 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 16.
- 23.3 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 16.

24. NON-DEROGATION AND DIRECTION BY CONSTITUENT COUNCILS

- 24.1 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.
- 24.2 Provided that the Constituent Councils have all first agreed as to the action to be taken, the Constituent Councils may jointly direct and control the Authority.
- 24.3 Where the Authority is required pursuant to the Act or this Charter to obtain the approval of one or more of the Constituent Councils, that approval must only be granted and must be evidenced by a resolution passed by either or each of the Constituent Councils granting such approval.
- 24.4 Unless otherwise stated in this Charter, where the Authority is required to obtain the consent or approval of the Constituent Councils this means the consent or approval of both the Constituent Councils expressed in the same or similar terms.
- 24.5 For the purpose of this Clause 24, any direction given by the Constituent Councils must be communicated by notice in writing provided to the Executive Officer of the Authority together with a copy of the relevant resolutions of the Constituent Councils.

SCHEDULE 1 – FINANCIAL CONTRIBUTIONS

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

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

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

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

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.10

Responsible Officer: Steven Watson
Governance & Risk Coordinator
Office of the CEO

Subject: Section 43 Regional Subsidiary Membership – Southern & Hills
Local Government Association

For: Decision

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)

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 one of these regional subsidiaries, SHLGA, and the process for the nomination and election to these board member positions.

RECOMMENDATION

Decision 1

Council resolves:

- 1. That the report be received and noted.**
- 2. To determine that the method of selecting the Southern & Hills Local Government Association 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 Southern & Hills Local Government Association Board Member roles and for the meeting to resume once the results of the indicative voting for the Board Member roles have been declared.**

Decision 2

- 1. That in relation to the Southern & Hills Local Government Association Board:**
 - a. To appoint _____ to the (Elected Member) Board Member position for a term to commence from 30 November 2022 and conclude at the conclusion of the 2022 council term**
 - b. To appoint _____ to the (Elected Member or Employee) Board Member position for a term to commence from 30 November 2022 and conclude at the conclusion of the 2022 council term**
 - c. To appoint _____ to the (Elected Member) Deputy Board Member position for a term to commence from 30 November 2022 and conclude at the conclusion of the 2022 council term**
 - d. To appoint _____ to the (Elected Member or Employee) Board Member position for a term to commence from 30 November 2022 and conclude at the conclusion of the 2022 council term**
 - 2. To authorise the Chief Executive Officer to lodge all required documentation to give effect to Council's resolutions regarding Southern & Hills Local Government Association.**
-

1. BACKGROUND

SHLGA Charter and Board

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

The objects and purpose of SHLGA (see Charter at **Appendix 1**) are:

- to work collaboratively with the LGA for the benefit of Constituent Councils and Affiliates;
- 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 of Constituent Councils and Affiliates and to co-ordinate or assist in co-ordinating the management of these resources for the betterment of the 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 the Subsidiary 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;
- to act as a forum for discussion and consideration of matters relating to the powers, functions and duties of the Constituent Councils and Affiliates under the Act and other statutory provisions in relation to the region.

Clause 5.1 of the Charter provides that the Board will consist of 12 Board Members with each of the Constituent Councils to appoint two persons to the Board, one of whom must be an Elected Member of the Constituent Council and the other of whom may be an Elected Member or an employee of the Constituent Council.

Each of the Constituent Councils may appoint one Deputy Board Member for each of that Constituent Council's Board Members. A Deputy Board Member may attend Board Meetings in the place of the Board Member for whom they are deputy, whenever that Board Member is absent.

Clause 5.2 of the Charter provides that Board Members shall be appointed for a term expiring at the conclusion of the next periodic Local Government Election (for the Constituent Council which appointed them) following their appointment.

Previous Board Membership

Council, at its 8 September 2020 Special meeting, in relation to one of the SHLGA Board Member and Deputy Board Member positions resolved as follows:

- 7. That in relation to the Southern & Hills Local Government Association Board:**
 - To appoint Mayor Jan-Claire Wisdom to the Board Member (Council Member) position for a term to commence from 27 November 2020 and conclude at the end of the current Council term (inclusive)**
 - To appoint Lachlan Miller to the Deputy Board Member position for a 2 year term to commence from 27 November 2020 to 23 December 2022 (inclusive)**

On 8 September 2020, Council resolved in relation to the other S&HLGA Board Member positions resolved as follows:

12.12 Southern & Hills Local Government Association Membership

Moved Cr Nathan Daniell
S/- Cr Pauline Gill

261/19

That Council resolves:

1. That the report be received and noted.
2. To appoint Andrew Aitken to the position of Southern & Hills Local Government Association Board Member to 30 November 2022.

Carried Unanimously

The SHLGA Board meets 2nd or 3rd Friday every two months, 10.00am at each constituent council in rotation. The meetings are of approximately two hours duration.

There are no sitting fees payable for Board Members or Deputy Board Members.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

Objective O4 We actively represent our community

Priority O4.2 Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community

Priority O4.3 Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region

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

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

The appointment of members to the SHLGA Board 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* (the 'Act') 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.

Section 74 – General conflicts of interest of the Act set out the provisions regarding General Conflicts of Interest. In considering a General Conflict of Interest (COI), an impartial, fair-minded person might consider that the Council Member's private interests might result in the Member acting in a manner that is contrary to their public duty. For this matter, Council Members seeking to be appointed to the SHLGA Board may have a General COI and should consider declaring the interest and acting in accordance with *s75B – Dealing with general conflicts of interest*.

Section 75 – Material conflicts of interest of the Act set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed to the SHLGA Board may have a Material COI and should consider declaring the interest and acting in accordance with *s75C – Dealing with material conflicts of interest*.

Council's *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information Session, if it occurs.

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)	Low (1D)	Low (1D)

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 SHLGA; however this report concerns the appointment of Council representatives to the SHLGA Board rather than the operations of the Subsidiary.

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

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

There are no direct end-user customer service implications regarding the appointment of Council representatives to the SHLGA Board.

➤ **Sustainability Implications**

Not directly applicable.

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

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Nil

Community: Not Applicable

➤ **Additional Analysis**

Legal Obligations

A Board Member of a Regional Subsidiary has different fiduciary responsibilities to that of a Council Member or a Council Officer. In simple terms, the Board Member's duty is to act in the best interests of the Subsidiary (which might not necessarily be in the best interest of the Council). There are also more complex provisions relating to conflict of interest management.

It is important that aspiring and newly-appointed Board Members have a sound understanding of these matters. Training should be provided by the Subsidiary and can be assisted by Council's Governance & Performance Team.

Board Membership Suitability

Council's membership on SHLGA is important given its ability to both provide services and financial returns and to incur risks and liabilities for Council.

While it is a Subsidiary 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 and the Subsidiary Executive.

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

- ability to bring the Adelaide Hills Council's unique perspective to Board deliberations;
- 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;
- where specifically stated, skills and/or knowledge detailed in the respective Charter for Board Members;
- whether an Independent Member (where permissible), recruited and remunerated by the Constituent Council, would be more effective in the fulfilling the role of a Board Member given the ability to recruit for specific skill sets;
- 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 Acting Chief Executive Officer has sought expressions of interest from senior Council Officers for appointment to SHLGA.

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

- Board Member (can be a Member or Officer) – A/CEO, David Waters
- Deputy Board Member (can be a Member or Officer) – Director Development & Regulatory Services, Natalie Armstrong

It should be noted that the SHLGA Board has, by convention, contained the Mayors and Chief Executive Officers of the constituent councils.

The Board immediately prior to the Council elections comprised:

- Six Mayors
- Six CEOs

In recent years, this Council has appointed a senior staff member as Deputy Board Member, to fill in for either the Mayor or the Chief Executive Officer should they be unable to attend a meeting. This has worked well, especially given meetings are held during business hours and the staff member is generally able to attend at short notice.

The Council's previous Deputy Board Member, Lachlan Miller, attended SHLGA meetings a number of times and, in addition to contributing to deliberations of the Board, he was able to make connections with Mayors, CEOs and other senior officers from councils in the region. The Acting Chief Executive Officer has nominated Ms Armstrong on the basis of her ability to contribute constructively to the deliberations of the Board and also in the interests of her development as a relatively new executive leader in the sector.

Indicative Voting Process for Determining Council Appointed Positions

Due to the implications of the General and Material Conflict of Interest provisions (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 persons for the SHLGA 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, 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 Board Member position.
Note that the Council Officer(s) identified above can also 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.
- 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 Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak in the Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall return to the Briefing Session and publicly declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.
- n) The process a) – j) will then be undertaken for the two Board Member positions and the two Deputy Board Member position

Proposed Chronology of Events

The mechanics are relatively complicated due to the legislative provisions regarding conflict of interest and information sessions, 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 SHLGA 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. Council would give effect to this by dealing with Recommendation 3 (or a variant) at this time.

- IV. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 Board Member roles would be advised to consider their obligations to declare a General or Material COI, as appropriate
- VI. Council can then resolve for the preferred persons to be appointed to each Board Member and Deputy Board Member position. Council would give effect to this by dealing with Decision 2 -Recommendation 1 (or a variant) at this time.
- VII. The final recommendation Decision 2 – Recommendation 2 is for the CEO to communicate the Council’s resolutions to the SHLGA.

3. OPTIONS

The Council has the following options:

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

4. APPENDIX

- (1) SHLGA Charter

Appendix 1

SHLGA Charter

CHARTER

OF THE

SOUTHERN & HILLS

LOCAL GOVERNMENT ASSOCIATION (REGIONAL

SUBSIDIARY)

Under the provisions of the Local Government Act 1999.

SOUTHERN & HILLS LOCAL GOVERNMENT ASSOCIATION

LOCAL GOVERNMENT ACT 1999

CHARTER

1. INTRODUCTION

1.1 Name

The name of the subsidiary is the Southern & Hills Local Government Association (referred to as 'the Subsidiary' in this Charter).

1.2 Definitions

'absolute majority' means a majority of the whole number of the Board Members;

'Act' means the *Local Government Act 1999* and includes all regulations made thereunder;

'Affiliate' has the meaning given by clauses 11.10 to 11.14. (inclusive);

'Board Member' means at any time a member of the Board and, where the context so admits, includes a Deputy Board Member;

'Board' means the board of management of the Subsidiary;

'Budget' means a budget that conforms to Clause 25 of Schedule 2 to the Act and last adopted by the Board;

'Business Plan' means a business plan that conforms to Clause 24 of Schedule 2 to the Act and last adopted by the Board;

'Constituent Council' means the Councils listed in clause 1.4, minus any such Council which ceases to be a Constituent Council and plus any Council which becomes a Constituent Council in accordance with clause 11;

'Council' means a council as constituted under the Act;

'Deputy Board Member' means at any time a person appointed and holding office as a Deputy to a Board Member;

'Deputy President' means the person elected as Deputy President of the Board;

'Elected Member' means a Mayor, Chairperson or Councillor of a Council;

'Financial year' means a year beginning on 1 July in each year and ending on 30 June of the following year;

'LGA' means the Local Government Association of South Australia.

'Minister' means the Minister for the time being responsible for the administration of the Act;

'President' means the person elected as President of the Board and includes a person authorised by this Charter to act in place of the President;

'Principal Officer' means at any time the person appointed and holding office as Principal Officer of the Subsidiary under clause 8.1.1 (which office may be given a different title by resolution of the Board) and includes a person acting in that position;

'Subsidiary' means the Southern & Hills Local Government Association constituted under this Charter;

1.3 Interpretation

In this Charter, unless the context otherwise requires:

- 1.3.1 the term 'person' shall include a body corporate;
- 1.3.2 the singular includes the plural and vice versa;
- 1.3.3 a reference to the masculine includes the feminine and vice versa;
- 1.3.4 the headings to the Charter are for convenience only and do not form part of the Charter;
- 1.3.5 references to clauses are to clauses of the Charter.

1.4 Constituent Councils

At the time of the adoption of this Charter (as most recently amended), the Constituent Councils of the Subsidiary are:

- 1.4.1 Mount Barker District Council;
- 1.4.2 City of Victor Harbor;
- 1.4.3 District Council of Yankalilla;
- 1.4.4 Adelaide Hills Council;
- 1.4.5 Alexandrina Council;
- 1.4.6 Kangaroo Island Council

1.5 Establishment

- 1.5.1 The Subsidiary is established by the Constituent Councils as a regional subsidiary pursuant to Section 43 and Schedule 2 of the Act.
- 1.5.2 this Charter governs the affairs of the Subsidiary.

1.6 Approvals and directions by two thirds of Constituent Councils

- 1.6.1 In any case where the Act or this Charter refers to the 'Constituent Councils' granting any approval or consent, or making any request, or taking any other step, it will be sufficient if two thirds of the Constituent Councils (rounding up to the nearest whole number) take such step by resolution expressed in the same or similar terms. The Constituent Councils agree that the taking of any such step by two thirds of Constituent Councils will constitute the taking of that step on behalf of all Constituent Councils. The step is deemed to be taken at the time that there are resolutions in effect from two thirds of Constituent Councils for the taking of such step.
- 1.6.2 Clause 1.6.1 is subject to any contrary requirement expressed in this Charter, the Act, or any other law.
- 1.6.3 The Constituent Councils may issue directions to the Subsidiary by resolution of two thirds of the Constituent Councils (rounding up to the nearest whole number) expressed in the same or similar terms. The Constituent Councils agree that the issuing of a direction by two thirds of Constituent Councils will constitute the issuing of a direction on behalf of all Constituent Councils.
- 1.6.4 Whenever a Constituent Council resolves to take any step under this Charter or the Act, or to issue any direction to the Subsidiary, the chief executive officer of that Constituent Council must ensure that a copy of that resolution is provided to the Principal Officer as soon as practicable.

1.7 Local Government Act 1999

- 1.7.1 This Charter must be read in conjunction with the Act.
- 1.7.2 The Subsidiary must conduct its affairs in accordance with the Act and this Charter.
- 1.7.3 In the event of any inconsistency between the Act and this Charter, the Act prevails to the extent of the inconsistency.

1.8 Objects and Purposes

The objects and purposes of the Subsidiary are:

- 1.8.1 to work collaboratively with the LGA for the benefit of Constituent Councils and Affiliates;
- 1.8.2 to encourage, promote, protect and foster an efficient and effective autonomous, democratic system of local government elected by and responsible to local communities;
- 1.8.3 to identify available resources within the region of Constituent Councils and Affiliates and to co-ordinate or assist in co-ordinating the management of these resources for the betterment of the region's community;

- 1.8.4 to encourage, assist, seek out, determine, assess and respond to the needs and aspirations of the region's constituents;
- 1.8.5 to develop, encourage, promote, foster and maintain consultation and co-operation between local government authorities, State and Commonwealth Governments and their instrumentalities;
- 1.8.6 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 the Subsidiary is necessary, desirable or convenient;
- 1.8.7 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;
- 1.8.8 to act as a forum for discussion and consideration of matters relating to the powers, functions and duties of the Constituent Councils and Affiliates under the Act and other statutory provisions in relation to the region.

2. POWER AND FUNCTIONS

- 2.1 The Subsidiary will have all the powers of a natural person, including 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):
 - 2.1.1 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 the Subsidiary and on such terms as the Subsidiary deems appropriate;
 - 2.1.2 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 the Subsidiary;
 - 2.1.3 to appoint, employ, remunerate, manage, dismiss, remove or suspend employees, contractors and advisors;
 - 2.1.4 to raise revenue through subscriptions collected from Constituent Councils and Affiliates;
 - 2.1.5 to open, close and maintain bank accounts;
 - 2.1.6 to apply for grants from government authorities and to seek sponsorship from business enterprises;
 - 2.1.7 to print or publish any newspapers, periodicals, books, leaflets, treatises, websites or other writing that the Subsidiary may think desirable for the promotion of its objects;

- 2.1.8 to acquire, deal with and dispose of assets including real and personal property (wherever situated) and rights in relation to real and personal property;
- 2.1.9 to enter into any kind of contract or arrangement;
- 2.1.10 to invest any of the funds of the Subsidiary in any investment, provided that the Subsidiary must avoid investments that are speculative or hazardous in nature;
- 2.1.11 to establish committees for the following purposes:
 - 2.1.11.1 inquiring into and reporting on any matter within the terms of reference determined by the Board;
 - 2.1.11.2 exercising, performing and discharging delegated powers, functions or duties;
 - 2.1.11.3 investigating opportunities for resource sharing within the region and implementing strategies to take advantage of any such opportunities;
- 2.1.12 to determine the terms of reference and membership of any committee which the Subsidiary may establish (and members of any committee shall hold office at the pleasure of the Subsidiary);
- 2.1.13 to delegate or (where permitted) subdelegate any function or duty in accordance with the Act;
- 2.1.14 to commence and maintain legal proceedings of any nature;
- 2.1.15 to do anything else necessary or convenient for, or incidental to, the exercise, performance or discharge of its powers, functions or duties;
- 2.1.16 to exercise or perform any functions, powers or duties delegated to the Subsidiary by a Constituent Council;
- 2.1.17 to carry out any lawful direction of the Constituent Councils.

3. SOURCE OF REVENUE

- 3.1 The sources of revenue of the subsidiary include:
 - 3.1.1 subscriptions to be applied equitably to Constituent Councils under such terms and conditions determined by the Board (and the Constituent Councils agree to pay such subscriptions);
 - 3.1.2 service charges for services to Constituent Councils under such terms and conditions determined by the Board;
 - 3.1.3 grants from government authorities and the LGA;
 - 3.1.4 sponsorship from business enterprises;

- 3.1.5 interest from the investment of funds;
- 3.1.6 loan funds or overdrafts on such conditions as the Subsidiary sees fit for the purposes of the Subsidiary, provided that:
 - 3.1.6.1 a proposal for borrowing by the Subsidiary must be provided to each Constituent Council;
 - 3.1.6.2 the proposal to borrow must be approved by the Constituent Councils in writing before it can be considered by the Board;
 - 3.1.6.3 a decision to borrow must be approved by an absolute majority of the Board.
- 3.2 Each Constituent Council shall be liable to contribute funds to the Subsidiary each financial year in accordance with the amount specified in the Budget adopted by the Subsidiary for that year (including a revised Budget). Any unpaid amounts may be recovered by the Subsidiary from a Constituent Council as a debt.

4. THE BOARD ROLE AND FUNCTION

- 4.1 The Board is responsible for the administration of the affairs of the Subsidiary.
- 4.2 The functions of the Board include the following:
 - 4.2.1 the formulation of strategic plans and strategies aimed at improving the activities of the Subsidiary;
 - 4.2.2 providing input and policy direction to the Subsidiary;
 - 4.2.3 appointing and managing (including suspending and removing) the Principal Officer;
 - 4.2.4 ensuring that ethical behaviour and integrity is followed in all activities undertaken by the Subsidiary;
 - 4.2.5 subject to this Charter, ensuring that the activities of the Subsidiary are undertaken in an open and transparent manner;
 - 4.2.6 assisting in the development of Business Plans;
 - 4.2.7 exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons;
 - 4.2.8 ensuring, insofar as it is practicable, that the Subsidiary 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 Subsidiary as well as any material developments which may

affect the operating capacity and financial affairs of the Subsidiary.

5. MEMBERSHIP

5.1 Membership of the Board

- 5.1.1 Each of the Constituent Councils will appoint two persons to the Board, one of whom must be an Elected Member of the Constituent Council and the other of whom may be an Elected Member or an employee of the Constituent Council.
- 5.1.2 Each of the Constituent Councils may appoint one Deputy Board Member for each of that Constituent Council's Board Members. A Deputy Board Member may attend Board Meetings in the place of the Board Member for whom they are deputy, whenever that Board Member is absent.
- 5.1.3 If a Board Member and their Deputy Board Member are unable to attend a Board meeting, the relevant Constituent Council may appoint through its Mayor and CEO a representative with voting powers to attend that Board meeting (and such person will be considered to be a Board Member for the purposes of that meeting).
- 5.1.4 The Board may appoint observers to the Board. Such observers will not be entitled to vote at meetings.
- 5.1.5 Board members shall not be entitled to receive a sitting fee.
- 5.1.6 Subject to any requirement or limitations imposed under the Act or any other law, the Board may pay expenses to Board Members on terms and conditions determined by the Board.
- 5.1.7 A formal notification signed by the chief executive officer of the appointing Constituent Council will be sufficient evidence of appointment to the Board.

5.2 Term of Office – The Board

- 5.2.1 A Board member shall be appointed for a term expiring at the conclusion of the next periodic Local Government Election (for the Constituent Council which appointed them) following their appointment.
- 5.2.2 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 relevant Constituent Council requesting that the Constituent Council terminate the appointment of a Board Member in the event of:
 - 5.2.2.1 any behaviour of the Board Member which in the opinion of the Board amounts to impropriety;

- 5.2.2.2 serious neglect of duty in attending to the responsibilities of a Board Member;
 - 5.2.2.3 breach of fiduciary duty to the Subsidiary or the Constituent Council(s);
 - 5.2.2.4 breach of the duty of confidentiality to the Subsidiary or the Constituent Council(s);
 - 5.2.2.5 breach of the conflict of interest provisions of the Act; or
 - 5.2.2.6 any other behaviour that may, in the opinion of the Board, discredit the Subsidiary or the Constituent Councils.
- 5.2.3 if the Constituent Council affected does not accept the recommendation of the Board in relation to the termination of the appointment of the member concerned then the matter is able to be dealt with in accordance with Clause 9;
- 5.2.4 The appointment of a Board Member shall terminate prior to the expiry of the term described in clause 5.2.1 in any of the following circumstances:
- 5.2.4.1 upon the death of the Board Member;
 - 5.2.4.2 upon the Board Member ceasing to be an Elected Member or employee (as the case may be) of the Council which appointed the Board Member;
 - 5.2.4.3 upon the Board Member's appointment being revoked by the Council which appointed the Board Member;
 - 5.2.4.4 upon the Board Member resigning his/her position as Board Member by notice in writing to the Principal Officer;
 - 5.2.4.5 upon the occurrence of any of the other circumstances described in clause 20(3) of Schedule 2 to the Act.
- 5.2.5 Where a vacancy occurs in the office of Board Member, the Constituent Council which appointed the person occupying that office may appoint a replacement Board Member by whatever method the Constituent Council sees fit, for the balance of the term of office.
- 5.2.6 Nothing in this Charter prevents a person from being appointed to any number of consecutive or non-consecutive terms as Board Member.

5.3 Propriety of members of the Board

- 5.3.1 The principles regarding conflict of interest prescribed in the Act extend to the Subsidiary and Board Members as if the Subsidiary were a Council and as if Board Members were Elected Members.
- 5.3.2 The Board Members will not be required to comply with Division 2 of Part 4 of Chapter 5 (Register of Interests) of the Act.
- 5.3.3 Board Members will at all times act in accordance with their statutory duties including duties honesty and the exercise of reasonable care and diligence with respect to the Board as required by Clauses 23 and 34 of Schedule 2 of the Act.

6. OFFICES OF THE BOARD

- 6.1 The Board shall, at the first meeting of the Subsidiary following the conclusion of local government periodic elections for all Constituent Councils:
 - 6.1.1 appoint a Board Member as President, who shall be the chairperson of the Board;
 - 6.1.2 appoint a different Board Member as Deputy President, who shall be the deputy chairperson of the Board.
- 6.2 A Board Member appointed as President or Deputy President will hold such office for a term of two years.
- 6.3 At the next meeting of the Board after the expiry of two years from the conclusion of local government periodic elections for all Constituent Councils, the Board shall again:
 - 6.3.1 appoint a Board Member as President, who shall be the chairperson of the Board;
 - 6.3.2 appoint a different Board Member as Deputy President, who shall be the deputy chairperson of the Board.
- 6.4 Where there is more than one nomination for the position of President or Deputy President under this clause, there will be an election decided by ballot in a manner determined by the Board.
- 6.5 Nothing in this Charter prevents a Board Member from being appointed to any number of consecutive or non-consecutive terms as President or Deputy President. In the event that:
 - 6.5.1 the President resigns in writing (addressed to the Principal Officer) from that office or ceases to be a Board Member for any reason whatsoever, the Deputy President will be appointed to the role of President for the balance of the term of office and the Board Members will appoint a different Board Member to hold

the office of Deputy President for the balance of the term of office ;

- 6.5.2 the Deputy President resigns in writing (addressed to the Principal Officer) from that office or ceases to be a Board Member for any reason whatsoever, the Board Members will appoint a different Board Member to hold the office of Deputy President for the balance of the term of office;
- 6.5.3 both the President and Deputy President resign in writing (addressed to the Principal Officer) from office and/or cease to be a Board Member for any reason whatsoever, the Board Members will appoint different Board Members to hold the offices of President and Deputy President for the balance of the term of office.

7. PROCEEDINGS OF THE BOARD

7.1 General power to determine procedures

The Board may determine its own meeting procedures which must be fair and contribute to free and open decision making, provided such procedures are consistent with the Act and the provisions of this Charter.

7.2 Chairing of meetings

- 7.2.1 The President, when present at a meeting of the Board, will chair the meeting.
- 7.2.2 If the President is absent from a meeting of the Board, the Deputy President will chair the meeting for so long as the President remains absent.
- 7.2.3 If both the President and Deputy President are absent from a meeting, the Board Members present will appoint one of their number (by any means determined by the Board) to chair the meeting for so long as the President and Deputy President remain absent. The Principal Officer will preside for the purposes of determining this question.

7.3 Quorum

- 7.3.1 A quorum of the Board is half of the total number of Board Members (ignoring any fraction) plus 1.
- 7.3.2 No meeting of the Board will commence until a quorum of members is present and no formal transaction of business may continue unless there is a quorum of members present.
- 7.3.3 If at any time during a meeting of the Board there is no quorum the Board Members may decide to continue informal discussions and any outstanding business shall be deferred until a quorum is again obtained, or to a future meeting. The meeting will be

adjourned to a place and time to be determined by the person chairing the meeting.

7.4 Telecommunications

- 7.4.1 For the purpose of this Clause the contemporary linking together by telephone, audio-visual or other instantaneous means (“telecommunications meeting”) of a number of the Board Members is deemed to constitute a meeting of the Board, provided that there is collectively a quorum and provided that notice of the meeting is given to all Board Members in accordance with this Charter.
- 7.4.2 Each of the Board Members taking part in the telecommunications meeting must at all times during the meeting be able to hear and be heard by each of the Board Members present. At the commencement of a telecommunications meeting, each Board Member must announce his/her presence to all of the Board Members taking part in the meeting.
- 7.4.3 A Board Member must not leave a telecommunications meeting by disconnecting his/her audio-visual or other communication equipment, unless that Board Member has previously notified the chairperson of the meeting.

7.5 Voting

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. Board Members are entitled only to a deliberative vote. Board Members may not vote by proxy.

7.6 No Casting Vote

In the event of equality of votes, the chair will not have a casting vote and the matter will be deemed to have lapsed and may at some later time be reconsidered.

7.7 Timing and calling of Meetings

- 7.7.1 The Board will endeavour to meet at least four times per year, at times and places to be determined the Board.
- 7.7.2 The Principal Officer (or, if there is no Principal Officer, the chief executive officers of the Constituent Councils) will determine the time and place of the first meeting of the Board after the conclusion of local government periodic elections for all Constituent Councils (which will not be until at least two thirds of the Constituent Councils have appointed Board Members).
- 7.7.3 A special meeting of the Board may be called by the Principal Officer at any time at the request of the President (or in the President’s absence, the Deputy President), or at the request of two thirds of the Board Members (rounding up to the nearest

whole number), provided that any request will be in writing addressed to the Principal Officer and will be accompanied by an agenda and any written reports or other material to be considered at the meeting (and if an agenda is not provided, the request is of no effect).

7.8 Notice of Meetings

Notice of all meetings will be given to Board Members and to the public in a manner determined by the Board (or, in the absence of any determination by the Board, in a manner determined by the Principal Officer).

7.9 Public Access

- 7.9.1 Meetings of the Board will be open to the public unless the Board resolves to exclude the public (on whatever basis the Board sees fit).
- 7.9.2 Part 3 of Chapter 6 of the Act does not extend to the Subsidiary.
- 7.9.3 The Subsidiary will not exclude observers appointed by any Constituent Council under clause 21(8) of Schedule 2 to the Act.

7.10 Confidentiality

- 7.10.1 where the Board has considered any information or a matter in the absence of the public, all documents (including reports and minutes) relating to that matter will not be made available to the public unless the Board specifically resolves that any document(s) be made public.
- 7.10.2 all Board Members must at all times keep confidential all documents and any information provided to them on a confidential basis.

7.11 Minutes

- 7.11.1 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.
- 7.11.2 The Principal Officer will ensure that all minutes, and any documents or reports supplied to the Board for consideration at a meeting of the Board, are available for inspection by members of the public at the principal office of the subsidiary or on a website determined by the Principal Officer unless the document or report is confidential in nature or the Board or the Principal Officer considers there is other good reason that the report should not be made available to the public.

7.12 Circular resolution

The Board may determine procedures by which a resolution may be made without a meeting of the Board, in accordance with and subject to clause 21(6) of Schedule 2 to the Act.

8. ADMINISTRATION

8.1 Principal Officer

- 8.1.1 There will be a Principal Officer of the Subsidiary appointed by the Board on such terms and conditions as may be determined by the Board.
- 8.1.2 The Principal Officer may, but need not, be an employee of the Subsidiary.
- 8.1.3 The Principal Officer:
- 8.1.3.1 is responsible for the appointing, employing, remunerating, managing, dismissing, removing or suspending subordinate employees of the Subsidiary (on behalf of the Subsidiary);
 - 8.1.3.2 is responsible for determining the conditions of employment and organisational structure with respect to subordinate employees;
 - 8.1.3.3 will give effect to the principles of human resource management generally applicable within the local government industry;
 - 8.1.3.4 will ensure that the policies and lawful decisions of the Board are implemented in a timely manner;
 - 8.1.3.5 is responsible for the efficient and effective day-to-day management of the operations and affairs of the Subsidiary;
 - 8.1.3.6 shall cause records to be kept of all activities and financial affairs of the Subsidiary in accordance with this Charter;
 - 8.1.3.7 shall provide advice and reports to the Board on the exercise and performance of the Subsidiary's powers and functions;
 - 8.1.3.8 may on behalf of the Subsidiary engage any professional advisors or other contractors to provide any services which are necessary or convenient to assist in the exercise or fulfilment of the powers, functions or duties of the Principal Officer and/or the Subsidiary.

- 8.1.4 The Principal Officer has such powers, functions and duties prescribed by this Clause and such additional, powers, functions and duties as may be determined by the Board from time to time to ensure the efficient and effective management of the operations and affairs of the Subsidiary.
- 8.1.5 In any case where the Subsidiary delegates a power, function or duty to the Principal Officer under clause 36 of Schedule 2 to the Act, such delegation includes (unless the Subsidiary expressly determines to the contrary) the power for the Principal Officer to subdelegate that power, function or duty to any of the persons or bodies listed in clause 36 of Schedule 2 to the Act.

8.2 The Business Plan

- 8.2.1 The Subsidiary shall have a rolling Business Plan in respect of the forthcoming four years.
- 8.2.2 The Business Plan must:
 - 8.2.2.1 state the services to be provided by the Subsidiary;
 - 8.2.2.2 identify how the Subsidiary intends to manage service delivery;
 - 8.2.2.3 identify the performance targets which the Subsidiary is to pursue;
 - 8.2.2.4 provide a statement of financial and other resources and internal processes that will be required to achieve the performance targets and purposes of the Subsidiary; and
 - 8.2.2.5 specify the performance measures that are to be used to monitor and assess performance against targets.
- 8.2.3 Prior to setting the draft budget each year, the Subsidiary must review the Business Plan in conjunction with the Constituent Councils;
- 8.2.4 The Board shall:
 - 8.2.4.1 compare the Business Plan against performance targets at least twice every Financial Year;
 - 8.2.4.2 review the contents of the Business Plan annually; and
 - 8.2.4.3 undertake reasonable consultation with the Constituent Councils prior to adopting or amending the Business Plan.

8.3 Budget

- 8.3.1 The Subsidiary must prepare and adopt an annual Budget for the forthcoming financial year. The Budget must:
- 8.3.1.1 deal with each principal activity of the Subsidiary on a separate basis;
 - 8.3.1.2 be consistent with and account for activities and circumstances referred to in the Subsidiary's Business Plan;
 - 8.3.1.3 identify the amount of surplus (deficit) brought forward from the previous year;
 - 8.3.1.4 identify the amount of subscriptions to be made by each Constituent Council;
 - 8.3.1.5 be submitted in draft form to each Constituent Council before 30 April for information of its proposed contribution for the ensuing year;
 - 8.3.1.6 be adopted by the Subsidiary after 31 May but before 31 July.
- 8.3.2 The adoption of the budget requires a two-thirds majority of the Board Members present.
- 8.3.3 The Subsidiary must provide a copy of its budget to each Constituent Council within five business days after adoption.
- 8.3.4 The Subsidiary must review its budget in accordance with the *Local Government (Financial Management) Regulations 2011*.
- 8.3.5 The Subsidiary must submit to each Constituent Council for approval any proposed amendment to the Budget. Any amendment to the Budget will not be approved unless it is approved by all Constituent Councils which would be required to contribute more funds under the proposed amended budget than they would under the Budget as originally adopted for that year (as well as there needing to be a two-thirds majority of Constituent Councils approving the amendment as per clause 1.6.1).
- 8.3.6 The Subsidiary may incur spending in accordance with clauses 25(4) and (5) of Schedule 2 to the Act.

8.4 Accounting

The Subsidiary must ensure that its accounting records, accounts and financial statements are prepared and maintained in accordance with all relevant Australian Accounting Standards and the *Local Government (Financial Management) Regulations 2011*.

8.5 Financial Management

- 8.5.1 The Subsidiary shall maintain an operations bank account and such other accounts as it may determine from time to time.
- 8.5.2 The Principal Officer shall cause adequate and proper books of account to be kept in relation to all affairs of the Subsidiary;
- 8.5.3 the financial year for the Subsidiary is from 1 July to 30 June;
- 8.5.4 the Subsidiary shall appoint no less than two Board Members, the Principal Officer, the President and Deputy President as authorised operators of the bank accounts. A minimum of two authorised operators must be required to sign cheques and deal with the bank account;
- 8.5.5 any payments made by Electronic Funds Transfer must be made in accordance with procedures set by the Board and approved by the Auditor;
- 8.5.6 the Subsidiary may distribute to the Constituent Councils (in equitable proportions determined by the Subsidiary) any surplus revenue as determined by the Board, having regard to estimated future expenditure that the Business Plan or Budget envisages in any financial year;
- 8.5.7 the Principal Officer must act prudently in the handling of all financial transactions for the Subsidiary and must provide quarterly financial and corporate reports to the Board and, if requested, the Constituent Councils.

8.6 Audit

- 8.6.1 the Subsidiary must appoint an Auditor in accordance with the *Local Government (Financial Management) Regulations 2011*.
- 8.6.2 the Subsidiary is exempt from the requirement to establish an audit committee. However, should the Subsidiary become not so exempt, an audit committee will be appointed in accordance with the *Local Government (Financial Management) Regulations 2011*.

8.7 Reports & Information

- 8.7.1 the Subsidiary must submit its annual report on its work and operations including its audited financial statements, to each Constituent Council before 30 September;
- 8.7.2 the Board shall report at any other time at the written request of a Constituent Council on matters being undertaken by the Subsidiary. Any such report shall be provided to all Constituent Councils.

8.8 Common Seal

- 8.8.1 The Subsidiary will have a common seal which may be affixed to documents requiring execution under common seal and its affixation must be witnessed by the President and one other Board Member (or, if the President is not available, any two Board Members).
- 8.8.2 The common seal must not be affixed to a document except to give effect to a resolution of the Board. The Principal 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.
- 8.8.3 The Board may by instrument under common seal authorise a person to execute documents on behalf of the Subsidiary. The Principal 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.
- 8.8.4 The common seal shall be kept in the custody of the Principal Officer or such other person as the Board may from time to time decide.

8.9 Indemnity Schemes

The subsidiary shall register with the Local Government Mutual Liability scheme and Local Government Workers compensation scheme where applicable and comply with the rules of those schemes.

9. DISPUTES

In the event of any dispute or difference between one or more Constituent Councils and/or the Subsidiary concerning the operations or affairs of the Subsidiary, the following process will apply:

- 9.1 a Constituent Council will serve a notice of dispute on the Subsidiary with a contemporaneous copy being served on all other Constituent Councils.
- 9.2 the Constituent Councils will attempt to settle the dispute or difference by negotiating in good faith;
- 9.3 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 LGA. 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;

- 9.4 if the dispute is unable to be resolved by the expert within six months of the dispute arising, then any Constituent Council may request the Minister to wind up the Subsidiary (and such request will be taken to be a request made on behalf of the Constituent Councils for the purposes of clause 33(1)(a) to Schedule 2 to the Act); and
- 9.5 notwithstanding the existence of a dispute or difference, the Constituent Councils will continue to meet any and all of their obligations to the Subsidiary including all obligations arising under this Charter.

10. ALTERATION TO THE CHARTER

- 10.1 The Constituent Councils may amend this Charter at any time in accordance with clause 1.6.1. The amended Charter must be ratified at the next meeting of the Board after a unanimous resolution of the Constituent Councils have resolved to adopt the amended Charter. The amended Charter comes into effect upon ratification by the Board (or a later time if all of the Constituent Councils resolve that the amended Charter shall come into effect at such later time).
- 10.2 Before the Constituent Councils vote on a proposal to alter this Charter they will take into account any recommendations of the Board.
- 10.3 The Principal Officer must, on behalf of the Constituent Councils, ensure that:
- 10.3.1 the amended Charter is published on a website (or websites) determined by the chief executive officers of the Constituent Councils;
 - 10.3.2 a copy of the amended Charter is provided to the Minister; and
 - 10.3.3 a notice of the fact of the amendment and a website address at which the amended Charter is available for inspection is published in the Gazette.

11. CONSTITUENT COUNCILS

Addition of a Constituent Council

- 11.1 A Council which is not a Constituent Council may write to the President seeking to become a Constituent Council.
- 11.2 If a Council writes to the President under clause 11.1, the Board will consider whether the Council should be admitted as a Constituent Council and will communicate its views to the Constituent Councils.
- 11.3 A Council will not be admitted as a Constituent Council unless the Constituent Councils and the Minister approve the addition of the new Constituent Council (and the admission of the Council as a Constituent Council takes effect upon the last such approval being obtained).

- 11.4 If a new Constituent Council is admitted, the Charter shall be amended in accordance with the procedure for amendment of the Charter set out in clause 10 to make reference to the new Constituent Council.

Withdrawal of a Constituent Council

- 11.5 Subject to the approval of the Minister under the Act, a Constituent Council may withdraw as a Constituent Council of the Subsidiary by giving not less than 6 months' notice of its intention to do so to all other Constituent Councils and the Principal Officer, provided that its subscription of the current year and other monies outstanding prior to the date of its giving notice of withdrawal have been paid to the Subsidiary.
- 11.6 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 Subsidiary 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 Subsidiary.
- 11.7 A withdrawing Constituent Council is not entitled to any refunds of any contributions made.
- 11.8 The withdrawal of any Constituent Council does not extinguish liability of that Constituent Council to contribute to any loss or liability incurred by the Subsidiary at any time before or after such withdrawal in respect of any act or omission by the Subsidiary prior to such withdrawal.
- 11.9 A Constituent Council may not withdraw from the Subsidiary except with the approval of the Minister and subject to the Act and this Charter.

Affiliates

- 11.10 A Council which is not a Constituent Council may write to the President seeking to become an Affiliate.
- 11.11 An Affiliate is not a Constituent Council.
- 11.12 The Subsidiary may exercise functions and powers for the benefit of an Affiliate (or for a particular region within the area of the Affiliate) in exchange for contributions from the Affiliate.
- 11.13 The Subsidiary may agree to admit an Affiliate on whatever terms and subject to whatever conditions the Subsidiary and the Affiliate may agree (subject to any applicable laws).

12. CIRCUMSTANCES NOT PROVIDED FOR

If any circumstances arise in respect of which this Charter is silent or is incapable of taking effect or being implemented according to its strict provisions, the Subsidiary will have the power to determine what action

may be taken to ensure the effective administration and objectives of the Subsidiary provided that such action will be determined at a meeting of the Subsidiary.

13. WINDING UP

- 13.1 If the Subsidiary is wound up in accordance with clause 33 of Schedule 2 to the Act, then, after payment of all debts and expenses of the Subsidiary, any surplus assets shall be returned to Constituent Councils in proportion to the subscription paid in the financial year prior to the winding up (or otherwise in such manner as all of the Constituent Councils may agree).
- 13.2 In the event that the Subsidiary is wound up and there are insufficient funds to pay all debts and expenses of the Subsidiary, the Constituent Councils will pay all such debts and expenses in proportion to the subscription payable in the financial year prior to the winding up.
- 13.3 To avoid doubt, a request made to the Minister pursuant to clause 1.6.1 or pursuant to clause 9.4 to wind up the Subsidiary will be taken to be a request made on behalf of the Constituent Councils for the purposes of clause 33(1)(a) to Schedule 2 to the Act.

14. INSOLVENCY

In the event of the insolvency of the Subsidiary, each Constituent Council shall be responsible for the liabilities of the Subsidiary in proportion to the subscription payable in the financial year prior to its insolvency.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item:	12.11
Responsible Officer:	Deryn Atkinson Manager Development Services Development & Regulatory Services
Subject:	Appointment of Council Member & Deputy Council Member to the Council Assessment Panel
For:	Decision

SUMMARY

The Council Assessment Panel (CAP) is created under sections 82 and 83 of the *Planning, Development and Infrastructure (PDI) Act 2016* (the Act). In accordance with Council's *Adelaide Hills Council Assessment Panel Terms of Reference* (Terms of Reference) attached as **Appendix 1**, the CAP consists of five (5) members which is made up of four (4) independent members, including the independent Presiding Member, and one (1) Council Member.

The term of office for the current Council Member on the CAP expired with the previous term of Council. It is therefore necessary to appoint a Council Member and Deputy Council Member from the newly formed Council to CAP.

The purpose of this report is to seek the appointment of a Council Member and Deputy Council Member to the CAP to provide a full membership in accordance with the Terms of Reference. A code of conduct applies for Assessment Panel members.

RECOMMENDATION

Council resolves:

Decision 1

- 1. That the report be received and noted.**
- 2. That the method of selecting the Council Member and Deputy Council Member to be appointed to the Council Assessment Panel be by an indicative vote utilising the process set out in this Agenda report.**
- 3. To adjourn the Council meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote to determine the preferred persons for the Council Assessment Panel Council Member and Deputy Council Member roles and for the meeting to resume once the results of the indicative vote have been declared.**

Decision 2

- 1. To appoint _____ as the Council Member and _____ as Deputy Council Member of the Council Assessment Panel for a term of two (2) years to commence 30 November 2022 and conclude on 29 November 2024.**
-

1. BACKGROUND

In accordance with section 83 of the Act, Council must determine the membership of the CAP, being no more than five (5) members, one (1) of whom may be a Council Member.

The Terms of Reference for the CAP, adopted by Council on 26 April 2022, provide that the membership of the CAP will be constituted of four (4) independent members and one (1) Council Member. The Council may also appoint a Deputy Council Member who is able to replace the appointed Council Member when they are unable to attend a CAP meeting for whatever reason.

On 25 January 2022, Council extended the appointment of Cr John Kemp as the appointed Council Member and Cr Leith Mudge as the appointed Deputy Council Member on CAP to the end of the Council term in 2022. The membership of both Councillors ceased at the end of the Council term.

12.3 Council Assessment Panel (CAP) Membership – Extension of Council Member term

8.10pm Crs John Kemp & Leith Mudge declared a Material Conflict of Interest at Agenda Item 5 'Declaration of Interest by Members of the Council' in relation to item 12.3 and left the Chamber.

Moved Cr Mark Osterstock
S/- Cr Chris Grant

5/22

Council resolves:

- 1. That the report be received and noted.**
- 2. That the term of the current Council Member (Cr John Kemp) and Deputy Council Member (Cr Leith Mudge) on the Council Assessment Panel be extended to the end of the Council term.**

Carried Unanimously

The four (4) independent members of CAP were appointed by Council on 26 April 2022 for a 2-year term, until 31 May 2024, as reflected in the minute extract below.

18.1.1 Appointment of CAP Independent Members – Confidential Item

Moved Cr John Kemp
S/- Cr Mark Osterstock

106/22

Council resolves:

1. That the report be received and noted
2. To appoint Geoff Parsons as the independent Presiding Member to the Council Assessment Panel for a two year period commencing on 1 June 2022 and expiring on 31 May 2024
3. To appoint the following independent members to the Council Assessment Panel for a two year period commencing on 1 June 2022 and expiring on 31 May 2024:
 - i. Ross Bateup
 - ii. Paul Mickan
 - iii. Myles Somers

Carried Unanimously

The CAP meetings are scheduled for the second Wednesday of each month, ordinarily commencing at 6.30pm. On occasion there may be a need for the meeting to commence earlier (to cater for a big agenda) or for a special meeting to be held.

Members of CAP are bound by a Code of Conduct, which is provided in **Appendix 2**.

2. ANALYSIS

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

Strategic Plan 2020-24 – A brighter future

Goal	Built Environment
Objective B2	Preserve and enhance the unique character of the Hills for current and future generations
Goal	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.2	Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region
Objective O5	We are accountable, informed and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

➤ **Legal Implications**

The CAP is a relevant authority under sections 82 and 83 of the Act for determining planning applications that are publicly notified and where a hearing of representations is required. During the on-going transition period from the *Development Act 1993* to the Act, the CAP also continues to act as a delegate of the Council for the purposes determining planning applications lodged under the *Development Act 1993*.

It is a statutory requirement pursuant to sections 82 and 83 of the Act for Council to have a CAP comprised of no more than five members, only one of which may be a member of Council. The Terms of Reference determines that the Presiding Member must be appointed from the Independent Members appointed to the CAP.

The Administration considers that having the one (1) appointed Council Member on the CAP adds value to the decision-making process and provides opportunity for membership and gender diversity, in accordance with the Terms of Reference.

The Council has a short-term issue, in that the term of appointment for the previous Council Member has now expired and the CAP currently only has four appointed members. If a Council Member is not appointed prior to 14 December 2022, there is potential that a quorum may not be achieved for the next meeting scheduled for 14 December 2022.

Attention is drawn to section 83(g) of the Act which states:

“a member of an assessment panel must not act in relation to a development if he or she has a direct or indirect pecuniary interest in any aspect of the development or any body associated with any aspect of the development”.

In addition, *Section 75 – Material conflicts of interest* of the *Local Government Act 1999* set out the provisions regarding Material Conflicts of Interest. In considering a Material Conflict of Interest (COI), a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council if a class of persons as defined in s75(1)(a-l) in the Act would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting. For this matter, Council Members seeking to be appointed as the CAP Council Member or CAP Deputy Council Member may have a Material COI due to the sitting fee payable and should consider declaring the interest and acting in accordance with s75C – *Dealing with material conflicts of interest*.

Council’s *Information or Briefing Sessions Policy* created under s90A(1) sets out the provisions for the conduct of an Information or Briefing Session such as the session recommended for the purposes of indicative voting. The above COI provisions do not apply to an Information Session, if it occurs.

➤ **Risk Management Implications**

The appointment of appropriately qualified and experienced members to the CAP will assist in mitigating the risks of:

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

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Low (1D)	Low (1D)

Appointment of suitably experienced Council members to CAP ensures compliance with the Terms of Reference and adds rigour to the assessment process.

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

➤ **Financial and Resource Implications**

The independent and Council Members of CAP are paid a sitting fee per meeting and these sitting fees are budgeted for in the annual budget. The current sitting fee per meeting for the Council Member is \$293.00, as adopted by Council on 26 April 2022.

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

There is a high expectation that Council has appropriate governance and accountability mechanisms in place in relation to meeting structures and that CAP members are competent and understand the role and functions of the CAP and their individual obligations with regard to conduct.

➤ **Sustainability Implications**

Not Applicable

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

Consultation on the development of this report was as follows:

<i>Council Committees:</i>	Not Applicable
<i>Council Workshops:</i>	Not Applicable
<i>Advisory Groups:</i>	Not Applicable
<i>External Agencies:</i>	Not Applicable
<i>Community:</i>	Not Applicable

Additional Analysis

The Terms of Reference adopted on 26 April 2022 state:

- 2.2 When appointing CAP Members, the Council may have regard to the following:
- 2.2.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
 - 2.2.2 in relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 2.2.3 in relation to the Council Member, the candidate's experience in local government;
 - 2.2.4 that a balance of qualifications and experience among CAP Members is desirable;
 - 2.2.5 that diversity of membership is desirable, including gender diversity among CAP Members;
 - 2.2.6 such other matters as the Council considers relevant.

Indicative voting process for determining Council Member appointments to positions

The following suggested process is provided if Council determines to proceed with having a Council Member as a member of the CAP in accordance with the Terms of Reference.

Due to the potential implications of the Material Conflict of Interest provisions (see legal implications above) regarding the appointment of Council Members to the CAP, 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 the positions of CAP Member (Council Member) and Deputy CAP Member (Council 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 an Information or Briefing Session for the purposes of s90A and the *Information or Briefing Sessions Policy* (the Policy). As an Information or Briefing Session, 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 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 CAP Member and Deputy CAP Member, as appropriate.

Note: The process would be used to determine the preferred person for the CAP Member position prior to using the process for the Deputy CAP Member position.

- 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 Council Member
- g) The nominee's names will be drawn to determine the order on the ballot paper.
- h) Each Member will write the nominee's names on the ballot paper in the order they are drawn.
- i) Each nominee will have two (2) minutes to speak in the Briefing Session in support of the candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall formally declare the result of the election (i.e., the preferred person).
- m) 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 CAP Council Member and Deputy Council 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. 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. Steps I. to III. are all grouped as Decision 1 in the recommendation section.
- 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 CAP Member roles would be advised to consider their obligations to declare a Material COI.
- VI. Council can then resolve for the preferred persons to be appointed to each position. Council would give effect to this by dealing with Decision 2 -Recommendation 1 (or a variant) at this time.

3. OPTIONS

Council has the following options:

- I. To appoint a Council Member and Deputy Council Member to the CAP **(Recommended)**
- II. To determine not to appoint a Council Member and Deputy Council Member to the CAP which would result in Council not complying with its *Council Assessment Panel Terms of Reference (Not recommended)*.

4. APPENDICES

- (1) CAP Terms of Reference
- (2) Code of Conduct for CAP Members

Appendix 1

CAP Terms of Reference

Council Assessment Panel

Terms of Reference



Adelaide Hills Council Assessment Panel Terms of Reference

Adopted 26 April 2022

1. BACKGROUND

- 1.1 The Adelaide Hills Council Assessment Panel (**CAP**) was appointed as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016 (Act)* by resolution of the Adelaide Hills Council (**the Council**) on 26 September 2017.
- 1.2 The CAP is a relevant authority under the Act and, during transition to the Act, will act as a delegate of the Council for the purpose of the *Development Act 1993*.

2. MEMBERSHIP OF CAP

Appointment of Members

- 2.1 The CAP will be constituted of five (5) Members (**CAP Members**), to be appointed by the Council, comprising:
 - 2.1.1 One (1) Member of the Council (**Council Member**); and
 - 2.1.2 four (4) Independent Members (Independent Members), not being Members of the Council or State Parliament.
- 2.2 When appointing CAP Members, the Council may have regard to the following:
 - 2.2.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
 - 2.2.2 in relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 2.2.3 in relation to the Council Member, the candidate's experience in local government;
 - 2.2.4 that a balance of qualifications and experience among CAP Members is desirable;
 - 2.2.5 that diversity of membership is desirable, including gender diversity among CAP Members;
 - 2.2.6 such other matters as the Council considers relevant.

Appointment of Deputy Members

- 2.3 The Council must appoint at least one Deputy Member to the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP meeting or part of a CAP meeting.
- 2.4 Subject to clause 2.5, a Deputy Member for an Independent Member must not be a Member of the Council or State Parliament.
- 2.5 Where a Deputy Member appointed for the Council Member is also a member of the Council, that person may not act as a deputy for any other CAP Member (whereas a Deputy Member who is not a member of the Council may act as a deputy for any CAP Member).
- 2.6 In appointing a Deputy Member, the Council may have regard to the matters in clause 2.2, as well as to the qualifications and experience of the CAP Member to whom the candidate will be a deputy.
- 2.7 Unless the context otherwise requires, a reference to a CAP Council Member in this document includes a Deputy Council Member.

Expression of Interest

- 2.8 The Council will call for expressions of interest for appointment of CAP Independent Members.
- 2.9 The Council will call for nominations of interest from Council Members for the appointment of the CAP Council Member and the Deputy Council Member.

Presiding Member and Acting Presiding Member

- 2.10 The Council will appoint an Independent Member to be the Presiding Member of the CAP for such term and on such conditions as determined by the Council.
- 2.11 The Presiding Member will preside at any CAP meeting at which he or she is present.
- 2.12 In the event that the Presiding Member is not present at a meeting (or part thereof) an Independent Member will be appointed as Acting Presiding Member by those CAP Members who are present at the meeting.
- 2.13 The role of the Presiding Member will include, but not be limited to:
 - 2.13.1 Ensuring that the business of the CAP at meetings, including hearings, is conducted in a reasonable and appropriate manner and that any

unreasonable, unruly or inappropriate behaviour is dealt with and ensuring that appropriate meeting procedures are followed, and

2.13.2 Ensuring that CAP Members are aware of their role and responsibilities under the Act and that the Council Member does not confuse that role with their role under the *Local Government Act 1999*.

2.14 A Presiding Member is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as determined by the Council.

2.15 In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Member for such term and on such conditions as determined by the Council.

Term of Appointment

2.16 Subject to clause 5, Independent Members will be appointed for a term of up to two (2) years and on such other conditions as determined by the Council.

2.17 Subject to clause 5, the Council Member will be appointed for a term of up to two (2) years, or for the remainder of their current elected term, whichever occurs first and on such other conditions as determined by the Council.

2.18 The Deputy Council Member will be appointed for a term of up to two (2) years, or for the remainder of their current elected term, whichever occurs first and on such other conditions as determined by the Council.

2.19 A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term as determined by the Council.

2.20 An Independent CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six months from the expiry of the Member's term of office, whichever occurs first.

3. VACANCY IN MEMBERSHIP

3.1 In the event of a vacancy arising in the office of a CAP Member, the Council may appoint a person to be a CAP Member for the balance of the original CAP Member's term of office as soon as is reasonably practicable in the same manner as the original CAP Member was appointed.

3.2 The CAP Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.

3.3 In appointing a CAP Member pursuant to clause 3.1, the Council may have regard to the matters in clause 2.2 or 2.6 as the case requires.

3.4 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.

4. **CONDITIONS OF APPOINTMENT**

- 4.1 At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to CAP Members.
- 4.2 CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings and training as agreed to by the Assessment Manager.
- 4.3 Different levels of remuneration may be fixed by the Council for Independent Members, the Presiding Member and a Council Member.
- 4.4 Upon the commencement of Section 83(1)(c) of the Act:
 - 4.4.1 CAP Members, excluding a Member who is a Member or former Member of the Council, must be accredited professionals under the Act; and
 - 4.4.2 CAP Members who are Members or former Members of the Council must have sufficient experience in local government to satisfy the Council that they are appropriately qualified to act as a Member of the CAP.

5. **REMOVAL FROM OFFICE**

- 5.1 A CAP Member will automatically lose office where:
 - 5.1.1 the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 5.1.2 the CAP Member has been convicted of an indictable offence punishable by imprisonment;
 - 5.1.3 in the case of a Council Member, the Member ceases to be a member of the Council.
- 5.2 Subject to Clause 5.4, the Council may by resolution remove a CAP Member from office where, in the opinion of the Council, the behaviour of the CAP Member amounts to:
 - 5.2.1 a breach of a condition of his or her appointment as a CAP Member;
 - 5.2.2 misconduct;
 - 5.2.3 a breach of any legislative obligation or duty of a CAP Member;
 - 5.2.4 neglect of duty in attending to role and responsibilities as a CAP Member;
 - 5.2.5 a failure to carry out satisfactorily the duties of his or her office;
 - 5.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
 - 5.2.7 the inability to carry out satisfactorily the duties of his or her office.

- 5.2.8 except in relation to Deputy Members, a failure without reasonable excuse to attend three consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member; or
 - 5.2.9 in relation to a Deputy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the CAP when requested to do so; or
 - 5.2.10 for any other reason the Council considers appropriate.
- 5.3 The removal of the CAP Member pursuant to clause 5.2 will take effect upon the Council passing a resolution to remove the CAP Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the CAP Member within 7 days of being passed.
- 5.4 Prior to resolving to remove a CAP Member from office pursuant to clause 5.2, the Council must:
- 5.4.1 give written notice to the CAP Member of:
 - 5.4.1.1 its intention to remove the CAP Member from office pursuant to clause 5.2; and
 - 5.4.1.2 the alleged behaviour of the CAP Member falling within clause 5.2.1 or reason the Council considers it appropriate to remove the CAP Member,not less than 7 days before the meeting of the Council at which the matter is to be considered;
 - 5.4.2 give the CAP Member an opportunity to make submissions to the Council on its intention to remove the CAP Member from office either orally at the Council meeting at which the matter is to be considered, or in writing by such date as the Council reasonably determines; and
 - 5.4.3 have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

Appendix 2

Code of Conduct for CAP Members

Assessment Panel Members – Code of Conduct

Introduction

Under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels under the PDI Act. This code of conduct must be read in conjunction with the Act.

For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the PDI Act.

The code is the key tool to ensure that all members of assessment panels act honestly and ethically with a high degree of accountability. If a member of an assessment panel has any doubt in regard to any function they may perform under the PDI Act, they should seek the advice of the panel's assessment manager or some other appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the PDI Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the PDI Act.

Legislative framework

Under section 15 of the PDI Act, all members of assessment panels are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
 - (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*

- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must-*
- (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*
 - (c) *be responsible and accountable in its conduct; and*
 - (d) *comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) *The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) *The principles and benchmarks under this section— (a) do not give rise to substantive rights or liabilities; but (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*

Code of conduct requirements

In acting as a member of an assessment panel, a member must comply with the following requirements.

General duties

1. A member of an assessment panel must in performing, exercising or discharging a function, power or duty under the PDI Act, act in accordance with the general duties as set out in section 15 of the PDI Act.

Act in the public interest

2. A member of an assessment panel must act in a manner that promotes or protects the public interest.

Procedures

3. A member of an assessment panel must ensure that the procedures specified in the PDI Act or prescribed in the *Planning Development and Infrastructure (General) Regulations 2017* are complied with.
4. A member of an assessment panel must comply with the panel procedures in relation to public comments and communication with the media.

Regard for honesty

5. A member of an assessment panel must act with integrity, good faith and equity and must not discriminate toward any person in performing their duties.
6. A member of an assessment panel must advise the assessment manager and the Commission immediately if the member:

- a. is the subject of a formal investigation into, or have been found to have, breached any other code of conduct, ethical standards or similar, either in another State or through a professional body of which they are a member; or
- b. has been found guilty of a breach of any Act related to planning, building or a development related matter.

Conflict of interest

- 7. A member of an assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the council development assessment panel (other than an indirect interest that exists in common with a substantial class of persons)—
 - a. must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and
 - b. must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.
- 8. A member of an assessment panel will be taken to have an interest in a matter for the purposes of item 7 if an associate of the member (within the meaning of section 3(7) of the PDI Act) has an interest in the matter.
- 9. If an interest has been declared by a member of an assessment panel, the nature of the interest must be recorded in the minutes of the meeting.

Making decisions and taking action

- 10. A member of an assessment panel must take all reasonable steps to obtain all relevant facts and information when making a decision on a matter before the panel.
- 11. A member of an assessment panel must ensure that the member's decisions and actions are reasonable, fair and appropriate to the circumstances, based on consideration of all relevant facts obtained, and supported by adequate documentation.
- 12. A member of an assessment panel must not approach or discuss with an applicant or representor any application which is either before the panel or will come before the panel at some future time expect during the course of a panel meeting where the application forms part of the agenda and the applicant or representor has a right to be heard by the panel.
- 13. Except where required as part of the assessment of a particular decision such as a formal panel viewing of a site of a proposed development, you should not enter the site even if invited by the land owner or a neighbouring property owner or any other person.
- 14. A member of an assessment panel must not:
 - a. engage in consultation outside of the panel process with any party on a proposed development application that is likely to be heard by the panel;
 - b. give advice to an applicant or other third party on a development application after it has been lodged outside of a panel meeting;

- c. speak at a public meeting for or against a proposal where the purpose of the meeting is to discuss either a proposed development or a development application unless required by the Act;
- d. express an opinion on a development application or a proposed development outside of a panel meeting; and
- e. engage in any other act or omission which may give rise to a reasonable presumption that you have prejudged a development proposal or application.

Public comment

- 15. Only the presiding member or another person determined by the panel is permitted to speak publicly to the media and address the public on behalf of the panel. No other panel member may make comment to the media or the public in relation to any matter before the panel or any decision of the panel.

Protection and use of information

- 16. A member of an assessment panel must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of the member's official position for the purpose of securing a private benefit for the member or any other person.
- 17. A member of an assessment panel must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Proper exercise of power

- 18. A member of an assessment panel must not take advantage of the member's position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for the member or any other person.

Gifts and benefits

- 19. A member of an assessment panel must not seek or accept a gift or benefit that is intended to, is likely to or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.
- 20. A member of an assessment panel must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member of an assessment panel. A person is related to a member of an assessment panel for the purpose of this provision if the person is a spouse, de facto partner, sibling, parent or child of the member of the assessment panel.

Bias

- 21. A member of an assessment panel should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.12

Responsible Officer: Lachlan Miller
Executive Manager Governance & Performance
Office of the Chief Executive

Subject: Policy Review - Council Member Allowances & Support Policy

For: Decision

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 2 of 2022 – Allowances for Members of Local Government (Appendix 1)* and *Supplementary Report and Determination 5 of 2022 – Members of Local Government (Appendix 2)*.

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 current *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 Determinations and to seek Council's consideration of the revised Policy (**Appendix 3**) 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 30 November 2022, to revoke the 22 September 2020 *Council Member Allowances and Support Policy* and to adopt the draft 29 November 2022 *Council Member Allowances and Support Policy*, as contained in Appendix 3.**

4. **That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the draft 29 November 2022 Council Member Allowances and Support Policy as per Appendix 3 prior to the date of effect.**
-

1. BACKGROUND

Council Member Allowances

On 5 July 2022, the Remuneration Tribunal released *Determination 2 of 2022 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 - \$19,110 per annum
 - Deputy Mayor (1.25 times the Councillor allowance) - \$23,887.50 per annum
 - Presiding Member of a Prescribed Committee (1.25 times the Councillor allowance) - \$23,887.50 per annum
 - Prescribed Committees include Audit and CEOPRP but not the Boundary Change Committee
 - Mayor (4 times the Councillor allowance) - \$76,440 per annum
- A deputy presiding member who undertakes the duties of a presiding member of a committee for a minimum period of one month should receive the presiding member allowance for the entirety of the time they undertake those expanded duties.
- Travel time allowance:
 - usual place of residence is located at least 30 kms but less than 50 kms from that council's principal office - \$454 per annum
 - Travel time allowance is payable in addition to any entitlement to reimbursement of expenses actually incurred.

On 15 November 2022, the Remuneration Tribunal released *Determination 5 of 2022 Supplementary Report and Determination of the Remuneration Tribunal – Allowances for Members of Local Government Councils*. The Determination corrected an ambiguity in Determination 2 of 2022 in clarifying that a deputy mayor who undertakes the duties of a mayor for a period of one month or longer, is entitled to receive the mayor allowance for the entirety of the time they undertake those duties

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.

Following the 2018 Local Government Election, Council adopted (Res: 282/18) a revised Policy based on the 2028 Determination. This Policy was subsequently revised to reflect Council's policy position that public money should not be spent on alcohol for Council Members as follows:

12.10 Policy Review – Council Member Allowances and Support Policy

**Moved Cr John Kemp
S/- Cr Leith Mudge**

214/20

Council resolves:

- 1. That the report be received and noted**
- 2. With an effective date of 8 October 2020, to revoke the 27 November 2018 *Council Member Allowances & Support Policy* and to adopt the revised *Council Member Allowances & Support Policy* in Appendix 1.**
- 3. That the Chief Executive Officer, or delegate, be authorised to make any formatting, nomenclature or other minor changes to the *Council Member Allowances & Support Policy* prior to the effective date.**

Carried Unanimously

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.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5	A Progressive Organisation
Objective O4	We actively represent our community
Priority O4.2	Attract and develop a diverse and capable elected body that represents, promotes and reflects the composition of the community
Priority O4.3	Advocate to, and exert influence with, our stakeholders on behalf of our community to promote the needs and ambitions of the region
Objective O5	We are accountable, informed, and make decisions in the best interests of the whole community
Priority O5.1	Enhance governance structures and systems to prudently adapt to changing circumstances and meet our legislative obligations

➤ 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.

Section 75A(1)(d)(i) states that a member of council will not be regarded as having a conflict of interest (COI) in a matter discussed at a meeting of council if the interest arises in relation to a prescribed matter of in prescribed circumstances. Regulation 8AAA(1)(b) states that the preparation, discussion, adoption and 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) is a prescribed matter. The practical effect of this exemption is that all Councillors are not taken to have a COI due to the exemption however the Mayor will have a Material COI as the proposed Policy sets out differential support to the Mayor.

➤ 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)	Low (3E)	Low (3E)

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.

➤ **Sustainability Implications**

Not applicable.

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

Consultation on the development of this report was as follows:

Council Committees: At its 17 August 2020 meeting, the Audit Committee considered a report on the Auditor-General's Review of Council Credit Card Usage.

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Local Government Association

Community: Not Applicable

➤ **Additional Analysis**

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

In undertaking the policy review, the requirements of applicable legislation, applicable Determinations, 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 3**.

The key changes proposed are as follows:

- Clause 1 – updates to the role of a Council Member and a Principal Member.
- Clause 5.2 – revised the definition of a prescribed meeting to incorporate the provisions of s90A.
- Clause 6 – Inclusion of details of current Determinations.
- Clause 9.1 – Inclusion of details of current Determinations.

- Clause 11.3 –
 - Updated device references to reflect the provision of laptops rather than iPads.
 - Reinforcing Council’s commitment to sustainable resource use through minimising the use of paper products.

3. 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 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.

4. APPENDICES

- (1) *Determination 2 of 2020 – Allowance for Members of Local Government Councils*
- (2) *Determination 5 of 2022 Supplementary Report and Determination of the Remuneration Tribunal – Allowances for Members of Local Government Councils*
- (3) *Council Member Allowances and Support Policy (draft) – November 2022*

Appendix 1

*Determination 2 of 2020 – Allowance for Members of
Local Government Councils*



No. 2 of 2022

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 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:

Council Group	\$ per annum
Group 1A	\$25,838
Group 1B	\$22,828
Group 2	\$19,110
Group 3	\$15,381
Group 4	\$10,955
Group 5	\$7,192

Council Groups are provided in Appendix 1.

5. Principal Member (Mayor / Chairperson)

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

6. Deputy Mayor / Deputy Chairperson

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. For the purpose of this clause, the level of allowance is payable at a maximum of 1.25 times only and does not multiply for each of the qualifying criteria.

7. Presiding Member of a Committee

A deputy presiding member who undertakes the duties of a presiding member of a committee for a minimum period of one month should receive the presiding member allowance for the entirety of the time they undertake those expanded duties.

8. An additional allowance in the form of a sitting fee is payable to a councillor (other than the principal member, deputy mayor, 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 \$255 per meeting limited to an aggregate amount of allowance of \$1,527 per annum;
- b. Where the councillor is a member of a council in Group 2 or Group 3; an allowance of \$188 per meeting limited to an aggregate amount of allowance of \$1,129 per annum;
- c. Where the councillor is a member of a council in Group 4 or Group 5; an allowance of \$123 per meeting limited to an aggregate amount of allowance of \$731 per annum.

TRAVEL TIME ALLOWANCE FOR MEMBERS OF NON-METROPOLITAN COUNCILS

9. An allowance of \$454 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.
10. An allowance of \$775 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.
11. An allowance of \$1,162 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.

12. An allowance of \$1,649 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.
13. The non-metropolitan council members travel time allowance will be payable in addition to any entitlement to reimbursement of expenses actually incurred.
14. A list of the non-metropolitan councils to which this payment applies is provided in Appendix 2.

DATE OF OPERATION

15. As provided for by section 76(8) of the Act, this Determination will come into operation on the conclusion of the 2022 Local Government Elections.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated this 5th day of July 2022

Appendix 1 – Council Groups

GROUP 1A
City of Charles Sturt
City of Onkaparinga
City of Port Adelaide Enfield
City of Salisbury

GROUP 1B
City of Holdfast Bay
City of Marion
City of Mitcham
City of Playford
City of Tea Tree Gully
City of West Torrens

GROUP 2
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

GROUP 3
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

GROUP 4
Adelaide Plains Council
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

GROUP 5
Barunga West Council
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
Adelaide Plains Council
Alexandrina Council
Berri Barmera Council
Barossa Council
City of Whyalla
Clare and Gilbert Valleys Council
District Council of Barunga West
District Council of Ceduna
District Council of Cleve
District Council of Coober Pedy
District Council of Coorong
District Council of Elliston
District Council of Franklin Harbour
District Council of Grant
District Council of Karoonda East Murray
District Council of Kimba
District Council of Lower Eyre Peninsula
District Council of Loxton Waikerie
District Council of Mount Barker
District Council of Mount Remarkable
District Council of Orroroo Carrieton
District Council of Peterborough
District Council of Renmark Paringa
District Council of Robe
District Council of Streaky Bay
District Council of The Copper Coast
District Council of Tumby Bay
District Council of Yankalilla
District Council of Yorke Peninsula
Flinders Ranges Council
Kangaroo Island Council
Kingston District Council
Light Regional Council
Mid Murray Council
Naracoorte Lucindale Council
Northern Areas Council
Port Augusta City Council

Port Pirie Regional Council
Regional Council of Goyder
Rural City of Murray Bridge
Southern Mallee District Council
Tatiara District Council
Wakefield Regional Council
Wattle Range Council
Wudinna District Council

Appendix 2

*Determination 5 of 2022 Supplementary Report and
Determination of the Remuneration Tribunal –
Allowances for Members of Local Government
Councils*



No. 5 of 2022

SUPPLEMENTARY REPORT AND DETERMINATION OF THE REMUNERATION TRIBUNAL

Allowances for Members of Local Government Councils

REPORT

1. On 5 July 2022 the Remuneration Tribunal (**Tribunal**) issued a Report and Determination¹ in respect of the allowances payable to members of Local Government Councils constituted under the *Local Government Act 1999 (Act)*, and a Report and Determination² in respect of the allowances payable to members of the Adelaide City Council.
2. On 8 November 2022 the Local Government Association notified the Tribunal that one of its decisions as set out in the first of these Reports was not reflected in the accompanying Determination. The relevant decision is at paragraph 51 of Report No. 2 of 2022, where the Tribunal stated (emphasis added):

*The Adelaide Hills Council proposed that the allowance amount for deputy mayors be set at two times the annual allowance for members or for this amount to be payable at the mayor's allowance rate when the deputy is undertaking the mayoral role. The Tribunal is not satisfied that there should be an across the board increase to two times the annual allowance for members because evidence about the comparative criteria for deputy mayors has not been provided **but has concluded that, if a deputy mayor is required to undertake the duties of a mayor for a period of at least one month, the mayoral allowance rate should apply.***

3. The Tribunal's intention was for the accompanying Determination to give effect to this, and for the principle to apply to deputy chairpersons as they perform an equivalent function to deputy mayors and receive the same allowance. The Tribunal has accordingly decided to correct the above by issuing a supplementary determination, as follows.

¹ Report of the Remuneration Tribunal No. 2 of 2022 - 2022 Allowances for Members of Local Government Councils; and Determination No. 2 of 2022 - Allowances for Members of Local Government Councils.

² Report of the Remuneration Tribunal No. 3 of 2022 - 2022 Allowances for Members of Adelaide City Council; and Determination No. 3 of 2022 - Allowances for Members of Adelaide City Council.

4. The Tribunal did not receive any submissions from members of the Adelaide City Council or from anyone else in respect of its most recent review. The Tribunal also did not decide whether to apply the abovementioned principle to the circumstances of the Deputy Lord Mayor acting for one month or longer as Lord Mayor. Accordingly, there is no issue to correct in the current Determination for the Adelaide City Council. The appropriate time to consider this issue will be during the next review, in light of any submissions received on the topic.

DETERMINATION

Deputy Mayor / Deputy Chairperson

5. This Determination applies to members of Local Government Councils constituted under the Act, except for members of the Adelaide City Council. It supplements Determination No. 2 of 2022, and should be read in conjunction with that Determination.
6. A deputy mayor who undertakes the duties of a mayor for a period of one month or longer, is entitled to receive the mayor allowance for the entirety of the time they undertake those duties.
7. A deputy chairperson who undertakes the duties of a chairperson for a period of one month or longer, is entitled to receive the chairperson allowance for the entirety of the time they undertake those duties.
8. The mayor / chairperson allowance is to be paid instead of the member's usual allowance, and in proportion to the time the member performs the relevant duties.
9. In accordance with section 76(8) of the Act, this Determination will come into operation upon the conclusion of the 2022 Local Government Elections.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER




Peter de Cure AM
MEMBER

Dated this 15th day of November 2022

Appendix 3

Council Member Allowances and Support Policy (draft)
– November 2022

COUNCIL POLICY

 <p>ADELAIDE HILLS COUNCIL</p>	<h2>COUNCIL MEMBER ALLOWANCES AND SUPPORT</h2>
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Policy Number:	CM-02
Responsible Department(s):	Governance & Performance
Relevant Delegations:	None
Other Relevant Policies:	<i>Council Member Conduct Policy Code of Practice for Meeting Procedures Council Member Training & Development Policy</i>
Relevant Procedure(s):	None
Relevant Legislation:	<i>Local Government Act 1999 Local Government (Members Allowances and Benefits) Regulations 2010</i>
Policies and Procedures Superseded by this policy on its Adoption:	<i>Council Member Allowances and Benefits, 22 September 2020 27 November 2018, Res 214/20282/18</i>
Adoption Authority:	Council
Date of Adoption:	22 September 2020
Effective From:	08 October 2020
Minute Reference for Adoption:	Item 12.10, Res 214/20
Next Review:	This policy lapses at the Local Government General election in November 2026 2 or as required under legislation

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	27/11/18	Creation of Allowances and Support Policy	Council - Res 282/18
1.1	8/10/2020	Amendments to include provisions prohibiting the purchase of alcohol with public funds for Council Members	Council - Res 214/20
2.0	TBC		

DRAFT

COUNCIL MEMBER ALLOWANCES AND BENEFITS POLICY

1. INTRODUCTION

1.1 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').

1.2 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.

1.3 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) to act with integrity;

(ii) to ensure positive and constructive working relationships within the council;

(iii) to recognise and support the role of the principal member under the Local Government Act;

(iv) to develop skills relevant to the role of a member of the council and the functions of the council as a body;

(v) to participate in the deliberations and activities of the council;

(vi) to keep the council's objectives and policies under review to ensure that they are appropriate and effective; and

(vii) to keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review;

(viii) to ensure, as far as is practicable, that the principles set out in section 8 of the Local Government Act are observed;

(ix) to participate in the oversight of the chief executive officer's performance under the council's contract with the chief executive officer; and

(x) to serve the overall public interest.

~~—(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.~~

1.4 Section 58 of the Local Government Act specifies the role of the Principal Member as leader of the Council is to:

(a) to provide leadership and guidance to the council; and

(b) to lead the promotion of positive and constructive working relationships among members of the council; and

(c) to provide guidance to council members on the performance of their role, including on the exercise and performance of their official functions and duties; and

(d) to support council members' understanding of the separation of responsibilities between elected representatives and employees of the council; and

(e) to preside at meetings of the council; and

(f) to liaise with the chief executive officer between council meetings on the implementation of a decision of the council; and

(g) to act as the principal spokesperson of the council; and

(h) to exercise other functions of the council as the council determines; and

(i) to carry out the civic and ceremonial duties of the office of principal member.

1.5 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.

- 1.6 This Policy, in its entirety, will automatically lapse at the next general election of this Council, which is November 202~~6~~[62](#).

2. POLICY OBJECTIVE

- 2.1 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* and consistent with community expectations.

3. SCOPE & RESPONSIBILITIES

- 3.1 This Policy applies to all Council Members, who each have an obligation to abide by this Policy.
- 3.2 The Council's Chief Executive Officer has the duty to:
- (a) maintain the Register of Allowances and Benefits;
 - (b) 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
 - (c) ensure copies of this Policy are available for inspection by the public at the principal office of the Council.
- 3.3 In addition, the Chief Executive Officer is responsible for:
- (a) implementing and monitoring expense reimbursement procedures in accordance with the LG Act, the Regulations this Policy; and
 - (b) ensuring a copy of this Policy is provided to all Council Members.
- 3.4 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

4.1 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 and its Members is 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

5.1 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

5.2 A **'prescribed meeting'** is defined under the Regulations to mean a meeting of the Council or Council committee, or an [informal gathering, information or briefing session \(s90A\), discussion, workshop, briefing](#), training course, advisory group meeting or similar activity which is directly or closely related to the performance or discharge of the roles or duties of the member.

5.3 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 (i.e. East Waste, GRFMA, AHRWMA, S&HLGA);
- meetings related to the local government governance [unless it is a remunerated position](#) (i.e. ALGA, LGASA, LGFA, LGAMLS, LGAWCS, [GAROC](#), etc);
- meetings of community groups and organisations as an invited Council 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.

5.4 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

6.1 Council Member allowances are determined by the Remuneration Tribunal on a 4 yearly basis [with each determination required to be made 14 days before the close of nominations](#)

~~for before the designated day in relation to~~ each set of periodic elections held under the *Local Government (Elections) Act 1999*.

6.2 The relevant determination for the Council term commencing in November 2022 is *Determination No. 2 of 2022 – Allowances for Members of Local Government Councils and the Supplementary Determination No. 5 of 2022*.

6.3 An allowance determined by the Remuneration Tribunal will be payable for the period:

- commencing on the conclusion of the 2022 periodic election; and
- concluding at the time the last result of the 2026 periodic election is certified by the Electoral Commissioner under the Local Government (Elections) Act 1999.

~~take effect from the first ordinary meeting of the Council held after the conclusion of the relevant periodic election.~~

6.4 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. Adjustments will occur on 10 November 2023, 10 November 2024, and 10 November 2025. The change in the Consumer Price Index to be applied will be the most recently available annual percentage change in the Consumer Price Index as at the date of adjustment (which will likely be the most recent relevant September quarter figure).

6.5 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.

6.6 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.

6.7 The Adelaide Hills Council has been identified as falling within Group 2 in the current Remuneration Tribunal Determination, with an initial council member annual allowance of \$19,110.

6.8 The annual allowance for:

- principal members, is equal to four times the annual allowances for Council Members;
 - 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; and
- 6.9 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 or presiding members of prescribed committees). [For a Group 2 council, the allowance is \\$188 per meeting limited to an aggregate amount of allowance of \\$1,129 per annum.](#)
- 6.10 [In accordance with Supplementary Determination No 5. of 2022, a deputy mayor who undertakes the duties of a mayor for a period of one month or longer, is entitled to receive the mayor allowance for the entirety of the time they undertake those duties; and](#)
- 6.11 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).
- 6.12 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).
- 6.13 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. LEAVE OF ABSENCE – COUNCIL MEMBER CONTESTING ELECTION

- 7.1 If a Council Member stands as a candidate for election as a member of State Parliament, section 55A of the Act automatically grants a leave of absence from the date on which nominations for the relevant election close until the result of the election is publicly declared.
- 7.2 During the leave of absence period the Council Member:
- is not entitled to receive any Council Member allowance or reimbursement of expenses; and

- must not use any facility, service or other form of support provided by the Council; and
- must not carry out any function or duty as a Council Member.

7.3 A maximum penalty of \$15,000 applies for a breach of this section of the Act.

8. PRESCRIBED (MANDATORY) REIMBURSEMENTS (SECTION 77(1)(a))

8.1 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'.

Travel

8.2 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).

8.3 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 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.

Child/Dependent Care

8.3 Council Members are entitled to reimbursement for child/dependent care expenses actually or necessarily incurred by the Council Member as a consequence of the Council Member's attendance at a prescribed meeting. Child/dependent care is not reimbursed if the care is provided by a person who ordinarily resides with the Council Member.

9. TRAVEL TIME PAYMENT

9.1 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 - \$~~45410~~ 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 - \$~~7500~~ 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,~~162050~~ per annum;
- (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,~~649490~~ per annum;

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

10. COUNCIL APPROVED REIMBURSEMENTS (SECTION 77(1)(b))

10.1 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.

10.2 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.

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

10.4 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 [personal/private](#) 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 ([i.e. prescribed meeting](#)) 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 dependent 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).

10.5 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.

Telecommunications

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

- (a) Home phone costs will be considered for reimbursement on production of itemised accounts for call charges only. Line rental fees are specifically excluded.
- (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 11.3(d) of this Policy.

Travel

10.7 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;

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- (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.

Child/Dependent Care

10.8 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 dependent 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/dependent care is not reimbursed if the care is provided by a person who ordinarily resides with the Council Member.

Professional Development, Seminars and Conferences

10.9 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 10.7 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. These costs may include non-alcoholic beverages such as soft drinks and coffee/tea.
 - **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 for alcoholic beverages; and
 - any expense incurred by any person accompanying a Member at any conference, seminar or training course.

11. FACILITIES AND SUPPORT

Council Members

11.1 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).

11.2 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).

11.3 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)~~ Laptop computers 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/5G connection provided with Council Member's ~~iPads/tablet~~ laptop computer.
- (c) A Council email address for Council business which should not be used for personal business. Email access to be via the 4G/5G connection on Council Members iPads. Note: Email access can be made via a standard home internet connection, however, Council will not reimburse Council 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) While electronic data use is preferred from a sustainability perspective:

- Reams of paper for printing.

- Stationery (such as pads, pens, diaries, etc).
- Photocopying at a Council Service Centre (not to be used for distributing copies of documents to community members).

~~(e)~~(f) Meals and non-alcoholic beverages provided in association with attendance at 'prescribed meetings'.

~~(f)~~(g) Access to Council meeting facilities (to be booked in advance at the respective Council Service or Community Centre).

~~(g)~~(h) Business cards

~~(h)~~(i) Access fob to the Council Chamber at Stirling

11.4 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;
- the facilities remain the Council's property regardless of whether they are used off site or not; and
- public funds are not used for the provision of alcoholic beverages to Council Members.

Principal Member

11.5 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)~~(a) Council will supply and maintain a motor vehicle for Council business use by the Mayor;

~~(c)~~(b) a Mayoral Office accessible 24/7 providing desk and meeting facilities;

~~(d)~~(c) provision of media and communications support and

~~(e)~~(d) access to administrative officer services.

11.6 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.

12. OTHER REIMBURSEMENTS

12.1 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.

13. INSURANCE OF MEMBERS (SECTION 80)

13.1 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.

14. CLAIMS FOR REIMBURSEMENT

14.1 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.

15. DISPUTE RESOLUTION/APEAL PROCESS

15.1 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.

16. REGISTER OF ALLOWANCES AND BENEFITS

16.1 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).

16.2 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.

16.3 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.

16.4 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.. The policy is also available on Council's website www.ahc.sa.gov.au.

17. REVIEW AND EVALUATION

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

17.2 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).

18. DELEGATION

18.1 The Chief Executive Officer has the delegation to:

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

19. AVAILABILITY OF THE COUNCIL MEMBERS' ALLOWANCES AND SUPPORT POLICY

19.1 This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au.

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.13

Responsible Officer: Lachlan Miller
Executive Manager Governance & Performance
Office of the Chief Executive

Subject: Legislative Change – Member Integrity & Behaviour

For: Decision

SUMMARY

The Local Government Reform process has been underway since 2018 with the key legislative changes contained within the *Statutes Amendment (Local Government Review) Act 2021*. Tranches of the provisions of this Act which amend the *Local Government Act 1999* and others, have progressively come into effect.

On 17 November 2022, via the Government Gazette, significant components of the Member Integrity and Behaviour provisions commenced, to coincide with the new council term.

Members are required to comply with these provisions from the commencement of their role and this report provides the key elements to Members for their information. Training to support this information will be provided in both the planned mandatory and discretionary induction process which will be rolled out over the next 12 months.

RECOMMENDATION

Council ~~That the~~ report be received and noted.

2. To note the Member Integrity and Behaviour provisions of the *Local Government Act 1999* that came into effect on 17 November 2022.
 3. To note the Behavioural Management Policy, as contained in Appendix 6, which has been set by the Minister for Local Government and will have effect until Council adopts a replacement policy.
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1. BACKGROUND

In 2018, the State Government commenced the Local Government Reform (LG Reform) program to make improvements to the system of local government in the following key reform areas:

1. Stronger Council Member Capacity and Better Conduct
2. Lower Costs and Enhanced Financial Accountability
3. Efficient and Transparent Local Government Representation
4. Simpler Regulation

Following an extensive public and industry consultation program, the Office of Local Government drafted the *Statutes Amendment (Local Government Review) Bill 2020* (the 'Bill'). The Bill underwent significant consultation and amendment in its passage through Parliament and the *Statutes Amendment (Local Government Review) Act 2021* (the 'Review Act') received the Governor's assent on 17 June 2021.

The Review Act contains in excess of 200 amendments to the *Local Government Act 1999* (the 'LG Act'), the *Local Government (Elections) Act 1999* (the 'Election Act') and a number of other Acts and many pieces of subordinate legislation. These amendments have phased commencements between September 2021 to November 2023.

One of the key reform areas (as above) relates to Member Integrity and Behaviour. Many of the key amendments in this Reform Area have been timed to commence with the 2022-26 Local Government Council Term.

The purpose of this report is to provide all Council members with an overview of the key elements of Member Integrity and Behaviour reforms. The amendments to the LG Act, which were proclaimed and gazetted on 17 November 2022, are all contained in *Chapter 5 – Members of Council, Part 4 – Member Integrity and behaviour* and *Chapter 13 – Review of local government acts, decisions and operations, Part A1 – Member behaviour*.

The key amendments are:

Section 62 – General Duties

The General Duties have existed since the commencement of the LG Act and have been amended in relation to:

- the disclosure of information [s62(1)(4a)]
- prohibition on directing of seeking to influence of employee [s62(1)(4c)]
- request for information and the performance of work [(s62(1)(4d)]
- compliance with integrity provisions in regulation [s62(1)(4e)]

The full text of s62 is at **Appendix 1**. The mandatory induction training to be provided to all Council Members will specifically cover these provisions.

Register of Interests (s64 – 72)

The Register of Interest provisions are pre-existing and have not changed significantly other than increased penalties for a failure to submit a return in the prescribed period including a suspension of allowance and then a suspension of office and then a disqualification from office.

The LGA has produced an updated Primary and Ordinary Returns Guide for Council Members, and this will be sent to all Members shortly. Further, the mandatory induction training to be provided to all Council Members will specifically cover these provisions.

Gifts and Benefits (s72)

The provisions regarding the receipt of gifts and benefits were previously contained in the (now revoked) s63 – *Code of conduct for council members*. These provisions have now been elevated to s72 of the LG Act. The Minister has determined (17/11/22) that the value of gifts and benefits that must be registered is \$50.

The full text of s72 is at **Appendix 2**. The mandatory induction training to be provided to all Council Members will specifically cover these provisions.

Conflicts of Interest (s73 – 75D)

The conflicts of interest (COI) provisions have existed since the commencement of the LG Act but have been modified over time. The LG Reform program has changed the COI provisions both in the LG Act and in the *Local Government ((General) Regulations 2013* (the ‘Regulations’).

The full text of these provisions from within the Act is at **Appendix 3**. The mandatory induction training to be provided to all Council Members will specifically cover these provisions.

Behavioural Management Framework (s75E-75G, 262A – 262X)

Guidance regarding Council Member conduct was contained in s63 – *Code of conduct for members*. As one of the key reform areas, this part of the LG Act has been restructured to create the Behavioural Management Framework comprising:

- Behavioural Standards (s75E) – which prescribe the minimum conduct standards for Council Members. The Minister has gazetted (17 November 2022) the Standards (see **Appendix 4**)
- Health and safety duties (s75G) - this new section places an obligation on council members to take reasonable care that their acts or omissions do not adversely affect the health and safety of other council members or council employees. A council member must also comply with any reasonable direction given by a responsible person for the purposes of ensuring their acts or omissions do not adversely affect the health and safety of other council members or council employees (see **Appendix 5**)
- Behavioural Management Policy (s262B) – relating to the management of behaviour and complaint handling processes. For the commencement of the Framework, the LGA template has been prescribed as the default Policy for all councils (see **Appendix 6**)

- Behavioural Support Policy (s75F) – (optional) which may specify additional behavioural guidelines as considered appropriate by a council
- Behavioural Standards Panel (s262F) – a panel for dealing with serious and/or repeated misbehaviour with the power to suspend Members

The mandatory induction training to be provided to all Council Members will specifically cover these provisions.

2. ANALYSIS

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

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

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

➤ Legal Implications

Chapter 5 – Members of Council, Part 4 – Member Integrity and behaviour and Chapter 13 – Review of local government acts, decisions and operations, Part A1 – Member behaviour of the LG Act contain the member integrity and behaviour provision amendments that are discussed in the report.

➤ Risk Management Implications

Developing the understanding of and complying with the LG Reform amendments regarding Member integrity and behaviour will assist in mitigating the risk of:

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

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

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

➤ Financial and Resource Implications

All councils are required to contribute to the costs associated with the establishment and operation of the Behavioural Standards Panel. Further, councils that refer complaints to the Panel will be required to fund the specific costs associated with the consideration of the complaint. Council has not received any notification at this stage of the costs associated with the Panel and will deal with these as a budget review item.

Breaches of the previous Code of Conduct regime were extremely resource intensive to deal with complaints, including seeking legal advice and utilising the Local Government Governance Panel (the predecessor to the Behavioural Standards Panel).

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

There is a high community expectation that Council Members conduct themselves in accordance with the principles and standards set out in legislation and that breaches of these provisions are appropriately dealt with.

➤ **Sustainability Implications**

Not Applicable

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

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: Not Applicable

Advisory Groups: Not Applicable

External Agencies: Local Government Association

Community: Not Applicable

➤ **Additional Analysis**

As outlined in the Background section above, there have been significant changes to the Member conduct regime due to a relatively small number, but highly public examples, of poor conduct from Members resulting in significant cost and disruption for the respective council and the community. This conduct also resulted in adverse health and safety outcomes for impacted council members and officer in those organisations.

The extensive nature of the integrity provisions will require Members to diligently apply themselves to understanding these requirements and will be supported by training throughout the induction process.

Members will note that the *Behavioural Management Policy (Appendix 6)* has been mandated by the Minister until each council has the opportunity to consider its own Behavioural Management Policy (which must occur within 12 months).

Of particular note is the creation of health and safety duties of Members under s75G with respect to Council Member and Officers. These duties extend beyond physical risks (which are more unlikely in the Council member context) to health and safety but also to psychological harm (which is more likely in terms of the Chamber environment).

Councils will also need to consider whether they will adopt any additional behavioural guidance/standards for its Members and, if so, to include these in the discretionary Behavioural Support Policy. AHC had similar provisions under the previous Code of Conduct regime with the AHC Behavioural Standards. This will be scheduled for a workshop discussion, as a first step, in 2023.

3. OPTIONS

As the information contained in the report relates to legislative requirements, Council is limited to receiving and noting the information.

4. APPENDICES

- (1) *Section 62 – General Duties, Local Government Act 1999* extract
- (2) *Gifts and Benefits (s72), Local Government Act 1999* extract
- (3) *Conflicts of Interest (s73 – 75D), Local Government Act 1999* extract
- (4) *Behavioural Standards (s75E), Governance Gazette, 17 November 2022*
- (5) *Health and safety duties (s75G), Local Government Act 1999* extract
- (6) *Behavioural Management Policy (s262B), Local Government Act 1999* extract

Appendix 1

*Section 62 – General Duties,
Local Government Act 1999 extract*

62—General duties

- (1) A member of a council must at all times act honestly in the performance and discharge of official functions and duties.
- (2) A member of a council must at all times act with reasonable care and diligence in the performance and discharge of official functions and duties.
- (3) A member or former 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.
- (4) 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.
- (4a) A member or former member of a council must not disclose information or a document—
 - (a) in relation to which there is an order of a council or council committee in effect under section 90 or 91(7) requiring the information or document to be treated confidentially; or
 - (b) that the member or former member knows, or ought reasonably to know, is information or a document that is otherwise required to be treated confidentially.
- (4b) Nothing in subsection (4a) prohibits the disclosure of information or a document that is required or authorised by law.
- (4c) A member of a council must not direct or seek to influence an employee of the council in the exercise or performance of a power or function delegated to or performed by the employee.
- (4d) Without limiting subsection (4c), a member of a council must—
 - (a) ensure that a request for information or a document from a person engaged in the administration of the council is made in accordance with the requirements of the chief executive officer of the council; and
 - (b) ensure that a request for the performance of work or the taking of action by an employee of the council is made in accordance with the requirements of the chief executive officer of the council. (4e) A member of a council must comply with any requirements prescribed by the regulations relating to the conduct of members that are expressed to be integrity provisions.
- (7) Subject to the regulations, the provisions of this section extend—
 - (a) to committees and to members of committees established by councils as if—
 - (i) a committee were a council; and
 - (ii) a member of a committee were a member of a council; and
 - (b) to subsidiaries and to board members of subsidiaries as if—
 - (i) a subsidiary were a council; and
 - (ii) a board member of a subsidiary were a member of a council

Appendix 2

*Gifts and Benefits (s72),
Local Government Act 1999 extract*

Subdivision 3—Gifts and benefits

72A—Register of gifts and benefits

- (1) A member of a council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation to a person on the part of the member or influence the member in the performance or discharge of their functions or duties.
- (2) If a member of a council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice in the Gazette, the member must provide details of the gift or benefit to the chief executive officer of the council in accordance with any requirements of the chief executive officer.
- (3) The Minister must consult with the LGA before publishing a notice under subsection (2).
- (4) The chief executive officer of a council must maintain a register of gifts and benefits received by members of the council and must ensure that the details of each gift provided under this section are included in the register.
- (5) For the purposes of this section, a gift or benefit received by a designated person or entity in relation to a member of a council will be treated as a gift received by the member.
- (6) For the purposes of this section—
 - (a) 2 or more separate gifts received by a member or a designated person or entity in relation to the member from the same person during a financial year are to be treated as 1 gift or benefit (as the case requires) received by the member; and
 - (b) 2 or more separate transactions to which a member or a designated person or entity in relation to the member is a party with the same person during a financial year under which the member or a designated person had the use of property of the other person (whether or not being the same property) during a financial year are to be treated as 1 transaction under which the member has had the use of property of the other person during the financial year.
- (7) Unless the contrary intention appears, terms and expressions used in this section and in Schedule 3 have the same respective meanings in this section as they have in that Schedule.

Appendix 3

*Conflicts of Interest (s73 – 75D),
Local Government Act 1999 extract*

Local Government Act 1999

Subdivision 4—Conflicts of interest

73—Preliminary

In this Subdivision—

agency or instrumentality of the Crown includes—

- (a) an administrative unit of the Public Service; and
- (b) a body corporate comprised of, or including or having a governing body comprised of or including, a Minister or Ministers of the Crown or a person or persons appointed by the Governor or a Minister or other agency or instrumentality of the Crown;

conflict of interest means—

- (a) a general conflict of interest; or
- (b) a material conflict of interest;

general conflict of interest—see section 74;

material conflict of interest—see section 75.

74—General conflicts of interest

(1) Subject to section 75A, for the purposes of this Subdivision, a member of a council has a **general conflict of interest** in a matter to be discussed at a meeting of the council if an impartial, fair-minded person might consider that the member's private interests might result in the member acting in a manner that is contrary to their public duty.

(2) For the purposes of subsection (1)—

private interests means any direct or indirect interest of a member that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief;

public duty means the responsibilities and obligations that a member has to members of the public in their role as a member.

75—Material conflicts of interest

(1) Subject to section 75A, for the purposes of this Subdivision, a member of a council has a **material conflict of interest** in a matter to be discussed at a meeting of the council if any of the following persons would gain a benefit, or suffer a loss, (whether directly or indirectly and whether of a personal or pecuniary nature) depending on the outcome of the consideration of the matter at the meeting:

- (a) the member;
- (b) a relative of the member;

- (c) a body corporate of which the member is a director or a member of the governing body;
- (d) a proprietary company in which the member is a shareholder;
- (e) a family company of the member (within the meaning of Schedule 3);
- (f) a family trust of the member (within the meaning of Schedule 3);
- (g) a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee;
- (h) a partner of the member;
- (i) the employer or an employee of the member;
- (j) a person with whom the member has entered into, is seeking to enter into, or is otherwise involved in a negotiation or tendering process in connection with entering into, an agreement for the provision of professional or other services for which the member would be entitled to receive a fee, commission or other reward;
- (k) a person or body from whom the member has received a designated gift;
- (l) a person of a prescribed class.

(2) In this section—

designated gift means—

- (a) a gift of a kind required to be disclosed in a large gifts return under Part 14 of the *Local Government (Elections) Act 1999* relating to the last election at which the member was elected; or
- (b) a gift or benefit of an amount greater than the prescribed amount under section 81A(1)(b) of the *Local Government (Elections) Act 1999* received by the member after the last election at which the member was elected (whether or not the gift or benefit is required to be disclosed in a return under Part 14 of the *Local Government (Elections) Act 1999*).

75A—Exemptions and other matters

- (1) A member of a council will not be regarded as having a conflict of interest in a matter to be discussed at a meeting of the council—
 - (a) if the interest is held in common with a substantial proportion of the ratepayers, electors or residents of the council area and does not materially exceed the interest held by the other ratepayers, electors or residents; or
 - (b) if the interest in the matter is that of an employer or employee of the member, and the member does not know, and could not reasonably be expected to know, of that interest; or
 - (c) if the interest in the matter is that of a relative of the member, other than the member's spouse or domestic partner, and the member does not know, and could not reasonably be expected to know, of that interest; or
 - (d) if—

- (i) the interest arises in relation to a prescribed matter or in prescribed circumstances; and
 - (ii) the member complies with the requirements of the regulations (if any) relating to dealing with the matter.
- (2) Without limiting subsection (1), a member of a council will not be regarded as having a general conflict of interest in a matter to be discussed at a meeting of the council by reason only of—
- (a) an engagement with a community group, sporting club or similar organisation undertaken by the member in their capacity as a member; or
 - (b) membership of a political party; or
 - (c) membership of a community group, sporting club or similar organisation (if the member is not an office holder for the group, club or organisation); or
 - (d) the member having been a student of a particular school or their involvement with a school as parent of a student at the school; or
 - (e) 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.
- (3) A member of a council who is a member, officer or employee of an agency or instrumentality of the Crown, will be regarded as having a conflict of interest in a matter before the council if the matter directly concerns that agency or instrumentality but otherwise will not be regarded as having an interest in a matter by virtue of being a member, officer or employee of the agency or instrumentality.
- (4) Regulations under subsection (1)(d)—
- (a) may be limited to material conflicts of interest or general conflicts of interest, or may relate to conflicts of interest generally; and
 - (b) may make different provision according to the matter or circumstances to which they are expressed to apply.

75B—Dealing with general conflicts of interest

- (1) If a member of a council has a general conflict of interest in relation to a matter to be discussed at a meeting of the council, the member must deal with the interest in a transparent and accountable way and, in particular, must inform the meeting of—
- (a) the member's interest in the matter; and
 - (b) whether or not the member proposes to participate in the meeting in relation to the matter; and
 - (c) if the member proposes to participate in the meeting in relation to the matter—
 - (i) how the member intends to deal with the general conflict of interest, including whether the member intends to vote on the matter; and

(ii) the member's reasons for participating (and, if relevant, voting) in relation to the matter.

- (2) If a quorum at a meeting cannot be formed because a member of a council proposes to exclude themselves from the meeting in order to comply with subsection (1), the member will not be taken to have contravened subsection (1) by participating (including by voting, for example) in the meeting in relation to the matter if the attendance of the member, together with any other required number of members, forms a quorum for the meeting.
- (3) If a member of a council discloses a general conflict of interest in a matter to be discussed at a meeting of the council, the following details must be recorded in the minutes of the meeting:
- (a) the member's name;
 - (b) the nature of the interest, as described by the member;
 - (c) the manner in which the member dealt with the general conflict of interest;
 - (d) if the member voted on the matter, the manner in which the member voted;
 - (e) the manner in which the majority of persons who were entitled to vote at the meeting voted on the matter.
- (4) To avoid doubt, it is declared that non-participation in a meeting of a council is not the only way in which a member of the council may appropriately deal in a transparent and accountable way with a general conflict of interest of the member in a matter to be discussed at the meeting.

75C—Dealing with material conflicts of interest

- (1) If a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council, the member must—
- (a) inform the meeting of the member's material conflict of interest in the matter; and
 - (b) leave the meeting room (including any area set aside for the public) such that the member cannot view or hear any discussion or voting at the meeting, and stay out of the meeting room while the matter is being discussed and voted on.
- (2) However, a member of the council does not contravene subsection (1) by taking part in the meeting if the member—
- (a) has been granted an approval under subsection (3); and
 - (b) complies with the conditions of the approval.
- (3) The Minister may grant an approval in writing to a member of the council to take part in the meeting if—
- (a) because of the number of members subject to the obligation under this section, conduct of the meeting would be obstructed if the approval were not given; and
 - (b) it appears to the Minister to be in the interests of the council's community and area.

- (4) The Minister may grant an approval under subsection (3) subject to any conditions determined by the Minister.
- (5) If a member of a council discloses a material conflict of interest in a matter to be discussed at a meeting of the council, the following details must be recorded in the minutes of the meeting:
 - (a) the member's name;
 - (b) the nature of the interest, as described by the member;
 - (c) if the member took part in the meeting under an approval under subsection (3), the fact that the member took part in the meeting.

75D—Application of Subdivision to members and meetings of committees and subsidiaries

- (1) The provisions of this Subdivision extend to committees and to members of committees established by councils as if—
 - (a) a committee were a council; and
 - (b) a member of a committee were a member of a council.
- (2) The provisions of this Subdivision extend to subsidiaries and to board members of subsidiaries as if—
 - (a) a subsidiary were a council; and
 - (b) a board member of a subsidiary were a member of a council.
- (3) However—
 - (a) a member of a council committee, or a board member of a council subsidiary, who is also a member or employee of the council will not be regarded as having a conflict of interest in a matter to be discussed at a meeting of the committee or subsidiary (as the case requires) by reason only of the fact that the member is a member or employee of the council or constituent council; or
 - (b) a board member of a regional subsidiary who is also a member or employee of a constituent council will not be regarded as having a conflict of interest in a matter to be discussed at a meeting of the regional subsidiary if the relevant benefit or loss would be enjoyed or suffered in common with all or a substantial proportion of the constituent councils

Local Government (General) Regulations 2013

8AAA—Conflicts of interest—exemptions

- (1) For the purposes of section 75A(1)(d)(i) of the Act, the following matters are prescribed:
 - (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; and
 - (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.

Appendix 4

*Behavioural Standards (s75E),
Governance Gazette, 17 November 2022*

LOCAL GOVERNMENT ACT 1999

SECTION 75E OF THE LOCAL GOVERNMENT ACT 1999

Behavioural Standards for Council Members

The Behavioural Standards for Council Members (Behavioural Standards) are established by the Minister for Local Government pursuant to section 75E of the *Local Government Act 1999* (the Act). These Behavioural Standards form part of the conduct management framework for council members under the Act.

Statement of Intent

Upon election, council members in South Australia undertake to faithfully and impartially fulfil the duties of office in the public interest, to the best of their judgment and abilities and in accordance with the Act. Council members are required to act with integrity, serve the overall public interest and provide community leadership and guidance.

The community expects council members to put personal differences aside, to focus on the work of the council and to engage with each other and council employees in a mature and professional manner.

Behavioural Standards

These Behavioural Standards set out minimum standards of behaviour that are expected of all council members in the performance of their official functions and duties. The Behavioural Standards are mandatory rules, with which council members must comply.

Adherence to the Behavioural Standards is essential to upholding the principles of good governance in councils.

Councils may adopt Behavioural Support Policies which, amongst other things, may include additional matters relating to behaviour that must be observed by council members. A breach of these Behavioural Standards or a council's Behavioural Support Policy:

- will be dealt with in accordance with the council's Behavioural Management Policy; and
- may be referred to the Behavioural Standards Panel in accordance with section 262Q of the Act.

Council members must comply with the provisions of these Behavioural Standards 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, these Standards at all times.

These Behavioural Standards are in addition to, and do not derogate from, other standards of conduct and behaviour that are expected of council members under the Act, or other legislative requirements. Conduct that constitutes, or is likely to constitute, a breach of the integrity provisions contained in the Act, maladministration, or which is criminal in nature, is dealt with through alternative mechanisms.

These Behavioural Standards are designed to ensure council members act in a manner consistent with community expectations and form the basis of behaviour management for council members.

Constructive and effective relationships between council members, council employees and the community are essential to building and maintaining community trust and successful governance in the local government sector.

Council members must:**1. General behaviour**

- 1.1 Show commitment and discharge duties conscientiously.
- 1.2 Act in a way that generates community trust and confidence in the Council.
- 1.3 Act in a manner that is consistent with the Council's role as a representative, informed and responsible decision maker, in the interests of its community.
- 1.4 Act in a reasonable, just, respectful and non-discriminatory way.
- 1.5 When making public comments, including comments to the media, on Council decisions and Council matters, show respect for others and clearly indicate their views are personal and are not those of the Council.

2. Responsibilities as a member of Council

- 2.1 Comply with all applicable Council policies, codes, procedures, guidelines and resolutions.
- 2.2 Take all reasonable steps to provide accurate information to the community and the Council.
- 2.3 Take all reasonable steps to ensure that the community and the Council are not knowingly misled.
- 2.4 Take all reasonable and appropriate steps to correct the public record in circumstances where the Member becomes aware that they have unintentionally misled the community or the Council.
- 2.5 Act in a manner consistent with their roles, as defined in section 59 of the Act.
- 2.6 In the case of the Principal Member of a Council, act in a manner consistent with their additional roles, as defined in section 58 of the Act.
- 2.7 Use the processes and resources of Council appropriately and in the public interest.

3. Relationship with fellow Council Members

- 3.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council members.
- 3.2 Not bully other Council members.
- 3.3 Not sexually harass other Council members.

4. Relationship with Council employees

- 4.1 Establish and maintain relationships of respect, trust, collaboration, and cooperation with all Council employees.
- 4.2 Not bully Council employees.
- 4.3 Not sexually harass Council employees.

Definitions

For the purposes of these Behavioural Standards, a Council's Behavioural Support Policy (if adopted) and a Council's Behavioural Management Policy, the following definitions apply:

An elected member will be considered to **bully** other Council members or Council employees if:

the Council member either, as an individual Council member or as a member of a group:

- a) repeatedly behaves unreasonably towards another Council member, or employee; and
- b) the behaviour could reasonably be considered to be distressing, victimising, threatening or humiliating.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

An elected member will be considered to *sexually harass* other Council members or Council employees if:

the Council member either, as an individual Council member or as a member of a group:

- a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another Council member, or employee (the person harassed); or
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Note -

If this behaviour adversely affects the health and safety of another council member or council employee, it must be addressed under section 75G of the Act and may be referred to the Behavioural Standards Panel as 'serious misbehaviour' under sections 262E and 262Q of the Act.

Conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

Council employees include volunteers, persons gaining work experience and contractors.

The following behaviour **does not** constitute a breach of these Standards:

- robust debate carried out in a **respectful** manner between Council Members; or
- A reasonable direction given by the Presiding Member at a council meeting, council committee meeting or other council-related meeting (such as a working group or an information or briefing session); or
- A reasonable direction carried out by the Council CEO/responsible person pursuant to section 75G of the Act in relation to the behaviour of a Council Member that poses a risk to the health or safety of a council employee.

Requirement applying to behavioural management policies of councils

Behavioural management policies of councils must provide for a Behavioural Standards Panel contact officer. Councils must appoint a person as the contact officer for matters referred to the Behavioural Standards Panel. The contact officer is responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel.

Commencement

The Behavioural Standards come into operation on the day on which it is published in the Gazette.

Dated: 3 November 2022

HON GEOFF BROCK MP
Minister for Local Government

Appendix 5

*Health and safety duties (s75G),
Local Government Act 1999 extract*

Division 3—Health and safety duties

75G—Health and safety duties

(1) A member of a council must—

- (a) take reasonable care that the member's acts or omissions do not adversely affect the health and safety of other members of council or employees of the council; and
- (b) comply, so far as the member is reasonably able, with any reasonable direction that is given by a responsible person for the purposes of ensuring that the member's acts or omissions do not adversely affect the health and safety of other members of the council or employees of the council.

(2) For the purposes of subsection (1)(b), the responsible person is—

- (a) if the person whose health and safety may be adversely affected is an employee of the council—the chief executive officer of the council; or
- (b) if the person whose health and safety may be adversely affected is the principal member of the council—the deputy or another member chosen by the council; or
- (c) if the person whose health and safety may be adversely affected is another member or the chief executive officer of the council—
 - (i) unless subparagraph (ii) applies, the principal member of the council; or
 - (ii) if the relevant acts or omissions are those of the principal member of the council— the deputy or another member chosen by the council.

(3) Without limiting subsection (1)(b), a reasonable direction may include a direction that a member of a council not attend a meeting of the council or a council committee (and a member the subject of such a direction will be taken to have been granted leave of absence from attending council meetings for the duration of the direction).

(4) However, a reasonable direction under subsection (1)(b) that a member not attend a meeting of a council may only be given if there are no other reasonable directions considered appropriate in the circumstances to ensure the health and safety of the affected person.

(5) If a reasonable direction under subsection (1)(b) that a member not attend a meeting of a council is given, the responsible person must ensure that a complaint relating to the matter is referred to the Behavioural Standards Panel.

(6) This section is in addition to and does not limit the operation of the *Work Health and Safety Act 2012*.

(7) In this section—

health has the same meaning as in the *Work Health and Safety Act 2012*

Appendix 6

*Behavioural Management Policy (s262B),
Local Government Act 1999 extract*

COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	BEHAVIOURAL MANAGEMENT
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Policy Number:	CM -01
Responsible Department(s):	Governance & Performance
Relevant Delegations:	As per the Delegations Register and as detailed in this Policy
Other Relevant Policies:	Nil
Relevant Procedure(s):	Nil
Relevant Legislation:	Local Government Act 1999
Policies and Procedures Superseded by this policy on its Adoption:	<i>Council Member Conduct Policy</i>
Adoption Authority:	Council
Date of Adoption:	As per Government Gazette No.79, 17 November 2022
Effective From:	17 November 2022
Minute Reference for Adoption:	To be entered administratively following Council Meeting
Next Review:	As required by legislation or changed circumstances

BEHAVIOURAL MANAGEMENT POLICY

1. Purpose

This Policy has been prepared and adopted pursuant to section 262B of the *Local Government Act 1999* (the Local Government Act).

This *Behavioural Management Policy* forms part of the Behavioural Management Framework for council members and sets out the approach to the management of complaints about the behaviour of council members. It sets out the process to be adopted where there has been an alleged breach of the *Behavioural Standards for Council Members*, this *Behavioural Management Policy* and/or any *Behavioural Support Policy* adopted by the Council (the **behavioural requirements**).

2. Glossary

Behavioural Management Framework – comprises four components:

- The legislative framework within which all council members must operate;
- The *Behavioural Standards for Council Members*, determined by the Minister for Local Government, which apply to all council members in South Australia;
- The mandatory *Behavioural Management Policy* (this document) relating to the management of behaviour of council members and adopted pursuant to section 262B of the Local Government Act;
- Optional *Behavioural Support Policy* (or policies) designed to support appropriate behaviour by council members and adopted pursuant to section 75F of the Local Government Act.

behavioural requirements – in this document refers collectively and individually to the *Behavioural Standards for Council Members*, the *Behavioural Management Policy* and any *Behavioural Support Policies* adopted by the Council.

Behavioural Standards for Council Members – established by the Minister for Local Government, and published as a notice in the SA Government Gazette, specifying standards of behaviour to be observed by members of councils; and providing for any other matter relating to behaviour of members of councils.

frivolous – includes without limitation, a matter of little weight or importance, or lacking in seriousness.

misbehaviour – is defined in section 262E of the *Local Government Act 1999* as:

- a) A failure by a member of a council to comply with a requirement of the council under section 262C(1); or
- b) A failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or
- c) A failure by a member of a council to comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1

person responsible for managing the complaint means, subject to any resolution of the Council to the contrary –

- a) the Mayor;
- b) if the complaint relates to or involves the Mayor, the Deputy Mayor;
- c) if the complaint relates to or involves the Mayor and Deputy Mayor, another council member appointed by Council.

repeated misbehaviour – is defined in section 262E of the *Local Government Act 1999* as a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2 (Ch 5-Members of council, Pt 4-Member integrity and behaviour, Div 2-Member behaviour)

serious misbehaviour – is defined in section 262E of the *Local Government Act 1999* as a failure by a member of a council to comply with section 75G (Health and safety duties)

trivial – includes without limitation, a matter of little worth or importance; that is trifling; or insignificant.

vexatious – includes a matter raised without reasonable grounds or for the predominate purpose of causing annoyance, delay or detriment, or achieve another wrongful purpose

3. Principles

Nothing in this Policy is intended to prevent council members from seeking to resolve disputes and complaints in a proactive, positive and courteous manner before they are escalated.

The following principles will apply:

- Where a council member considers there has been behaviour that is inconsistent with the **behavioural requirements**, a council member may, in appropriate circumstances, seek to respectfully and constructively raise this issue with the member concerned, without the need to lodge a complaint under this Policy;
- If a matter proceeds to a complaint, all council members will continue to comply with the procedures set out in this Policy and support the person responsible for managing the complaint;
- a consistent approach to the assessment, investigation and resolution of complaints will be adopted to facilitate timely and efficient resolution and minimisation of costs;
- Where required, Council may engage the assistance of skilled advisors and support persons in the assessment, investigation and resolution of complaints and avoid adopting an unreasonably legalistic approach.
- ongoing training and relevant resources will be provided to all council members to ensure they have the skills and knowledge necessary to perform their role in accordance with the **behavioural requirements** and the *Local Government Act 1999*.
- Training and relevant support will be provided to persons with specific obligations under this Policy to facilitate the management, reporting and resolution of complaints alleging a breach of the **behavioural requirements**.

Council will manage complaints under this Policy with as little formality and technicality and with as much expedition as the requirements of the matter and the Local Government Act allow and with proper consideration of the matter. Council is not bound by rules of evidence but will inform itself in the manner considered most appropriate given the nature of the complaint.

4. The Complaint Management Process

This Policy sets out the procedures for dealing with an allegation of a breach of the **behavioural requirements** applying to council members. These procedures do not apply to complaints about council employees or the council as a whole.

A complaint made in accordance with this Policy must be lodged within 6 months of the behaviour that is inconsistent with the **behavioural requirements** occurring. A decision may be made to accept a complaint lodged more than 6 months after the behaviour that is inconsistent with the **behavioural requirements** occurring on a case-by-case basis, at the discretion of the person responsible for managing the complaint.

Community members can lodge a complaint with the Council in accordance with this Policy but cannot lodge a complaint directly with the Behavioural Standards Panel.

4.1. Dispute versus Complaint

It is important to distinguish between a dispute and a complaint. A dispute is generally a difference of opinion or disagreement between two parties. It may involve a heated discussion or some other unsatisfactory exchange between parties but may not amount to conduct inconsistent with the **behavioural requirements**. Ideally disputes will be handled directly by the parties involved and will not escalate to a complaint requiring action (even informal action) under this Policy. The Mayor (or another person) may play a role in facilitating a resolution to a dispute.

This Policy is intended to deal with matters where conduct is alleged to have been inconsistent with the behavioural requirements, rather than where members of council have differences of opinion, even when robustly put.

4.2. Confidentiality

Complaints made in accordance with this Policy will be managed on a confidential basis until such a time as they are required to be reported to Council in a public meeting in accordance with this Policy or are otherwise lawfully made public or disclosed.

Access to information relating to complaints and information about complaints will be limited to parties to the complaint and individuals with a responsibility within the complaint handling process or as otherwise provided for within this Policy¹.

A person who has access to information about a complaint (including the complainant and the person complained about) must not directly, or indirectly disclose to any person (including to a council member) that information except:

- For the purpose of dealing with the complaint
- Where required by law
- For the purpose of obtaining legal advice or legal representation, or medical or psychological assistance from a medical practitioner, psychologist or counsellor
- Where the disclosure is made to an external party, investigating the complaint, or mediator/ conciliator engaged in accordance with this Policy

¹ There are circumstances in the *Work Health and Safety Act 2012* where information must be disclosed, for example where the health and safety of an employee is at risk.

- Where the information has been made public in accordance with this Policy or this Policy otherwise authorises or requires the disclosure of the information.

This is not to be confused with formal consideration at a Council Meeting of any matter arising from application of this Policy. Items presented to Council must be assessed on a case-by-case basis in accordance with the requirements of section 90 of the *Local Government Act 1999*.

A complainant may request their identity be kept confidential from the person complained about. This does not constitute an anonymous complaint. The person responsible for managing the complaint will consider such requests on a case-by-case basis, having regard to any applicable legal requirements.

4.3. Stages of Action

This Policy has three distinct stages to the approach that will be taken to address complaints about the behaviour of Council Members:

- Part 1: Informal Action: Where the matter can be resolved directly between the parties.
- Part 2: Formal Action: Where the matter cannot be resolved using informal action and a formal process of consideration is required.
- Part 3: Referrals to the Behavioural Standards Panel: the circumstance under which the Mayor, the Council or other authorised person(s) will make a referral.

4.4. Part 1: Informal action

Council encourages informal resolution of concerns regarding behaviour alleged to be contrary to the ***behavioural requirements***. A person may therefore consider raising the matter directly with the council member concerned.

Alternatively, a person may raise their concern with the Mayor on an informal basis. If the concerns relate to or involve the Mayor the person may raise the matter with the Deputy Mayor (if appointed) or other council member appointed by the Council as the person responsible for managing complaints under this Policy.

If the Mayor or person responsible for managing the complaint considers that access to resources to support impacted parties and facilitate early resolution of the matter should be provided, the Mayor or person responsible for managing the complaint will request the CEO to facilitate access to relevant resources. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

4.4.1. Record keeping

Where the Mayor or person responsible for managing the complaint addresses the matter through informal action, a record should be made setting out:

- Details of the complainant
- Details of the person complained about
- A summary of the matter
- A summary of actions taken in response
- Details of agreed actions (if any)

If informal action does not successfully resolve the matter, the record may be made available to an investigation process as provided for under this Policy or to the Behavioural Standards Panel.

4.5. Part 2: Formal action

This Part sets out the process for formal action in response to a complaint regarding the behaviour of council members and addresses the manner in which a complaint will be:

- Received
- Assessed
- Investigated
- Resolved
- Recorded

A complaint made under the Behavioural Management Policy must:

- Be received in writing. Subject to an alternative resolution of the Council, a complaint should be marked with “Confidential Council Member Complaint” and forwarded to the relevant email or physical address as published on the Council’s website.
- Provide the name of the council member who has allegedly breached the **behavioural requirements**, the name and contact details of the complainant, the name and contact details of the person submitting the complaint (if different to the complainant) and the name and contact details of any witnesses or other persons able to provide information about the complaint.
- Be specific (including identifying the **behavioural requirements** the complainant alleges have been breached)
- Provide as much supporting evidence as possible to assist an investigation, including the grounds and circumstances of the complaint (e.g. where, when, impact of the behaviour, actions taken to try to resolve the issue, relevant records or documents)
- Identify the outcome being sought
- Be lodged within six (6) months of the alleged conduct occurring on the basis that it is important to address alleged breaches of behavioural requirements in a timely manner (with discretion provided to the person responsible for managing the complaint to allow a longer time limit to apply in particular cases. This will be assessed on a case-by-case basis).

4.5.1. Receipt of a Complaint

This step is an administrative process undertaken by the CEO or delegate:

- receipt
- initial acknowledgement
- record keeping; and
- allocation of the matter to the person responsible for managing the complaint.

The CEO or delegate does not undertake an assessment of the merits of the complaint.

Receipt of the complaint will be acknowledged within 2 business days or as soon as reasonably practicable and a copy of this Policy will be provided to the person making the complaint.

The complaint should be directed to the person responsible for managing the complaint in accordance with this Policy.

A complainant may withdraw their complaint at any stage.

4.5.2. Initial complaint assessment

An initial assessment is not an investigation or adjudication of a complaint and no findings as to the merits of the complaint will be made at this stage.

Step 1

The person responsible for managing the complaint will undertake an assessment of it to determine whether the content of the complaint relates to the **behavioural requirements** and whether the conduct occurred in the context of the council member carrying out their official functions and duties.

In undertaking the assessment, the person responsible for managing the complaint will have regard to the following matters² :

- the person that is making the complaint (or on whose behalf the complaint has been made) has a sufficient interest in the matter
- the complaint is trivial, frivolous or vexatious or not made in good faith
- the complaint has been lodged with another authority
- the subject matter of the complaint has been or is already being investigated by the Council or another body
- it is unnecessary or unjustifiable for the Council to deal with the complaint
- the council has dealt with the complaint adequately.

Step 2

If the person responsible for managing the complaint considers the matter warrants further consideration, the person complained about should be advised that a complaint has been received and is undergoing an initial assessment in accordance with this Policy. They should be provided a summary of the matter, at a sufficient level of detail, to understand the nature of the allegations and enable them to provide a preliminary response. This may be achieved by a discussion between the person responsible for managing the complaint and the person complained about, taking into account the principles of this Policy. The person complained about may have a support person present during any discussions.

The person complained about should be given a reasonable opportunity, but no more than ten business days, to provide a response to support the initial assessment. The person responsible for managing the complaint may provide a longer period of time for provision of a response at their discretion. The person responsible for managing the complaint should have regard to any response provided in determining the action resulting from the initial assessment.

Action from initial assessment

The person responsible for managing the complaint will determine what action will result from the initial assessment. A matter may proceed to formal consideration under this Policy, unless there are grounds to take one of the following actions pursuant to section 262B(2)(b):

- refusing to deal with the complaint³
- determining to take no further action

² The person responsible for managing the complaint will also have regard to whether the council has obligations to report the matter to either the Local Government Association Mutual Liability Scheme (LGAMLS) or the Local Government Association Workers Compensation Scheme (LGAWCS), pursuant to the Rules of those Schemes and council's agreement with those bodies.

³ Section 270(4a)(a)(i) of the *Local Government Act 1999* precludes a review of a decision to refuse to deal with the complaint.

- referring to an alternative resolution mechanism or to propose training for relevant parties (e.g. facilitated discussion, provision of training, mediation, arbitration, conflict resolution, etc.)
- referring the matter to another body or agency (e.g., the Ombudsman SA or the Behavioural Standards Panel)

The outcome of the initial assessment will be advised to the complainant and person complained about in writing as far as is permitted by law.

Refusing to deal with the complaint/Determining to take no further action

Where the person responsible for managing the complaint makes a decision not to proceed with formal consideration of the matter the following steps should be taken:

- the complainant must be provided written reasons explaining the decision⁴
- the person complained about should be provided with a brief summary of the complaint and the reasons for not proceeding.
- a record of these steps and the decision not to proceed should be made.

Whilst a matter may not proceed, the person responsible for managing the complaint may discuss the issues informally with the parties and identify strategies to build skills, facilitate positive relationship development and reduce the likelihood of repeat occurrences.

Decision to refer to alternative resolution mechanism

The person responsible for managing the complaint may form the view that the optimal way to deal with the complaint is to implement an alternative resolution mechanism such as facilitated discussion, mediation, arbitration, conflict resolution or training.

The person responsible for managing the complaint should discuss the use of a proposed alternative resolution mechanism with the complainant and the person complained about to determine whether there is support for this approach.

If so, the person responsible for managing the complaint should request the CEO take steps to facilitate access to appropriate internal or external support (not being for the purposes of obtaining legal advice) for parties to the complaint. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

The complainant and the person complained about should be provided written confirmation of the alternative resolution mechanism to be used for the purposes of resolving the complaint.

Decision to refer to another body or agency

Where the person responsible for managing the complaint makes a decision to refer the matter to another body or agency the person will follow any direction from that body or agency regarding what information is to be provided to the complainant and the elected member complained about regarding the referral.

Decision to proceed to formal consideration

Where the person responsible for managing the complaint makes a decision to proceed to formal consideration the following steps should be taken:

- the person complained about should be provided with a copy of this Policy, contact details of the person responsible for managing the complaint and a summary document setting out:

⁴ Section 262D, Local Government Act 1999

- the specific provision(s) of the ***behavioural requirements*** alleged to have been breached; and
- the circumstances where this breach is alleged to have occurred.
In circumstances where the complainant has not requested their identity be kept confidential, a copy of the complaint may be provided in full.
- the complainant should be advised of the decision to proceed and the contact details of the person responsible for managing the complaint.

4.5.3. Formal consideration

Where a decision to formally consider the complaint has been made the person responsible for managing the complaint will determine how to proceed:

- The person responsible for managing the complaint may determine that they are the appropriate person to formally consider the complaint; or
- The person responsible for managing the complaint may determine to engage a third party to formally consider the complaint, for example:
 - an investigator who will report to the person responsible for managing the complaint; or
 - an external service provider with skills relevant to the matter who will report to the person responsible for managing the complaint.

If the person responsible for managing the complaint determines a third party should be engaged, they will request the CEO to facilitate engagement of an appropriate service provider. The CEO will not refuse any reasonable request for resources made in accordance with this Policy.

The person responsible for managing the complaint will advise both the complainant and the person complained about that they are able to have a support person accompany them during discussions relating to the complaint.

It is the expectation of Council that both the complainant and the person complained about will cooperate with any such process to consider the complaint and, if requested, participate in meetings in a timely manner.

Failure by the elected member complained about to comply with this requirement may be taken into account when considering the actions to be taken under section 262B(2)(e) of the Local Government Act and may constitute grounds for referral to the Behavioural Standards Panel for misbehaviour.

Further consideration by the person responsible for managing the complaint (or the third party engaged), may (at the discretion of that person) involve:

- explore the complaint with the complainant and the person who is the subject of the complaint
- speaking with other persons who have been nominated by the parties to have observed the behaviour
- speaking directly with witnesses to the conduct complained about
- requesting the provision of information or documents relevant to the investigation, which may include access to audio or video recordings of meetings.

During the formal consideration of a matter appropriate records should be kept by the person responsible for managing the complaint.

4.5.4. Report

The person responsible for managing the complaint (or the third party engaged) should ensure a report is prepared summarising the matter and setting out their findings, conclusions and recommendations. The report should set out:

- Allegations made in the complaint
- Summary of evidence to which the investigation had regard
- Findings
- Conclusions
- Recommendations

A report will generally include a recommended action for the parties to consider and/or participate in such as, but not limited to the imposition of sanctions as per the Local Government Act:

- Discussions with parties to the complaint to seek agreement
- Formal mediation if not already undertaken
- Conciliation
- Arbitration
- Education and further training

A copy of the draft report should be provided to the parties to the complaint who should be given a reasonable opportunity, but no more than ten business days, to make submissions in relation to the draft report. The person responsible for managing the complaint (or the third party engaged) may provide a longer period of time for lodgement of submissions to the draft report at their discretion. The person responsible for managing the complaint (or the third party engaged) should have regard to any submissions made in preparing a final report.

Outcome – No breach found

Where the finding is that no breach of the ***behavioural requirements*** has occurred, a final report should be prepared by the person responsible for managing the complaint (or third party engaged) and provided to the complainant and the person complained about.

The complaint will remain confidential in accordance with the requirements of this Policy, except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled⁵ at the next practicable Council meeting. If no such request is received, no further action will be taken.

Outcome – agreed actions (breach found)

Where the finding is that a breach of the ***behavioural requirements*** has occurred and the complainant and the person complained about⁶ agree to a path for resolution, that agreement will be documented including matters such as:

- actions to be undertaken
- responsibility for completing actions
- timeframes for completion of actions
- what will occur if there is a repeat of the behaviours complained about
- monitoring arrangements for completion of actions

⁵ Note that the complainants identity may need to be redacted

⁶ Where the conduct complained about is not raised by the person directly affected by the conduct it will usually be appropriate to discuss the proposed resolution with that person prior to finalising agreement. This is intended to apply in a circumstance where the 'victim' is not the complainant to provide them a reasonable opportunity to have input into the resolution

- what will occur if the actions aren't completed
- confirmation that the matter is considered resolved

The agreement reached will be made in writing, including a commitment by parties to the complaint to abide by the agreement (which may be by electronic means). A copy of the agreement will be retained by each party and a copy held in Council records.

The complaint will remain confidential in accordance with the requirements of this Policy except at the request of the person complained about. If such a request is made, a copy of the final report will be tabled⁷ at the next practicable Council meeting. The matter must be reported in the Council's Annual Report which must contain the information required by the regulations⁸.

Outcome – no agreed action (breach found)

Where the finding is that a breach of the ***behavioural requirements*** has occurred and the parties to the complaint have failed to reach agreement as to the resolution of the matter a final report should be presented to Council for determination. The person responsible for managing the complaint should request the CEO to include the final report in the Council Agenda as soon as practicable.

4.5.5. Actions of Council

Where the parties are not able to agree on an approach to resolve the matter, the matter will be provided to Council for determine the actions to be taken which may include:

- taking no further action;
- passing a censure motion in respect of the member;
- requiring the member to issue a public apology (in a manner determined by the Council)
- requiring the member to undertake a specified course of training or instruction;
- removal or suspension from one or more offices held in the member's capacity as a member of the Council or by virtue of being a member of the Council – but not the office of Member of the Council.

If Council determines to take action, a report on the matter must be considered at a meeting open to the public⁹.

Where Council determines to take no further action, the complainant will be advised of this along with reasons, which may include:

- a) the ground that, having regard to all the circumstances of the case, it is unnecessary or unjustifiable for the council to deal with or continue to deal with the complaint;
- b) the ground that the subject matter of the complaint has been or is already being investigated, whether by the council or another person or body; or
- c) the ground that the council has dealt with the complaint adequately.

In making a determination under section 262C(1) Council should be reasonably prescriptive about the manner and time periods in which the action must be completed. Section 262E defines a failure to comply with a requirement of the council under 262C(1) as 'misbehaviour' which may result in a referral to the Behavioural Standards Panel.

⁷ Note that the complainants identity may need to be redacted.

⁸ Schedule 4(1)(d), *Local Government Act 1999*

⁹ Section 262C(2), *Local Government Act 1999*

The matter must be reported in the Council's Annual Report which must contain the information required by the regulations¹⁰.

4.6. Behavioural Standards Panel

The Behavioural Standards Panel is an independent statutory authority consisting of three members and has powers to impose sanctions on council members who breach the **behavioural requirements**.

In accordance with section 262Q of the *Local Government Act 1999* a complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour may be made to the Panel by certain persons as set out below. The Panel's jurisdiction arises in the circumstances set out below:

Legislative definition	Plain language explanation
<p>misbehaviour means—</p> <p>(a) a failure by a member of a council to comply with a requirement of the council under section 262C(1); or</p> <p>(b) a failure by a member of a council to comply with a provision of, or a requirement under, the council's behavioural management policy; or</p> <p>(c) a failure by a member of a council to comply with an agreement reached following mediation, conciliation, arbitration or other dispute or conflict resolution conducted in relation to a complaint under Division 1;</p>	<p>Misbehaviour means:</p> <p>(a) a council member fails to take the action required by council; or</p> <p>(b) a council member fails to comply with this policy; or</p> <p>(c) a council member fails to comply with an agreement reached pursuant to this policy</p>
<p>repeated misbehaviour means a second or subsequent failure by a member of a council to comply with Chapter 5 Part 4 Division 2;</p>	<p>A second or subsequent breach of the behavioural requirements</p>
<p>serious misbehaviour means a failure by a member of a council to comply with section 75G.</p>	<p>A breach of health and safety duties (including sexual harassment) as set out in section 75G of the <i>Local Government Act 1999</i></p>

A complaint alleging misbehaviour, repeated misbehaviour or serious misbehaviour by a member of council may be referred to the Panel by¹¹:

- A resolution of the council;
- the Mayor; or
- at least 3 members of the council
- Responsible person under 75G – direction not to attend meeting.

¹⁰ Schedule 4(1)(d), *Local Government Act 1999*

¹¹ Section 262Q, *Local Government Act 1999*

Behavioural Standards Panel Contact Officer

Council must appoint a person as the contact officer for matters referred to the Behavioural Standards Panel. The contact officer is responsible for the provision of information to and receipt of notice from the Behavioural Standards Panel.

5. Responsibilities

The Mayor, Deputy Mayor (if appointed) or other council member appointed by the council as the person responsible for managing complaints is responsible under this Policy to:

- Perform the tasks bestowed upon the person responsible for dealing with a complaint pursuant to this Policy
- In consultation with the CEO, facilitate access to resources to support impacted parties and resolve the concerns raised in a timely manner prior to the matter becoming serious, or escalating to a formal complaint.
- In consultation with the CEO, engage external resources to assist with investigation and resolution of matters.

The CEO (or delegate) is responsible under this Policy to:

- manage the administrative receipt, acknowledgement, record keeping and allocation of a complaint lodged in accordance with this Policy
- facilitate access to external resources to support the resolution of complaints lodged in accordance with this Policy.

The Behavioural Standards Panel Contact Officer (appointed by the council) is responsible under this Policy to:

- comply with any lawful request of the Panel for information related to a matter under consideration.
- receive and respond to notices relating to matters under consideration by the Panel.

Where the Behavioural Standards Panel Contact Officer is not the CEO, the Contact Officer should keep the CEO informed of the status of matters under consideration by the Panel.

6. Related Legislation

Independent Commission Against Corruption Act 2012

Local Government Act 1999

Ombudsman Act 1972

Public Interest Disclosure Act 2018

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
Tuesday 29 November 2022
AGENDA BUSINESS ITEM**

Item: 12.14

Responsible Officer: Lachlan Miller
Executive Manager Governance and Performance
Office of the Chief Executive

Subject: Council Resolutions Update including 2 year update to outstanding resolutions

For: Decision

SUMMARY

The Action List is updated each month by the responsible officer and outlines actions taken on resolutions passed at Council meetings. In some cases actions can take months or years to be completed due to the complexity and/or the level of influence Council has in the matter.

In March 2015, Council resolved that outstanding resolutions passed before 31 March 2013 would be the subject of a report outlining the reasons why the resolutions have not been completed, detailing what actions have been taken and an estimated date of completion.

While the above resolution referred to a date, the duration was two (2) years and the intent of the Council's resolution has been carried forward as a prudent accountability mechanism.

RECOMMENDATION

Council resolves:

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

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI
22/06/2021	Ordinary Council	117/21	Mobile Library Replacement	Nil
28/06/2022	Ordinary Council	168/22	Santos Tour Down Under Event Opportunity - Confidential	Nil
28/06/2022	Ordinary Council	176/22	Fabrik Tender & Contract - Duration of Confidentiality	Nil
26/07/2022	Ordinary Council	181/22	Support for Road closures 2022 Adelaide Hills Rally	Nil
26/07/2022	Ordinary Council	184/22	S221 Permit CFS Last Refuge Signage within Council	Nil
27/09/2022	Ordinary Council	256/22	Regional Public Health & Wellbeing Plan	Nil
25/10/2022	Ordinary Council	272/22	Petition - Speed Limit & Drainage, Charleston	Nil
25/10/2022	Ordinary Council	274/22	2021-22 General Purpose Financial Statements	Nil
25/10/2022	Ordinary Council	275/22	2021-22 End of Year Financial Report	Nil

1. GOVERNANCE

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Strategic Plan 2020-24 – A brighter future

Goal 5 A Progressive Organisation

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

Priority O5.3 Demonstrate accountability through robust corporate planning and reporting that enhances performance, is relevant and easily accessible by the community

The timely completion of Council resolutions assists in meeting legislative and good governance responsibilities and obligations.

➤ Legal Implications

Not applicable

➤ **Risk Management Implications**

Regular reporting on outstanding action items will assist in mitigating the risk of:

Actions arising from Council resolutions may not be completed in a timely manner

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

➤ **Financial and Resource Implications**

Not applicable

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

Not applicable

➤ **Sustainability Implications**

Not applicable

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

Not applicable

2. BACKGROUND

At its meeting of 24 March 2015 Council resolved:

That the CEO provides a report to the 28 April 2015 Council meeting in relation to outstanding resolutions passed before 31 March 2013 outlining the reasons why the resolutions have not been completed, detailing what actions have been taken and an estimated date of completion.

The contents of this report formed a workshop discussion with Council Members on 3 May 2017.

While the above resolution referred to a date, the duration was two (2) years and the intent of the Council's resolution has been carried forward as a prudent accountability mechanism.

3. ANALYSIS

The Action list has been updated to provide Council with information regarding outstanding actions. Completed resolutions are identified in the recommendation for removal from the Action List.

4. OPTIONS

Council has the following options:

- I. Note the status of the outstanding items and the proposed actions
- II. Resolve that other actions are required.

5. APPENDIX

- (1) Action List

Appendix 1

Action List

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
24/01/2017	Ordinary Council	7/17	Cromer Cemetery Revocation of Community Land	None declared	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.	Terry Crackett	In Progress	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. DEW advised on 4/12/18 that there are some impediments to the progression of the proposed boundary realignment due to the mining operations on the adjacent land, which are being negotiated with the Dept for Mining. Advice is that these negotiations could take considerable time (2yrs). In the interim, consideration will be given to the granting of a right of way to ensure that the cemetery has legal access. DEW staff member dealing with this matter has left DEW so there may be an extended delay whilst it is reallocated and assessed. DEW awaiting finalisation of negotiations with Dept for Mining March 21 - Council staff have requested an update from DEW as to the status of this matter October 21 - Council staff continue to engage with DEW to seek a progression of the matter November 21 - no further update from DEW Jan 22 - contact has been made with DEW who are investigating the situation again prior to further communication with Council March 22 - a new contact has been established with DEW who is working proactively with Council to plan a path forward to meet both DEW and Council objectives August 2022 - DEW have advised that the land can be subdivided as Crown Land and rededicated back to Council which will mean Community Land revocation is unnecessary. On site meeting held with DEW, Survey Plan prepared and with DEW for comment (sent 30/08/2022) prior to lodgement. Seeking confirmation from DEW on their willingness to resume the land prior to lodging land division. October 2022 - DEW have the Plan of division and are liaising with staff regarding the best way forward. Nov 22 - liaising with Plan SA who have now received the land division for assessment
28/08/2018	Ordinary Council	200/18	Proposal to enter 11 AHC Reserves into Heritage Agreements 2018	None declared	<ol style="list-style-type: none"> That the report be received and noted. That the Biodiversity Officer be authorised to enter: Doris Coulls Reserve, 152 Old Mt Barker Road, AldgateHeathfield Waste Facility, 32 Scott Creed Road, HeathfieldKiley Reserve, 15 Kiley Road, AldgateShanks Reserve, 1 Shanks Road, AldgateStock Reserve, Stock Road, MylorLeslie Creek Reserve, Leslie Creek Road, MylorMi Mi Reserve, 125 Aldgate Valley Road, MylorAldgate Valley 2 Reserve, 114 Aldgate Valley Road, MylorKyle Road Nature Reserve, Kyle Road, MylorCarey Gully Water Reserve, Deviation Road, Carey GullyHeathfield Stone Reserve, 215 Longwood Road, HeathfieldMylor Parklands, Mylor all being of significant biodiversity value, into Heritage Agreements. That the Heritage Agreements retain the existing dog access arrangements in place for each of those reserves. 	Peter Bice	In Progress	The Heritage Applications were phased over the years in order to be accommodated within available resourcing. Heritage Agreements have been registered over: Kiley Reserve Shanks Reserve Kyle Road Nature Reserve, Leslie Creek Reserve Aldgate Valley 2 Reserve Doris Coulls Reserve Mylor Parklands Heathfield Waste Facility Reserve 26 - "Stock Rd 1" All applications have been lodged by June 30 2022 as per 2018 Council resolution. Heathfield Stone Reserve successfully rededicated for conservation purposes with Lands Title Office, and is now referred to as Heathfield Conservation Reserve. Heathfield Conservation Reserve and Heritage Mi Mi Reserve Applications have been accepted and signed by CEO, to be countersigned by DEW. Carey Gully was initially rejected but appealed by Biodiversity Officer. Heritage Officer changed their recommendation for acceptance and sent to delegate for approval. Correspondence received that rededication from recreation to conservation purposes is required. Paperwork to amend a dedication has been submitted to Crown Lands.

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
11/09/2018	Special Council	229/18	Road Exchange McBeath Drive, Skye Horsnell Gully	None declared	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	Terry Crackett	In Progress	Road exchange documentation has been executed and provided to Boral for lodgement with the Surveyor-General. Submission has been prepared and lodged with the Boundaries Commission jointly on behalf of the City of Burnside and Adelaide Hills Council. The Boundaries Commission has agreed to investigate the proposal and that process is underway. Further feedback has been provided to the Boundaries Commission to progress. Boral are negotiating a Land Management Agreement with the State Government which has delayed the completion of the land division and road exchange Awaiting advice that land division has been completed so that the boundary realignment can occur November 21 - Boral have received final DA and lodgement of land division plan with Land Services SA is expected shortly, once the land division is finalised, the boundary realignment April 22 - awaiting lodgement of land division plans by Boral August 2022 - Have had no update from Boral or lawyers, Karen to follow up. October 2022 - No update as yet Nov 22 - no update
11/09/2018	Special Council	232/18	Revocation of Community Land – Bridgewater Retirement Village	None declared	To commence a process to revoke the Community Land classification of the land located on the corner of Mt Barker Road and Second Avenue Bridgewater known as 511 Mt Barker Road Bridgewater contained in Certificate of Title Volume 5488 Folio 788 (Land) on which a portion of the Bridgewater Retirement Village is located by: Preparing a report as required under section 194(2)(a) of the Local Government Act 1999 and making it publicly available. Undertaking consultation in accordance with its Public Consultation Policy as required under section 194(2)(b) of the Local Government Act 1999. To commence a process to vary the charitable trust affecting the Land by investigating land parcels owned by the Adelaide Hills Council, including Carripook Park, Candlebark Reserve and Vincent Playground Reserve, that may be suitable for the development of a landscaped garden for the benefit of the community and for the construction of a memorial to the Ash Wednesday Bushfires of 1983 as contemplated by the charitable trust over the Land and invite community suggestions and feedback in relation to any appropriate land parcels. To approve a budget allocation in the amount of \$10,000 for legal expenses for the preparation of an Application to the Supreme Court to vary the charitable trust. That a further report be presented to Council for consideration	Terry Crackett	In Progress	Initial consultation to identify possible locations for the establishment of a garden and memorial concluded on 28 January 2019 with only one submission received being a suggestion from the Retirement Village residents to investigate Carripook Park as their preferred option. Council, at the meeting of 27 August 2019, approved Carripook Park as the location to vary the trust to. The Attorney-General has provided in-principle support to the proposal so a design for the landscaped garden and bushfire memorial at Carripook Park will be prepared for submission to the Supreme Court. November 21 - consultation has been undertaken and draft affidavit has been prepared for lodgement with the Supreme Court Jan 22 - awaiting approval from the Attorney General prior to lodgement with the Supreme Court April 22 - documents nearing finalisation for lodgement with Supreme Court June 22 - all Supreme Court documents have been executed and progressed with the Attorney-General Aug 22 - all documents to remove the Trust have now been approved by the supreme court. Trust now removed from Retirement Village site. Meeting with residents on 22 Sept to finalise any updated feedback on community land revocation. Oct 22 - Meeting held with residents on 22 September to communicate current status. Documents sent to Minister for Community Land revocation on week ending 14/10/2022. Nov 22 - Advice received from Ministers office that community land revocation would be reviewed mid November 2022.
23/07/2019	Ordinary Council	188/19	LED Street Lighting Upgrade	None declared	That the report be received and noted. To approve an increase of \$365k in Council's 2019/20 capital budget to commence the transition of 900 P – category public streetlights to LED with the funding source to be recommended to Council at its next budget review. That Council engage SAPN to commence the changeover of P-Category lights to LED public lighting on Council roads and that authority is given to the CEO to finalise a contract with SAPN and sign that agreement. That Council enter into a PLC tariff agreement for public lighting with SAPN until 30 June 2020 and subsequently move to the tariff set by the Australian Energy Regulator from July 2020. That Council	Peter Bice	In Progress	Council lights changed to LED at Aldgate, Uraidla and Sumertown Main Street complete. Birdwood Main Street Council lighting under investigation for changeover to LED. The Public Lighting Working Group (including representatives from Local Government, DIT and SAPN) has established a sub-group to work with DIT on the transition of V Category lights on state maintained roads. Timing of any agreements between LG and DIT unknown. Council officers continue to be updated on sub-group progress and have nominated to join main street lighting working group.

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
28/01/2020	Ordinary Council	11/20	Revocation of Community Land - Bridgewater Retirement Village	None declared	That the report be received and noted. Subject to the Supreme Court issuing an order granting approval for a trust variation scheme, a report be prepared and submitted to the Minister for Planning seeking approval to revoke the community land classification of Allotment 220 in Filed Plan No. 8131 known as 511 Mount Barker Road Bridgewater. The Mayor and CEO be authorised to sign all necessary documentation to give effect to this resolution.	Terry Crackett	In Progress	Application to the Minister for Planning will be made once the trust variation scheme has been approved by the Supreme Court. The Attorney-General has provided in-principle support for the proposal. A detailed landscape design has been prepared, community consultation on the design is underway and submission for the Supreme Court is being prepared. November 21 - consultation has been undertaken, draft affidavit has been prepared for lodgement with the Supreme Court Jan 22 - awaiting approval from the Attorney General to lodge with the Supreme Court April 22 - documents nearing finalisation for lodgement with Supreme Court June 22 - all Supreme Court documents have been executed and progressed with the Attorney-General August 2022 - Supreme court document have been approved, Trust now removed from Retirement Village site and have been transferred to Caripook Park. Meeting with residents on 22 September to discuss status and will then finalise report to Minister to revoke community land classification. Oct 22 - Meeting held with residents re current status on 22/10/2022. Community Land revocation application finalised and sent to minister week ending 14/10/2022 Nov 22 - advice received from Minister that community land revocation would be assessed around mid November 2022
15/12/2020	Ordinary Council	300/20	Road Exchange Pomona Road Stirling	None declared	1. That the report be received and noted. 2. In accordance with sections 12 and 15 of the Roads Opening and Closing Act 1991, enter into an Agreement for Exchange with the owner of the land of 21 Pomona Road Stirling and issue a Road Process Order to open as public road the area identified as "Road to be opened 1" on the Preliminary Plan No 20/0038 and in exchange to close a portion of Pomona Road as identified on the Preliminary Plan No 20/0038 as "Public Road A", subject to the owner of the land at 21 Pomona Road Stirling agreeing to pay all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs 3. The closed road be excluded as Community Land	Terry Crackett	In Progress	Final Plans and Road Process Order documents have been executed by all parties. Awaiting on processing with the Surveyor-General and the Lands Titles Office Oct 2022 - Final land division plans received from Conveyancer for Council execution.
27/01/2021	Ordinary Council	22/21	CWMS Review	None declared	that the report, related attachments and the discussion and considerations of the subject matter be retained in confidence until 30 July 2021.	Peter Bice	In Progress	
23/03/2021	Ordinary Council	52/21	Crown Land Revocation	None declared	1. That the report be received and noted 2. That the consultation report (<i>Appendix 1</i>) be received and noted 3. To apply to the Minister for Planning to revoke the Community Land classification of the following parcels of land:- i. CR 5752/186, Lot 32 Fullgrave Road, Crafrers ii. CR 5753/725, Section 1609 Illert Road, Mylor iii. CR 5753/729, Section 1657 Scott Creek Road, Scott Creek iv. CR 5753/741, Sections 53 and 54 Sandy Waterhole Road, Woodside v. CR 5753/742, Section 547 Schuberts Road, Lobethal vi. CR 5753/744, Section 553 Pedare Park Road, Woodside vii. CR 5753/745, Section 556 Tiers Road, Woodside viii. CR 5753/746, Section 565 Old Carey Gully Road, Stirling ix. CR 5753/754, Section 511 North East Road, Inglewood x. CR 5753/758, Section 262 Reserve Road, Forreston xi. CR 5763/631, Section 1591 Silver Road, Bridgewater xii. CR 5763/634, Section 71 Magarey Road, Mount Torrens xiii. CR 5763/635, Section 72 Magarey Road, Mount Torrens xiv. CR 5763/636, Section 84 Forreston Road, Forreston xv. CR 6142/329, Lot 501 Greenhill Road, Balhannah xvi. CR 5926/487, Lot 20 Bell Springs Road Charleston (for rededication to the Department of Environment & Water)	Terry Crackett	In Progress	Being progressed in accordance with resolution. November 21 - awaiting feedback from the Minister for Planning on final application for revocation Jan 22 - final application has been lodged with the Minister for Planning June 22 - awaiting response from new Minister September 2022 - still awaiting response from Minister Oct 22 - Still awaiting response from Minister Nov 22 - Still awaiting response from Minister
22/06/2021	Ordinary Council	117/21	Mobile Library Replacement	None declared	That the report be received and noted. That the Administration proceed with the replacement of the mobile library with a customised van and that the amount carried forward into 2021-22 be adjusted from \$480,000 to \$200,000. That the report be received and noted. That the Administration proceed with the replacement of the mobile library with a customised van and that the amount	David Waters	Completed	The new mobile library van has been completed and was brought online on Tuesday 2 November 2022.

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
27/07/2021	Ordinary Council	158/21	Revocation of Community Land Classification - Closed Roads R2142AA & R1573AB	Perceived - Cr Linda Green	<ol style="list-style-type: none"> That the report be received and noted To commence a revocation of community land process for the land described as "AA" in Road Plan No. 2142 ("Closed Road"), off Lenger Road, Mount Torrens including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of selling the Closed Road to the adjoining owners. To commence a revocation of community land process for the land described as "A" and "B" in Road Plan No. 1573 ("Closed Road") adjacent to 105 Nicholls Road, Norton Summit including consultation in accordance with Council's Public Consultation Policy and the <i>Local Government Act 1999</i> with the intention of selling the Closed Road to the adjoining 	Terry Crackett	In Progress	<p>Commenced in accordance with the resolution</p> <p>Public Consultation has completed. NO formal responses received - follow up report is prepared and to be presented at June 2022 Council meeting</p> <p>Follow up report presented to Council 26 July 2022.</p> <p>Council have written to the Minister for approval of Community Land Revocation status. Anticipated response due mid September 2022.</p> <p>Oct 22 - No response received from Minister</p> <p>Nov 22 - Response from Minister still to come</p>
4/08/2021	Ordinary Council	169/21	MON Natural Burials	None declared	That the CEO provides a report to Council by 30 June 2022, outlining a policy and/or procedures by which Council can effectively manage natural burials in council cemeteries, such a report to include suitable locations and indicative costs.	Terry Crackett	In Progress	<p>Preliminary planning underway for return to Council with report by 30 June 2022.</p> <p>Aug 2022 - Report deferred to October 2022 Council meeting to enable the Cemetery Advisory Group to consider the updated draft Policy at its meeting in October.</p> <p>Oct 22 - Report prepared for Council meeting in October 2022 with new Cemeteries Operating Policy to be endorsed (deferred to future meeting)</p> <p>Report in relation to this item went to Council on 28/06/2022</p> <p>Nov 22 - new Cemeteries Operating Policy now going to December 22 Council meeting</p>
24/08/2021	Ordinary Council	170/21	Road Exchange Aldi Development Pomona Road Stirling	None declared	That the report be received and noted in accordance with sections 12 and 15 of the <i>Roads (Opening and Closing) Act 1991</i> , enter into an Agreement for Exchange with the owner of the land of 3-5 Pomona Road Stirling and issue a Road Process Order to open as public road the area identified as "Road to be opened 1" on the Preliminary Plan No 21/0011 and in exchange to close a portion of Pomona Road as identified on the Preliminary Plan No 21/0011 as "Public Road A", subject to the owner of the land at 3-5 Pomona Road Stirling and Council agreeing to share all costs associated with the road exchange process including but not limited to all survey, valuation and reasonable legal costs. The closed road be excluded as	Terry Crackett	In Progress	<p>Commenced in accordance with resolution</p> <p>Road Process Documents have been signed by Council. Currently awaiting process by the Surveyor-Generals and Lands Titles Office.</p> <p>Road plan has been examined, however this is awaiting the deposit of a prior amalgamation and easement plan with the Lands Titles Office.</p> <p>Oct 22 - No further update to report</p> <p>Nov 22 - No further updates</p>
24/08/2021	Ordinary Council	178/21	Operational Workplace Review	None declared	<ol style="list-style-type: none"> That the report be received and noted That Council take up commercial lease space in Stirling at 85 Mount Barker Road Stirling, and the associated costs for the leasehold premises detailed in <i>Appendix 1</i> be adjusted in the 2021-22 financial year at Budget Review 1 Further detailed scoping be undertaken on the proposed renewal and energy efficiency upgrades to the Stirling Office, Heathfield Depot, Gumeracha Depot and Woodside Offices (current Development and Building Team offices) and presented to Council for consideration where appropriate within the 2021-22 Budget Review 1 and the next review of the Long Term Financial Plan Subject to endorsement of the detailed scoping identified in 3 above, the Development and Building Team be relocated from Woodside to Stirling 	Terry Crackett	In Progress	<p>Commenced in accordance with resolution</p> <p>Fitout of Garrod Office and progression of preliminary work for Stirling transportable underway.</p> <p>Scoping of other components to be is nearing completion and will be presented back to Council for review.</p> <p>Sept 22 - refit of transportable building at Stirling underway to allow for Ranges and EHO's to move in. Fitout at Garrod now complete with some staff having moved in. Meeting at Heathfield in early Sept to continue discussions on extension/renovations at that site.</p> <p>Oct 22 - Transportable building renovations well progressed. Meeting at Heathfield postponed pending further discussion with CEO on process for moving forward given scope of new building proposed for Heathfield has now changed.</p> <p>Nov 22 - Transportable renovations going to plan with completion estimated prior to Christmas. Discussion held with Ceo/exec team re scope/process moving forward,</p>
26/10/2021	Ordinary Council	220/21	Charleston Cemetery Compulsory Acquisition	None declared	<ol style="list-style-type: none"> That the report be received and noted. To revoke the resolution of Council of 22 May 2001, B129. To commence a process to compulsorily acquire, under the <i>Land Acquisition Act 1969</i>, the Charleston Cemetery being the land contained in Certificate of Title Volume 5066 Folio 740 located at 36 Newman Road Charleston from The Charleston Cemetery Trust Inc. To continue to manage the Charleston Cemetery on behalf of The Charleston Cemetery Trust Inc in the interim from the date of this resolution until the completion of the land acquisition process. To authorise the Mayor and Chief Executive Officer to undertake all necessary actions, including execution of documents, including under the common seal of 	Terry Crackett	In Progress	<p>Commenced in accordance with the resolution.</p> <p>November 21 - letter seeking consent to undertake the compulsory acquisition has been sent to the Minister</p> <p>Jan 22 - Minister has advised they are considering their position and will advise further in due course</p> <p>March 22 - Minister advised that has been deferred until after the election</p> <p>April 22 - new Minister has confirmed receipt and will review in due course</p> <p>Aug 22 - received advice from Minister for Local Government (via Normans) on 9/08/2022 that they were still waiting to hear back from Crown Solicitors Office on this matter.</p> <p>Oct 22 - No update received from Minister</p> <p>Nov 22 - No update received from Minister</p>
26/10/2021	Ordinary Council	235/21	Ashton Landfill - Confidential Item	None declared	As per Confidential minute	Peter Bice	In Progress	Matter continues to be progressed. Further updates will be provided when a material change occurs.
26/10/2021	Ordinary Council	238/21	Electricity Procurement Legal Matter - Confidential Item	None declared	As per confidential minute	Peter Bice	In Progress	
14/12/2021	Ordinary Council	274/21	Woodside Recreation Ground Reuse further information	Perceived - Cr Stratford	<ol style="list-style-type: none"> The report be received and noted. That a report be prepared for Council's information on the costs associated with bore water saving initiatives that could be implemented in respect to Council-owned recreational 	Peter Bice	In Progress	A contractor has been engaged to undertake an audit of the irrigation systems.

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
22/03/2022	Ordinary Council	52/22	Response to MON Bore Use	Nil	<ol style="list-style-type: none"> That the report be received and noted To negotiate an agreement with the Summertown Village Water Company for access to the Council bore located on Anya Crescent Reserve at Summertown for a defined period, being not more than 3 years, on terms and conditions to be agreed whereby by the end of the agreement term, the Summertown Village Water Company has established an independent water supply for its shareholders and current use of the Council bore ceases To negotiate an in principle agreement with the Summertown Community Centre Inc. for a land exchange at Tregarthen Reserve Summertown that would see the public infrastructure located on land owned by the Council and the sport and recreation infrastructure on land owned by the Summertown Community Centre Inc. with the Council being responsible for the provision of water to Tregarthen Reserve To negotiate an agreement with the owner of 30 Stonehenge Avenue Stirling, for access to and use of the bore located on Council land at 28 Stonehenge Avenue Stirling, for a defined reasonable period of time, say 18 – 24 months, on terms and conditions to be agreed whereby by the end of the agreement, the landowner has established an independent 	Terry Crackett	In Progress	<p>Commenced in accordance with resolution.</p> <p>Sept 22 - commenced as per resolution</p> <p>Oct 22 - commenced as per resolution</p> <p>Nov 22 - commenced as per resolution</p>
22/03/2022	Ordinary Council	53/22	Removal of Remoteness Sculpture, Stirling	Nil	<ol style="list-style-type: none"> That the report be received and noted. That the sculpture known as <i>The Remoteness</i>, be removed from the area in front of the Coventry Library, Stirling. That best endeavours should be made to retain suitable elements of the sculpture for placement in the surrounding landscape in a manner appropriate to the setting, such as for informal seating. That the Council works with the Stirling Business Association and stakeholders from the former Adelaide Hills International Sculpture Symposium Inc to identify and implement appropriate means of recognising the sculpture and ensuring its legacy is not lost to the precinct in which it is presently situated and the overall Hills Sculpture Trail. 	David Waters	In Progress	<p>In mid-June, the former artistic director for Adelaide Hills International Sculpture Symposium Inc approached Council staff advising of a product he believes may provide a potential 'fix' for the sculpture. He was unavailable to progress the matter through June/July, however staff have recently met with him to progress the matter.</p> <p>Staff have sought advice on the suggested fix from ArtLab and at the time of update, are awaiting an outcome of their work. It will be important to evaluate whether or not the risk profile associated with the matter would change with the proposed fix. As there is a Council resolution to remove the sculpture, the matter may need to come back to Council for consideration if the fix is deemed viable.</p> <p>Response from Artlab has indicated that, given the load bearing of the design and the weakened nature of the stone it is unlikely that any treatment options will resolve the issues, however they suggested that we further consult with an engineer regarding proposed fix. An engineer has been approached and provided with all information to date and we await his response.</p> <p>The engineer has met with the artist who proposed the potential fix and we are in discussions with him regarding options.</p>
26/04/2022	Ordinary Council	86/22	MON Property Lobethal Road Lenswood	Nil	<ol style="list-style-type: none"> Council notes the long history of compliance action taken by the Council under both the <i>Development Act 1993</i>, and the <i>Local Nuisance and Litter Control Act 2016</i>, in relation to: continuing unauthorised use of the land as a junkyard/scrap storage facility/builder's storage facility; the continuing unsightly condition of the land when viewed from the public realm; and ongoing nuisance caused by wandering livestock and animals which issues continue to bring about adverse impacts within the locality. The Council instructs the Chief Executive Officer to take such further action/s as he may be advised to take under (including but not limited to) the <i>Local Nuisance and Litter Control Act 2016</i>, and/or the <i>Planning, Development and Infrastructure Act 2016</i>, (which action/s may involve the 	Natalie Armstrong	In Progress	Continued monitoring is being undertaken by Council staff and action if appropriate.
26/04/2022	Ordinary Council	87/22	Property Lobethal Road Lenswood - Duration of Confidentiality	Nil	<p>Item</p> <p>Duration of Confidentiality</p> <p>NB: Item to be reviewed every 12 months if not released</p> <p>Report Two year term</p> <p>Related Attachments Two year</p>	Natalie Armstrong	In Progress	
26/04/2022	Ordinary Council	92/22	Heathfield Resource Recovery Centre Management Agreement	Nil	<ol style="list-style-type: none"> That the report be received and noted. That the Heathfield Resource Recovery Centre Management Agreement with the Adelaide Hills Region Waste Management Authority be extended for a five year period pursuant with renewal provisions within the existing agreement. To delegate to the Chief Executive Officer the 	Peter Bice	In Progress	Administrative review of agreement nearing completion.

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
26/04/2022	Ordinary Council	93/22	Options for Randell's Workmen's Cottages Gumeracha	Nil	<ol style="list-style-type: none"> That the report be received and noted. To rescind parts 3 to 6 of resolution numbered 77/19 of 26 March 2019 thereby removing the requirement to pursue a land division application and Expression of Interest process for the reuse of the Randell's Workmen's Cottages for tourist accommodation or some other use. That the Chief Executive Officer undertakes further scoping and costing for option 4, as outlined in the 26 April 2022 report, for undertaking minor works on the cottages to prevent further deterioration. 	Terry Crackett	In Progress	<p>Commenced in accordance with resolution.</p> <p>Sept 22 -Team Leader property projects is currently seeking costings for the works as per the resolution.</p> <p>Oct - Waiting on costings</p> <p>Nov 22 - collating costings with report to be submitted to Council with options at the February 2023 meeting.</p>
24/05/2022	Ordinary Council	122/22	Purchase of Land 8 St John Road Norton Summit	Perceived - Cr Leith Mudge	I move that the matter of the purchase of land at 8 St John Road Norton Summit be brought to a workshop to ensure all members are fully aware of the situation which includes issues that have to be resolved, e.g. Council's encroachment onto Church land of the septic system and part of the CFS shed.	Terry Crackett	In Progress	<p>Workshop scheduled for 9 August 2022.</p> <p>Workshop held on 16 August 2022.</p> <p>Investigations ongoing during September/October 2022</p> <p>Nov 22 - internal investigations ongoing with report planned for Council meeting in early 2023.</p>
28/06/2022	Ordinary Council	150/22	Naming of Parks & Reserves	Nil	That the CEO identifies which parcels of council owned/managed Parks and Reserves (or other suitable land) included on the Community Land Register which do not have a formally assigned name; Subject to the findings of 1, prepares an estimate of costs for the installation of signs together with program for installations over, say, a ten or more year period. Advises how the assignment of European names and	Peter Bice	In Progress	Identification of relevant land parcels underway, with report for October Ordinary Council Meeting has been prepared.
28/06/2022	Ordinary Council	157/22	Revocation of Community Land Classification - Closed Roads Mt Torrens & Norton Summit	Perceived - Cr Linda Green	<p>That the report be received and noted</p> <p>A report be prepared and submitted to the Minister for Planning seeking approval for the revocation of the community land classification of the land identified as:</p> <ol style="list-style-type: none"> Closed Road AA in Road Plan No. 2142 contained in Certificate of Title Volume 6261 Folio 496 located at Mount Torrens (Appendix 1) 	Terry Crackett	In Progress	<p>Commenced in accordance with resolution.</p> <p>Council staff have written to the Minister for Local Government (Hon. Geoff Brock) seeking the Revocation of Community Land Classification.</p> <p>Oct 22 - Waiting on response from Minister</p> <p>Nov 22 - Awaiting response from Minister</p>
28/06/2022	Ordinary Council	158/22	MON Response Natural Burials	Nil	<ol style="list-style-type: none"> That the report be received and noted To endorse the proposal to establish a natural burial ground within the Kersbrook Cemetery site That, prior to the opening of the Kersbrook natural burial ground for burials, the Cemetery Operating Policy be updated to include provisions for natural burials and presented 	Terry Crackett	In Progress	<p>Sept 22 - Updated cemeteries operating policy drafted and will go to October 2022 Council meeting after sharing with the Cemeteries Advisory Group at its meeting in early October. Research underway for processes for microchipping etc. for natural burials.</p> <p>Oct - updated Policy to go to October 2022 Council meeting.</p> <p>Nov 22 - updated Policy now to go to December 2022 Council meeting</p>
28/06/2022	Ordinary Council	166/22	Warren Road Birdwood Blackspot - Confidential Item	Nil	See Confidential Minute	Peter Bice	In Progress	In Progress
28/06/2022	Ordinary Council	167/22	Warren Road Birdwood Blackspot - Duration of Confidentiality	Nil	<p>Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.1 in confidence under sections 90(2) and 90(3)(d) of the <i>Local Government Act 1999</i>, resolves that an order be made under the provisions of sections 91(7) and (9) of the <i>Local Government Act 1999</i> to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:</p> <p>Item</p> <p>Duration of Confidentiality</p> <p>NB: Item to be reviewed every 12 months if not</p>	Peter Bice	In Progress	In Progress
28/06/2022	Ordinary Council	168/22	Santos Tour Down Under Event Opportunity - Confidential	Nil	See Confidential Minute	David Waters	Completed	Following the official announcement of the men's and women's race routes this item is no longer in confidence.
28/06/2022	Ordinary Council	172/22	Ashton Landfill - Confidential	Nil	See Confidential Minute	Peter Bice	In Progress	Matter continues to be progressed. Further updates will be provided when a material change occurs.
28/06/2022	Ordinary Council	173/22	Ashton Landfill - Duration of Confidentiality	Nil	<p>Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.3 in confidence under sections 90(2) and 90(3)(i) of the <i>Local Government Act 1999</i>, resolves that an order be made under the provisions of sections 91(7) and (9) of the <i>Local Government Act 1999</i> to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:</p> <p>Item</p>	Peter Bice	In Progress	Matter continues to be progressed.
28/06/2022	Ordinary Council	175/22	Fabrik Tender & Contract - Confidential Item	Nil	See Confidential Item	Terry Crackett	In Progress	<p>Oct 2022 - Building 21 Contract has now been finalised. Contracts for remainder of buildings in process of being finalised.</p> <p>Nov 22 - remaining contracts in process of being finalised.</p>

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
28/06/2022	Ordinary Council	176/22	Fabrik Tender & Contract - Duration of Confidentiality	Nil	Subject to the CEO, or his delegate, disclosing information or any document (in whole or in part) for the purpose of implementing Council's decision(s) in this matter in the performance of the duties and responsibilities of office, Council, having considered Agenda Item 18.5 in confidence under sections 90(2) and 90(3)(d) of the <i>Local Government Act 1999</i> , resolves that an order be made under the provisions of sections 91(7) and (9) of the <i>Local Government Act 1999</i> to retain the Items in confidence as detailed in the Duration of Confidentiality Table below: Item	Terry Crackett	Completed	
26/07/2022	Ordinary Council	181/22	Support for Road closures 2022 Adelaide Hills Rally	Nil	1. That the report be received and noted. 2. That, in relation to the 2022 Adelaide Hills Rally, Council supports the event contingent on the organisers, to the satisfaction of the Chief Executive Officer: Complying with Council's <i>Festivals and Events Policy – Guideline No. 1 for Competitive Motoring Events</i> Providing evidence of satisfactory insurance to cover any damage to third party property caused by the event Entering into a road repair agreement with Council to cover any rectification works required as a result of damage caused by the event Providing confirmation that the affected business owners are aware of the road closures Providing written confirmation that the concerns raised by affected residents and businesses have been addressed (noting that not all concerns can necessarily be addressed to the satisfaction of all residents and businesses) and that the event organisers will make their best endeavours to arrange for egress and ingress to those properties within the event where possible where a pressing need has been advised in advance Written confirmation from the organisers that they will erect advance notice of road closures on the affected roads, at least three weeks prior to the event Providing evidence of satisfactory procedures for enabling emergency services access to properties on the event route at all times. 3. That subject to the requirements of Item 2. being undertaken, Council provides consent for road closure orders in relation to Stage 2 of the event, to be held on Saturday 22	David Waters	Completed	The organisers have met the requirements of Item 2.
26/07/2022	Ordinary Council	182/22	Policy Review - Festivals and Events	Nil	That the report be received and noted. To undertake public consultation on the Draft July 2022 <i>Festivals and Events Policy</i> and the CEO prepares a report for Council.	David Waters	Not Started	Our Caretaker Policy states it is prohibited for discretionary public consultation to be undertaken during the 'election period' on an issue which is contentious unless Council specifically resolves otherwise. Consultation will therefore take place in early 2023 after caretaker has ended and the Tour Down Under event is concluded to allow administration to focus on the consultation.
26/07/2022	Ordinary Council	184/22	S221 Permit CFS Last Refuge Signage within Council	Nil	1. That the report be received and noted 2. To issue a Section 221 (Road Rent) Permit to the SA Country Fire Service, in accordance with the provisions of the <i>Local Government Act 1999</i> , which is sought for the occupation of portion of road reserves located adjacent to Houghton Oval, Kersbrook Oval, Birdwood Oval, Mount Torrens and Gumeracha Ovals for the purposes of the installation of CFS "Bushfire Last Resort Refuge" signage.	Terry Crackett	Completed	Matter commenced in accordance with Council Resolution. Documents have been signed by both CFS and Council.
23/08/2022	Ordinary Council	206/22	MON Undergrounding of Power Lines Lobethal, Mt Torrens & Woodside	Nil	That the CEO investigates the potential for undergrounding of power lines in: Main Street and portion of Lobethal Road, Lobethal; Onkaparinga Valley Road (Main Street) Woodside; and Townsend Street, Mount Torrens and, after consultation with the Power Lines Environment	Peter Bice	In Progress	Preliminary investigations have commenced, ahead of more detailed investigations to occur closer to the report deadline.

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
23/08/2022	Ordinary Council	209/22	Proposed Road Closure – Unmade Public Road adjacent to 9 Fidlers Hill Road Inglewood	Nil	That the report be received and noted;The land marked "A" in Preliminary Plan No. 22/0025 (known as the Road Land) be declared surplus to Council's requirements;That the Chief Executive, or his delegate, are authorised to negotiate with the owners of 9 Fidlers Hill Road, Inglewood for the sale and transfer of the piece marked "A" in Preliminary Plan No. 22/0025 for the sum of \$27,250 plus GST, together with all fees and charges associated with the road closure process;Subject to agreement from the owner of 9 Fidlers Hill Road, Inglewood to purchase the Road Land for the sum of \$27,250.00 plus GST, to make a Road Process Order pursuant to the <i>Roads (Opening & Closing) Act 1991</i> to close and merge the pieces of land identified as "A" in the Preliminary Plan No. 22/0025 attached to this report with Section 171 Hundred of Para Wirra comprised in Certificate of Title Volume 5426 Folio 204;That upon the deposit of the Road Closure, the land will be excluded from the classification of Community Land and not be included in Council's Community Land Register;Council staff to provide	Terry Crackett	In Progress	Sept 22 - Roads Officer liaising with property owner re transfer and road closure finalisation. OCT 22 - Roads officer continuing to liaise with all parties to finalise the matter November 22 - Plans and documents have been lodged with the Surveyor-General. Applicants have made payment for the land purchase. Awaiting deposit of plans and gazettal of Road Closure
23/08/2022	Ordinary Council	213/22	Draft Asset Management Plan – Community Wastewater Management Scheme 2023-2032 for public consultation	Material - Cr Linda Green Perceived - Cr Malcolm Herrmann Perceived - Cr Andrew Stratford	1. That the report be received and noted 2. That Council approve the <i>Draft Asset Management Plan Community Wastewater Management System 2023 - 2032</i> as contained in <i>Appendix 1</i> for community consultation. 3. That the Chief Executive Officer be authorised to make any formatting, nomenclature or other minor changes to the <i>Draft Asset Management Plan Community Wastewater Management System 2023 - 2032</i> prior to the consultation commencement.	Peter Bice	In Progress	Engagement plan ready for release following caretaker - advertising appeared in the local papers from the 16th November.
23/08/2022	Ordinary Council	227/22	Acting and Substantive Chief Executive Officer Recruitment – Acting CEO Selection Panel - Confidential Item	Nil	1. To appoint Cr Leith Mudge and Cr Ian Bailey as Ordinary Members of the Acting CEO Selection Panel. 2. That in relation to the Substantive CEO Recruitment, that this matter is referred to the incoming Council for decision in	David Waters	In Progress	Acting CEO Selection Panel convened and all actions completed. No actions for substantive CEO recruitment until after the November 2022 election.
23/08/2022	Ordinary Council	230/22	East Waste Recycling Contract – Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReport23 August 2024Related Attachments23 August 2024Minutes23 August 2024Other23 August 2024 Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.	Peter Bice	In Progress	Confidential material remains sensitive and could reasonably be expected to prejudice the commercial position of the person who supplied the information.
23/08/2022	Ordinary Council	234/22	Revised East Waste 2022-23 Annual Plan & Budget – Nil Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReportNil Related Attachments Appendix 1 Appendix 2 23 August 2024 NilMinutesNilOtherNil Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Council delegates the power to revoke the confidentiality	Peter Bice	In Progress	Confidential material remains sensitive and could reasonably be expected to prejudice the commercial position of the business who supplied the information.
23/08/2022	Ordinary Council	236/22	Ministerial Exemption – Confidential Item	Nil	Refer to Confidential Minute	Peter Bice	In Progress	
23/08/2022	Ordinary Council	237/22	Ministerial Exemption - Duration of Confidentiality	Nil	to retain the Items in confidence as detailed in the Duration of Confidentiality Table below:Item Duration of Confidentiality NB: Item to be reviewed every 12 months if not releasedReport23 August 2024Related Attachments23 August 2024Minutes23 August 2024Other23 August 2024 Pursuant to section 91(9)(c) of the <i>Local Government Act 1999</i> , the Council delegates the power to revoke the confidentiality order either partially or in full to the Chief Executive Officer.	Peter Bice	In Progress	

Meeting Date	Meeting	Res No.	Item Name	Previously Declared COI	Action Required (Council Resolution)	Responsible Director	Status	Status (for Council reporting)
27/09/2022	Ordinary Council	252/22	Options to reduce traffic congestion Bridgewater Primary School	Nil	1 Council explores the options to reduce traffic congestion and improve child safety in the vicinity of Bridgewater Primary School and provides a report to Council on the outcomes of: i. Contacting the owners of 23 Morella Grove Bridgewater (CT 5473/109) to discuss the possibility of purchasing a section of their property along the southern end of Lezayre Avenue or Morella Grove as shown in Appendix 1. ii. Writing to the Department of Education and Bridgewater Primary School to determine the possibility of transferring a	Peter Bice	In Progress	Verbal and written contact has been made with the owner of 23 Morella Grove, and Council staff await a formal response. Written contact has been made with the Department for Education, and further discussions/ meetings are planned.
27/09/2022	Ordinary Council	253/22	Options to reduce traffic congestion Bridgewater Primary School - traffic study	Nil	Formal Motion from 27/9/22 - That item 11.1.1, Options to reduce traffic congestion Bridgewater Primary School – Traffic Study, be deferred until the January 2023 meeting of Council.	Peter Bice	In Progress	No further action required until January meeting.
27/09/2022	Ordinary Council	254/22	MON Coach Parking	Nil	That the CEO prepares a report into the viability of a Coach Parking space in Stirling and adjacent environs by 31 January 2023.	Peter Bice	In Progress	Council staff have met with a representative of the SBA to garner their views, and are now awaiting a proposal from a suitably qualified traffic engineer to provide advice regarding this matter.
27/09/2022	Ordinary Council	256/22	Regional Public Health & Wellbeing Plan	Nil	1. That the report be received and noted. 2. To adopt Council's individual 'top actions' in the S&HLGA's Regional Public Health and Wellbeing Plan 2022-27 as per <i>Appendix 1</i> . 3. To adopt the joint 'focus areas for collaboration' in the S&HLGA's Regional Public Health and Wellbeing Plan 2022-27 as per <i>Appendix 1</i> .	David Waters	Completed	The Regional Public Health and Wellbeing Plan 2022-27 has been adopted by all 6 member Councils and will now go to the Southern and Hills Local Government Association for endorsement before being published on our website. The Southern and Hills Regional Public Health Plan 2022-27 has been endorsed by the Southern and Hills Local Government Association and is now published on our website and is being implemented by member Councils.
25/10/2022	Ordinary Council	272/22	Petition - Speed Limit & Drainage, Charleston	Nil	That the petition signed by 41 signatories requesting the lowering of the speed limit on Onkaparinga Valley Road, Charleston, plus installation of guttering and drainage, be received and noted. That the matter be referred to the Department for Infrastructure and Transport for consideration, with advocacy and support provided by Council as	David Waters	Completed	Letter to Head Petitioner sent 26/10/22
25/10/2022	Ordinary Council	273/22	MON Parking & Road Safety Wattle Tree Road Bridgewater	Nil	I move that a report be presented back to Council by January 2023 covering the following: The current safety of Wattle Tree Road for motorists, and what could be done to improve safety in the long term.	Peter Bice	Not Started	Council have ordered Crest warning signs for installation at this location. Council staff await a proposal for consulting traffic engineer for further advice about what could be achieved at this location.
25/10/2022	Ordinary Council	274/22	2021-22 General Purpose Financial Statements	Nil	1. That the report be received and noted. 2. 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 2022.	Terry Crackett	Completed	Council Financial Statements signed by all relevant parties including Auditors on 1 November 2022
25/10/2022	Ordinary Council	275/22	2021-22 End of Year Financial Report	Nil	1. That the report be received and noted. 2. The 2021-22 End of Year Financial Results in comparison to budget have been considered by Council.	Terry Crackett	Completed	No further action required
25/10/2022	Ordinary Council	276/22	Electricity Tender Post 2022	Nil	1. That the report be received and noted. 2. That the Acting Chief Executive Officer is, until 31 January 2023, delegated (without financial limitation) the power to enter into contracts on behalf of the Council with tenderers selected by Local Government Association Procurement for the supply of electricity for: sites above 160 MWh per annum; and sites below 160 MWh per annum; and 12 hour and 24 hour unmetered lighting. 3. That the above delegation be conditional on the Acting Chief Executive Officer consulting with the Mayor in considering power plan options and that, in-principle, the	Terry Crackett	In Progress	LGAP have completed the tender for the Supply of Electricity contracts (closed 28 October 2022) and it is currently in the evaluation stage with LGAP. LGAP have advised that they will provide the details of that evaluation to Councils but only after the results of all participating councils election results have been finalised
25/10/2022	Ordinary Council	277/22	Naming of Parks & Reserves	Nil	1. That the report be received and noted. 2. That Council does not proceed with a program to name all reserves without a formal name but continues to consider opportunities which may arise from time to time, either through community driven requests, park upgrades or through the Aboriginal Place Naming Action Plan. 3. Council continues to renew pre-existing signs that are in	Peter Bice	Not Started	
25/10/2022	Ordinary Council	278/22	Service Review Brief - Development Services	Nil	1. That the report be received and noted. 2. To adopt the draft <i>Service Review Brief – Development Services</i> as contained in <i>Appendix 1</i> . 3. That the Chief Executive Officer be authorised to make minor changes to the draft <i>Service Review Brief – Development Services</i> arising from the Council's consideration of the matter. 4. That the Chief Executive Officer be authorised to make amendments to the scope of the <i>Service Review Brief –</i>	David Waters	Not Started	

Item 17 Minutes of Committees

**ADELAIDE HILLS COUNCIL
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING
WEDNESDAY 9 NOVEMBER 2022
63 MOUNT BARKER ROAD, STIRLING
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[Please Note: These minutes are unconfirmed until 14 December 2022]

In Attendance

Presiding Member

Geoff Parsons

Members

Ross Bateup

Paul Mickan

Myles Somers

John Kemp

In Attendance

Natalie Armstrong

Deryn Atkinson

James Booker

Doug Samardzija

Sebastien Paraskevopoulos

Karen Savage

Director Development & Regulatory Services

Assessment Manager

Team Leader Statutory Planning

Senior Statutory Planner

Statutory Planner

Minute Secretary

1. Commencement

The meeting commenced at 6.31pm.

2. Opening Statement

“Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kurna people. We pay our respects to Elders past, present and emerging as the Custodians of this ancient and beautiful land. Together we will care for this country for the generations to come”.

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3. Apologies/Leave of Absence

3.1 Apologies
Nil

3.2 Leave of Absence
Nil

4. Previous Minutes

4.1 Meeting held 14 September 2022

The minutes were adopted by consensus of all members (42)

That the minutes of the meeting held on 14 September 2022 be confirmed as an accurate record of the proceedings of that meeting.

5. Presiding Member's Report

Nil

6. Declaration of Interest by Members of Panel

Paul advised that, in relation to Item 8.1, he is connected with the applicant's Planning Consultant, Emma Barnes, via social media. He has not connected with Emma in recent times, and has not discussed this application nor any other application with her. Accordingly, he does not believe he has a conflict of interest in this matter and will remain in the meeting for that item.

7. Matters Lying on the Table/Matters Deferred

7.1 Matters Lying on the Table
Nil

7.2 Matters Deferred
Nil

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8. Development Assessment Applications – Development Act

8.1 Development Application 22002690 by Anthony Rinaldi for two storey detached dwelling, swimming pool and associated safety barriers, retaining walls (maximum height 1.4m) and removal of a significant tree (*Populus deltoids* – Cottonwood) at Lot 720 (16A) White Avenue, Crafers

8.1.1 Representations

Name of Representor	Address of Representor	Nominated Speaker
Dr Peter & Mary Clements	23 Glenside Road, Crafers	Hon Justice Richard Hardy
Hon Justice Richard Hardy (retired) & Susan Hardy	27 Glenside Road, Crafers	Hon Justice Richard Hardy

The applicant, Anthony Rinaldi, and his representative, Emma Barnes (Planning Studio), addressed the Panel.

8.1.2 Decision of Panel

Moved Ross Bateup **Carried**
S/- Paul Mickan **(43)**

The Council Assessment Panel resolved that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 22002690 by Anthony Rinaldi for two storey detached dwelling, swimming pool and associated safety barriers, retaining walls (maximum height 1.4m) and removal of a significant tree (*Populus deltoids* – Cottonwood) at Lot 720 (16A) White Avenue, Crafers is granted Planning Consent subject to the following conditions:**

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) 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.
- 3) 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 zincalume are not suitable

- 4) 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.
- 5) A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes and shall comprise:
 - a minimum supply of 2,000 (two thousand) litres of 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; and
 - the overflow shall be connected to the stormwater management system; and
 - the water supply should be installed prior to occupation of the dwelling.

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- 6) Stormwater management shall be undertaken in accordance with the stormwater management plan and calculations prepared by MQZ Consulting Engineers and approved by Adelaide Hills Council prior to the occupation of the dwelling:

- All stormwater from roof, paving and driveway areas shall be directed to an underground detention tank with a minimum capacity of 22,500 L.
- Pump discharge from the tank shall be directed to the winter creek at a maximum rate of 7.5 L/sec
- Dual pump system is to be installed in case of pump failure.

All stormwater infrastructure shall be installed 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.

- 7) The vehicle access point(s) and cross-over shall be constructed at a maximum width of 4 metres. Access point must be constructed to Council Standards ensuring compliance with the following:
- Inverts and crossovers may not be constructed within one metre of stobie poles
 - Maximum driveway gradient of 1:4
 - Driveway to be surfaced with all-weather material and ensure there is no material drag out onto the carriageway
 - Newly constructed access must not alter road stormwater flow or path.
- 8) Payment of an amount calculated in accordance with the *Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019* be made into the Adelaide Hills Council Urban Tree Fund in lieu of planting 3 replacement trees. Payment must be made prior to the undertaking of development on the land.
- 9) The west facing and east facing upper level windows of the dwelling shall be glazed with fixed obscure glass to a minimum height of 1.5 metres above finished floor level. The glazing in these windows shall be installed prior to occupation of the dwelling and maintained in good condition at all times to the reasonable satisfaction of the Relevant Authority.

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- 10) The balcony of the dwelling shall be fitted with fixed screening as shown on the elevation drawings to a minimum height of 1.5 metres above the balcony floor level. The screening shall be installed prior to the occupation of the dwelling and maintained in good condition at all times to the reasonable satisfaction of the Relevant Authority.
- 11) Landscaping detailed on the site plan drawing number SK04 dated 27/10/2022 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 in the next planting season if and when it dies or becomes seriously diseased.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

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- 8.2 **Development Application 22019350 by Ron Danvers for alterations and additions to State Heritage Place (dwelling – former Coach House) including partial demolition, ancillary accommodation with associated garage, pergola, water tanks, retaining walls and masonry fence at 19 Laurel Road, Stirling**

8.2.1 **Representations**

Name of Representor	Address of Representor	Nominated Speaker
Gavin Carney & Brooke Hall-Carney	36 Ayers Hill Road Stirling	David Hutchison Access Planning

The landowner, Dr Jeffrey Jenkinson, and the applicant, Professor Ron Danvers (Danvers Studio – Architects), addressed the Panel.

8.2.2 **Decision of Panel**

Moved Ross Bateup **Carried**
S/- Paul Mickan **(44)**

The Council Assessment Panel resolved that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 22019350 by Ron Danvers for alterations and additions to State Heritage Place (dwelling – former Coach House) including partial demolition, ancillary accommodation with associated garage, pergola, water tanks, retaining walls and masonry fence at 19 Laurel Road, Stirling is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below:

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- 2) The external finishes to the ancillary accommodation building herein approved shall be as follows:

WALLS: Sandstone render or similar
ROOF: Colorbond 'Woodland Grey' or similar

- 3) 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.
- 4) Prior to Building Consent being granted all hydrological and hydraulic stormwater calculations shall be provided together with the final stormwater management plan to the reasonable satisfaction of Council.

All roof run-off generated by the development hereby approved shall be directed within one month of the roof cladding being installed to the existing stormwater management system on-site to the satisfaction of Council. Stormwater shall be managed on site with no stormwater to trespass onto adjoining properties.

- 5) A supply of water independent of reticulated mains supply shall be available at all times for firefighting purposes and shall comprise:
- a minimum supply of 2,000 litres of 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; and
 - the overflow shall be connected to the existing stormwater management system prior to the occupation of the ancillary building.
- 6) 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.

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- 7) Accommodation of persons within the ancillary accommodation building shall be genuinely ancillary to the use of the existing dwelling.

The person(s) having the benefit of this consent shall refrain from permitting the ancillary accommodation being used for the purposes of a self-contained unit, or any form of accommodation on a commercial or fee paying basis.

This shall include the following:

- i. Only a single point of connection for services such as electricity, water and sewer may be installed on the land to service the dwelling and ancillary accommodation.
 - ii. Only one electricity meter and one water meter may be installed on the land to service the dwelling and ancillary accommodation.
- 8) The existing hedging along the north and west boundaries of the subject land shall be extended as per amended drawings A12S, A13R, A14H, and A16G from *Danvers.Studio - architects*, received by Council on 13 October 2022. This shall be established prior to occupation and maintained in good health and condition at all times with any dead or diseased plants being replaced in the next planting season.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.

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- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

State Heritage Notes

- 1) Please note the following requirements of 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 must cease and the SA Heritage Council must 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. For further information, contact the Department for Environment and Water.
- 2) Please note the following requirements of the Aboriginal Heritage Act 1988:
- a) 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) is to be notified under Section 20 of the Aboriginal Heritage Act 1988.

9. **Development Assessment Applications – Planning, Development and Infrastructure Act**
Nil
10. **Development Assessment Applications – Review of Decisions of Assessment Manager**
Nil
11. **ERD Court Appeals**
The Assessment Manager provided the Panel with a verbal update on current ERD Court Appeals.
12. **Policy Issues for Advice to Council**
Nil

**ADELAIDE HILLS COUNCIL
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING
WEDNESDAY 9 NOVEMBER 2022
63 MOUNT BARKER ROAD, STIRLING
AND
ZOOM VIRTUAL MEETING ROOM**

[Please Note: These minutes are unconfirmed until 14 December 2022]

13. Other Business

- 13.1 The Presiding Member wished Cr John Kemp good luck with the upcoming Local Government elections, and took the opportunity to thank him for his service to the Panel over a significant period of time. The Panel and, similarly, the community have valued his contribution.

14. Order for Exclusion of the Public from the Meeting to debate Confidential Matters
Nil

15. Confidential Item
Nil

16. Next Meeting
The next ordinary Council Assessment Panel meeting will be held on Wednesday 14 December 2022.

17. Close meeting
The meeting closed at 8.42pm.