

Special Council Meeting Minutes

22 August 2022

Our Vision

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

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

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City of
Norwood
Payneham
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VENUE Council Chambers, Norwood Town Hall

HOUR 7.00pm

PRESENT

Council Members Mayor Robert Bria
Cr Kester Moorhouse
Cr Evonne Moore
Cr Garry Knoblauch
Cr John Minney
Cr Carlo Dottore
Cr Kevin Duke
Cr Connie Granozio
Cr Mike Stock
Cr Scott Sims
Cr Fay Patterson
Cr Sue Whittington
Cr John Callisto
Cr Christel Mex

Staff Lisa Mara (General Manager, Governance & Civic Affairs)
Peter Perilli (General Manager, Urban Services)
Carlos Buzzetti (General Manager, Urban Planning & Environment)
Sharon Perkins (General Manager, Corporate & Community Services)
Scott Dearman (Project Manager, Assets)
Simonne Whitlock (Manager, Communications & Community Relations)
Stuart Pope (Project Manager, City Projects)
Jared Barnes (Project Manager, Urban Design & Special Projects)
Keke Michalos (Manager, Economic Development & Strategic Projects)
Paul Mercorella (Manager, City Assets)
Rico Palombella (Project Manager, Civil)
Marina Fischetti (Executive Assistant, Governance & Civic Affairs)

APOLOGIES Nil

ABSENT Nil

1. CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON 1 AUGUST 2022

Cr Stock moved that the minutes of the Council meeting held on 1 August 2022 be taken as read and confirmed. Seconded by Cr Knoblauch and carried unanimously.

2. STAFF REPORTS

2.1 INSTALLATION AND UPGRADE OF PLAY EQUIPMENT - MANNING RESERVE, NORWOOD

REPORT AUTHOR: Manager, Communications & Community Relations
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 8366 4528
FILE REFERENCE: qA94377
ATTACHMENT: A

PURPOSE OF REPORT

The purpose of this report is to present to the Council the outcome of the community consultation which has been undertaken regarding the proposal to upgrade the children's play equipment, and install a swing set, at Manning Reserve, Norwood.

BACKGROUND

Manning Reserve is located in Fisher Street, Norwood. The Reserve is eight (8) metres wide and twenty (20) metres long and currently there are three (3) pieces of play equipment located at the Reserve—a slide, spring rocker and a spinning pole.

In late 2021, a petition with more than 100 signatures was presented to the Council, requesting the installation of a swing set at Manning Reserve.

The Council was advised at that time that if a swing set was to be installed at Manning Reserve, another piece of equipment would be required to be removed to ensure the play equipment meets the Australian Standard policy relating to "designated impact areas".

At its meeting held on 17 January 2022, following consideration of the matter, the Council resolved the following:

That the Council endorses in principle the installation of a swing set at Manning Reserve for the purpose of conducting consultation with the local community regarding the options to accommodate the installation of the swing set, prior to final consideration of this matter.

This report presents the outcome of community consultation which has been undertaken regarding the installation of new play equipment at Manning Reserve, Norwood.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Outcomes and Objectives of the Council's *City Plan 2030, Shaping Our Future Mid Term Review 2020* are provided below.

Outcome 1:4 Social Equity

A strong, healthy, resilient and inclusive community.

1.4.1 Encourage physical activity and support mental health to achieve healthier lifestyle and well-being.

FINANCIAL AND BUDGET IMPLICATIONS

The Council has not allocated funding for the upgrade and/or installation of new play equipment at Manning Reserve as part of the 2022- 2023 Budget.

In order to determine the potential cost of the three (3) options, quotations were obtained from Forpark Australia –the largest manufacturer and supplier in Australia of play equipment, outdoor fitness equipment and park furniture.

The estimated costs for each option is set out below.

Option 1: Install a new swing set, upgrade the slide and remove the spring rocker and spinning pole - \$38,000 (exc GST).

Option 2: Install a new swing set, upgrade the spring rocker and the spinning pole, and remove the slide - \$31,000 (exc GST).

Option 3: Upgrade the slide, upgrade the spring rocker and the spinning pole, and not install a new swing set - \$43,000 (exc GST).

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

The community values the City's open space and recreation assets, particularly playgrounds, which provide a social space not only for children, but also for parents, grandparents, carers and relatives of young children.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

Not Applicable.

COVID-19 IMPLICATIONS

Not Applicable.

CONSULTATION

- **Elected Members**
Elected Members previously considered this matter at the Council meeting held on 17 January 2022.
- **Staff**
General Manager, Governance and Civic Affairs
Manager, Economic Development & Strategic Projects
Project Officer – Urban Services
- **Community**
On 6 May 2022, a letter was delivered to 392 residents and property owners located in the vicinity of Manning Reserve, Norwood, to advise of the proposal and to seek their comments regarding the options.
- **Other Agencies**
Not Applicable.

DISCUSSION

Due to the limited space available in Manning Reserve and the designated “impact” area required for each piece of equipment to ensure the safety of a child if they were to fall (off the equipment), the addition of a swing set without the removal of any of the other pieces of equipment is not possible.

Therefore, in order to install the swing set, the Council is required to remove either the slide or the spring rocker and the spinning pole, to ensure compliance with the relevant Australian Standard.

As stated previously a letter was forwarded to local residents seeking their views in respect to this matter. Residents were invited to comment their preferred option based on an image of each option.

A copy of the letter is contained in **Attachment A**.

The Options as set out in the letter, included the following:

- Option 1 - Install a new swing set, upgrade the slide, remove the spring rocker and the spinning pole.
- Option 2 - Install a new swing set, upgrade the spring rocker and the spinning pole, and remove the slide.
- Option 3 - Upgrade the slide and the spring rocker and the spinning pole, and not install a new swing set.

Residents and property owners were directed to the Council’s online consultation webform and asked to nominate which Option they preferred. Alternatively, residents and property owners were asked to indicate their preferred option on the letter and return it to the Norwood Town Hall.

The Council received a total of 54 (54) responses as part of the consultation.

A summary of the responses which have been received is set out **Table 1** below and is based upon the questions which were asked as part of the consultation process.

TABLE 1: OPTIONS FOR NEW PLAY EQUIPMENT AT MANNING RESERVE, NORWOOD

Option 1	Option 2	Option 3
Install a new swing set, upgrade the slide and remove the spring rocker and spinning pole.	Install a new swing set, upgrade the spring rocker and the spinning pole, and remove the slide.	Upgrade the slide, upgrade the spring rocker and the spinning pole, and not install a new swing set.
Forty-six (46) residents supported this option.	Two (2) residents supported this option.	Six (6) residents supported this option.

In addition, two (2) emails were received from residents outlining their concerns regarding the proposal.

One (1) resident requested a shade to cover the equipment in Manning Reserve and the installation of seating for parents and grandparents.

The other resident requested that the Council consider play equipment of a lower height so children and other users of Manning Reserve do not have a direct line of sight into the backyard of adjoining properties. This submission indicated support for Option 2 (ie; install a new swing set, upgrade spring rocker and spinning pole and remove the slide).

OPTIONS

In respect to the installation of the play equipment at Manning Reserve, Norwood, the Council has four (4) options.

Option 1

Do nothing and retain Manning Reserve as is.

Option 2

The Council can determine to purchase a new swing set, purchase a new spring rocker and spinning pole, and remove the slide.

Option 3

The Council can determine to purchase a new slide, spring rocker and spinning pole, and not install a swing set.

Option 4

The Council can resolve to endorse the installation of a new swing set, and a new slide and remove the spring rocker and spinning pole.

This is the recommended option on the basis that this option is supported by the majority of residents and property owners who provided their comments as part of the consultation process. The installation of a new swing set was also the subject of the petition which was forwarded to the Council in December 2021.

CONCLUSION

The installation of new play equipment, including a new swing set at Manning Reserve, will enhance the reserve and potentially increase the usage of the reserve.

COMMENTS

Nil.

RECOMMENDATION

1. That the Council endorses the installation of a new swing set and new slide and removal of the spring rocker and spinning pole at Manning Reserve.
 2. That the Council allocates funding for the installation of the new play equipment at Manning Reserve as part of the 2023-2024 Budget.
-

Cr Whittington moved:

1. *That the Council endorses the installation of a new swing set and new slide and removal of the spring rocker and spinning pole at Manning Reserve.*
2. *That the Council allocates funding for the installation of the new play equipment at Manning Reserve as part of the 2023-2024 Budget.*

Seconded by Cr Callisto.

Amendment

Cr Patterson moved:

1. *That the Council endorses the installation of a new swing set and new slide and removal of the spring rocker and spinning pole at Manning Reserve.*
2. *That staff investigate the feasibility of the installation of a shade structure for the playground equipment and a seat as part of the 2023-2024 Budget deliberations.*
3. *That the Council allocates funding for the installation of the new play equipment at Manning Reserve as part of the 2023-2024 Budget.*

Seconded by Cr Minney.

The amendment was put and carried unanimously and on becoming the motion was again put and carried unanimously.

2.2 MODIFICATIONS TO PENNA AVENUE, GLYNDE

REPORT AUTHOR: General Manager, Urban Planning & Environment
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4501
FILE REFERENCE: qA1039 & Development Application No. 22014444
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to set out the process which is required to be followed by Bunnings Group Limited, in respect to the implementation of Development Application Number 22014444, to enable Penna Avenue to be widened to allow for safe and convenient vehicular access to the development site.

BACKGROUND

At its meeting held on Monday 1 August 2022, the Council endorsed the following motion:

- 1 *That staff prepare a report setting out the process which is required to be followed by Bunnings in respect to the implementation of Development Application Number 22014444, which was approved by the Council Assessment Panel on 20 July 2022, with particular reference to the process associated with access from Penna Avenue to the site.*
- 2 *That the report referred to in Point 1 above be presented to the Special Council Meeting to be held on 22 August 2022.*

The reasons provided in support of the Motion are as follows:

Through the assessment process associated with this development application, a number of concerns have been raised in respect to the effect the development will have on the local amenity in terms of traffic management and parking. This report seeks to ensure the Council is apprised of the issues associated with the development and the impact it will have on the local industries and residential streets through the generation of a huge amount of traffic and proposed strategies to manage these matters, both during the construction phase and final completion of the development.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 1: Social Equity

An inclusive, connected, accessible and friendly community.

Objective 1.2

A people friendly, integrated and sustainable transport network.

Strategy: 1.2.2

Provide safe and accessible movement for all people.

The implementation of large-scale developments that require modifications to the local street network to facilitate safe and convenient vehicular access arrangements, can only be undertaken with the consent of the Council. It is important for the Council to carefully consider any proposals that seek to alter an existing road and intersection, to ensure that the Council's strategic objective to provide a people friendly, integrated and sustainable transport network, is met and maintained.

FINANCIAL AND BUDGET IMPLICATIONS

The costs associated with altering an existing road and intersection to enable an authorised development to be implemented, are usually entirely borne by the Developer, unless the Council endorses an alternative financial arrangement.

If the Council does not consent to a proposal to alter an existing road and intersection to enable an authorised development to be implemented, the Developer could challenge the Council's decision and the Council would potentially incur legal costs to defend its position.

It is not possible to provide an accurate estimation on the likely costs that would be incurred if the matter could not be resolved amicably as there are too many variables in an appeal process that can influence the costs that could be incurred by the Council to defend its decision.

EXTERNAL ECONOMIC IMPLICATIONS

Not Applicable.

SOCIAL ISSUES

Not Applicable.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Not Applicable.

RESOURCE ISSUES

Not Applicable.

RISK MANAGEMENT

Not Applicable. The scope of this report is limited to setting out the process which is required to be followed by Bunnings Group Limited in respect to the implementation of Development Application Number 22014444, to enable Penna Avenue to be modified to allow for safe and convenient vehicular access to the development site.

COVID-19 IMPLICATIONS

Not Applicable.

CONSULTATION

- **Elected Members**
The Council considered a Notice of Motion requesting this report at its meeting held on 1 August 2022.
- **Community**
Not Applicable.
- **Staff**
Nil
- **Other Agencies**
Not Applicable.

DISCUSSION

At its meeting held on Wednesday 20 July 2022, the Council's Assessment Panel considered a proposal by Bunnings Group Limited, to construct a Bulky Goods Outlet (Shop) on seven (7) contiguous allotments located at:

- 3-5 Penna Avenue, Glynde;
- 37 Provident Avenue, Glynde;
- 37, 39 & 41-43 Glynburn Road, Glynde; and
- 35 Barnett Avenue, Glynde.

The proposed development includes 12,721m² of retail floor space contained within a two-storey building, with a mezzanine floor level.

The Applicant's planning report submitted with Development Application No. 22014444, describes the key elements of the development as follows:

The ground level comprises the car park with main entry to the building, together with a nursery entry. The main entry lobby comprises lifts, stairs and travelator which provides access to the floor above.

The first floor comprises the main building area, accommodating the main warehouse, timber trade sales area, outdoor nursery and bagged goods canopy. The first floor is approximately 8714 square metres in area. The first floor is the second building level.

The second floor comprises the main warehouse together with staff facilities and offices. The floor area of the second floor is 3707 square metres. The second floor is a mezzanine level, that it is open to the floor below and does not extend over the whole floor space.

The car parking area (294 spaces) is proposed to be located at ground level, the majority of which will be covered by the warehouse building above, other than the locations adjacent to the Provident Avenue and Bennett Avenue frontages. Of the 294 spaces, six are designated as accessible spaces and 13 are designated as trailer bays.

One access point for customer vehicles will be provided via Penna Avenue. In respect to service vehicles, separate ingress will be provided from Glynburn Road, with egress via Penna Avenue. To optimise the provision of on-street car parking, it is proposed to utilise some of the existing vehicle crossovers to access the proposed car parking areas.

The main customer entry/exit to the parking area will be located to the north of the warehouse building on Penna Avenue. It is intended to install a traffic light at the intersection of Penna Avenue and Glynburn Road. The intersection design requires some minor modification.

A third access point will be provided for timber trade sales customers, located at the north-western corner of the site, via Penna Avenue.

The proposed operating hours would be up to as follows.

- *Trading Hours:
6am to 9pm, 7 days a week*
- *Waste Collection
7am to 9pm, 7 days a week*

The proposal includes the widening of Penna Avenue and the provision of a signalisation of the intersection of Glynburn Road and Penna Avenue. The rationale for these inclusions is set out in the response to representations, prepared by Ms Melissa Mellen of MFY, traffic consultant engaged by Bunnings. The rationale is as follows:

The signalisation of the Penna Avenue/Glyburn Road intersection will improve safety and capacity for drivers accessing the adjacent industrial/commercial area. The limited capacity for drivers, particularly those in commercial vehicles, to turn right to Glyburn Road results in drivers choosing to use alternative routes to and from the subject area. The installation of the signal will provide a safe convenient option for drivers to access Glyburn Road. Accordingly, while the proposal will result in additional traffic volumes, it will provide a substantially improved access solution for all users of the adjacent area.

Of particular note is that the proposal presents an opportunity for a developer to contribute to traffic control and road infrastructure solutions for the community. The ability for a solution to what has been an ongoing source of complaints by ratepayers to Council should not be understated. In contrast, should all of the existing allotments which comprise the subject site be developed individually comparable total traffic volumes would be generated but with no holistic traffic control solution. This will result in increased volumes and in all likelihood increased parking which will exacerbate existing issues.

While it is incumbent on Council to manage public roads, collaboration with developers to ensure road safety is maintained is an ideal method to improve traffic conditions for the community. This proposal will do just that, noting that the solution is not only endorsed by Council and the Department for Infrastructure and Transport (DIT) but will provide for significantly improved road safety for commercial vehicles and the opportunity to reduce commercial vehicle use of residential streets.

The traffic volumes on the streets adjacent the subject site and in the adjacent area are entirely consistent with those volumes which would be anticipated on a local street network. These volumes are not high. What is creating the congestion issue is vehicles in various states of repair being parked and stored in such a manner so as to reduce the road width significantly and not provide opportunities for two-way traffic. This is created by drivers parking in breach of the Australian Road Rules, as was demonstrated in detail in the traffic report which accompanied this application. The lack of effective control of parking in the commercial precinct not only creates access difficulties for drivers but of more importance decreases safety for pedestrians and increases risks.

Notwithstanding the obligation of Council to manage existing road safety risk (particularly where there are breaches of the Australian Road Rules and other regulations), the subject proposal will reduce the congestion because the signalised intersection and road widening of Penna Avenue will provide an opportunity to reduce volumes, particularly commercial vehicles, from using the adjacent streets.

The current application will limit all access to Penna Avenue where the widened road will provide a convenient access to the signalised intersection. The subject development will therefore not distribute traffic directly to Provident Avenue where drivers may choose to use this route.

MFY estimate that the proposed development will generate approximately 364 vehicle movements per hour in the weekday afternoon commuter peak period and 712 per hour in the Saturday peak period.

Based primarily on a number plate survey, MFY have previously forecast that an average of less than ten (10) percent of drivers will use the residential street network to access the proposed Bunnings, to avoid Glyburn Road. Therefore, MFY forecast that thirty three (33) vehicles per hour would use the local road network during the weekday peak.

The proposed widening of Penna Avenue and signalisation of the intersection of Glyburn Road and Penna Avenue, will result in the loss of twenty six (26) on-street car parking spaces, comprising seven (7) spaces on Glyburn Road and nineteen (19) spaces on Penna Avenue. To offset this loss, the Bunnings proposal includes a surplus of approximately twenty-two (22) car parking spaces on the development site at peak times. However, whilst Bunnings Group Limited has stated that the Bunnings car park will not be policed, such that anyone accessing other local businesses and services in the locality can park in the Bunnings car park, this has not been formalised in any way and in any event, it would be counter intuitive for most drivers to park in the Bunnings car park to access other local businesses and services.

The application was granted conditional Planning Consent by the CAP, subject to the resolution of a Reserved Matter relating to potential site contamination.

Section 221 of the *Local Government Act 1999*, is applicable to driveway crossovers and requires Applicants to obtain Section 221 authorisation from the Council, where a development authorisation is granted for a development that includes the construction of a crossover, unless that crossover is to permit access through a crossover to the subject land for the first time. In the case of the Bunnings development, the authorised development includes vehicular access and egress on Penna Avenue via an existing cross-over. As such, Bunnings Group Limited does not require a Section 221 authorisation from the Council, separate to the development authorisation which Bunnings Group Limited has already obtained, to facilitate access and egress to the development site. That said, the approved development relies on the need to widen Penna Avenue and modify and signalise the intersection of Penna Avenue and Glynburn Road, to facilitate safe and convenient vehicular movements to and from the development site and that will require the Council's consent.

There are two ways by which the road widening could be progressed. First, through the deposit of a plan of division or second, through a road widening process under the *Roads (Opening and Closing) Act 1991*. The road widening process under the *Roads (Opening and Closing) Act 1991*, could be commenced by the Council but it is a cumbersome process and as it is the Bunnings Group Limited rather than the Council, who is seeking to implement road widening on Penna Avenue, the Council has no reason to undertake a road widening process of its own initiative.

The division of an allotment for the purposes of widening an existing road where the added land is to be vested in the Council as road, is excluded from the definition of "development" pursuant to clause 3(8) of Schedule 4 to the *Planning, Development & Infrastructure (General) Regulations*. Accordingly, no development authorisation would be required. Bunnings Group Limited however, would require the Council's consent to deposit the plan of division as the body acquiring tenure under the *Real Property Act*, being the proposed recipient of the additional land to be vested as road reserve. This would be a decision for the Council (not as a relevant planning authority) which, according to advice provided by the Council's solicitors Norman Waterhouse Lawyers, would:

"... need to be made on grounds consistent with administrative law principles and could not be lawfully refused simply on the basis that the Council did not wish to see the Bunnings development proceed.

It is open to the Council to decline to accept the vesting of the additional land as road and not consent to the deposit of the relevant plan of division. However, that decision could be subject to challenge by way of a review of a Council decision, pursuant to Section 270 of the Local Government Act, 1999 or judicial review if not based on relevant considerations and made for a proper purpose."

The advice from Norman Waterhouse Lawyers infers that if the Council were to not consent to the deposit of a relevant plan of division to enable Bunnings Group Limited to widen Penna Avenue, it would need to rely on good reasons to do so, in order to minimise the chance of such a decision being overturned on appeal.

In the case of the Bunnings Development Application, there has been much conjecture throughout the development assessment process about the extent to which the proposal will or will not cause detrimental traffic and parking congestion in the locality surrounding and adjacent to the development site. To this end, if the Council is requested to consent to the deposit of the relevant plan of division to facilitate the widening of Penna Avenue and signalisation of the intersection of Glynburn Road and Penna Avenue, it would be prudent for the likely traffic impacts of the approved Bunnings development to be carefully considered by the Council to inform its decision. In addition, the Council will need to consider how the additional land will function if it becomes part of the road reserve, including any requirements for functional treatment for it to effectively operate as such.

In the event that proceedings were commenced to challenge any decision by the Council to reject the proposed vesting of land in the Council as road reserve, these would likely be by way of judicial review proceedings in the Supreme Court, wherein orders could be sought to overturn the decision. Judicial review proceedings can be pursued in furtherance of common law rights to challenge administrative decisions on a range of grounds including bias, reasonableness, a failure to take into account relevant considerations and/or taking into account of irrelevant considerations. These proceedings take place in a costs jurisdiction of the Supreme Court meaning that the successful party will ordinarily also obtain an order that their legal costs be paid by the unsuccessful party.

Bunnings Group Limited could also request a review of the Council's decision, pursuant to Section 270 of the *Local Government Act*, if the Council were to reject the proposed vesting of land in the Council as road reserve. A review of this nature would need to be conducted pursuant to the Council's adopted policy/procedure and must be lodged within three (3) months of the original decision being made (with discretion provided to the Chief Executive Officer to allow a longer time limit to apply in particular cases). The Chief Executive Officer may elect to appoint another staff member or an external advisor for assessment and or preparation of a report to assist in the review process.

In undertaking a review of a Council decision, the assessor will review the decision in question to ensure that the original decision maker complied with the following procedural requirements and made the best possible decision in the circumstances having regard to the following:

- the decision maker had the power to make the decision;
- the decision maker considered all matters which were relevant to the making of the decision at the time and did not take into account matters which were not relevant, as well as any additional relevant information or material provided by the applicant;
- the decision maker did not exercise a discretion or power in bad faith, for an improper purpose, or while subject to duress or the influence of another person;
- the decision maker had no conflict of interest, bias or perceived bias;
- the decision maker ensured that findings of fact were based on evidence;
- the decision was reasonable; and
- the decision maker considered any relevant legislation, Council policies and/or procedures.

Once the review is completed by the assessor, the Chief Executive Officer will refer the review of a Council decision back to the Council for its consideration, accompanied by a report detailing all relevant information about the decision which is being reviewed. The Applicant will be advised of the date that the report will be presented to Council and will be given the opportunity to provide a written or verbal submission in relation to the report for Council's consideration.

As a short period of time has elapsed since the Bunnings development at Glynde was approved by the CAP, Bunnings Group Limited has not made any formal application or approach to the Council to date, seeking the Council's consent to deposit the plan of division to widen Penna Avenue. As such, the Council is not in a position to make an informed decision on this matter at this time.

Documents showing an aerial image of the subject land, a site plan of the proposed development, the traffic and parking report prepared by Ms Melissa Mellen of MFY on behalf of the applicant and plans showing the proposed modifications to Penna Avenue and the intersection of Penna Avenue and Glynburn Road are contained in **Attachment A**.

OPTIONS

This report is provided for information purposes only.

CONCLUSION

If the Bunnings Group Limited makes a formal application to the Council, seeking the Council's consent to deposit the plan of division to widen Penna Avenue and facilitate the signalisation of the intersection of Glynburn Road and Penna Avenue, a further report will be presented to the Council for its consideration.

COMMENTS

Nil.

RECOMMENDATION

That the report be received and noted.

Cr Stock left the meeting at 7.09pm.
Cr Stock returned to the meeting at 7.11pm.

Cr Duke moved:

1. *That the report be received and noted.*
2. *In the event that the Council receives a request from Bunnings for the Council's consent to Deposit a Plan of Division for the Bunnings Glynde Development, the Council engages the services of an independent traffic engineer to assess the traffic impact of the Bunnings Development on the local amenity of the adjoining nearby light industrial and residential land uses.*

Seconded by Cr Dottore.

Cr Sims left the meeting at 7.31pm.
Cr Sims returned to the meeting at 7.32pm.

The motion was put and carried unanimously.

2.3 TRINITY VALLEY STORMWATER UPGRADE – COMMUNICATION STRATEGY

REPORT AUTHOR: Manager, City Assets and Project Manager, Assets
GENERAL MANAGER: General Manager, Urban Services
CONTACT NUMBER: 8366 4517
FILE REFERENCE: qA63679
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to update the Council on the progress of the Trinity Valley Stormwater Upgrade Project and to seek the Council's endorsement on the proposed delivery strategy for the Project.

BACKGROUND

At its meeting held on 4 March 2019, the Council considered a report which provided details of the Council's updated City Wide Floodplain Mapping (the Maps) and the associated Long Term Stormwater Drainage Program (the Program). At that meeting the Council adopted the levels of service for drainage catchments within the City and a fifteen (15) year Stormwater Drainage Program.

The Trinity Valley Drainage Upgrade Project (the Project) is included in the Program.

At its meeting held on 3 February 2020, following an open call tender process, the Council resolved to appoint Cardno Pty Ltd as the Council's Consultant for the Project.

At its meeting held on 7 September 2020, the Council considered a report regarding the concept design for the Project which was prepared by the Council's Consultant. Following consideration of the matter, the Council resolved to design and deliver the Project in four (4) stages, consisting of:

- Stage I – overland flow interception and trunk drainage capacity upgrades within the suburbs of Maylands and Stepney;
- Stage II – overland flow interception and detention storage within Albemarle Avenue, Trinity Gardens;
- Stage III – overland flow interception and detention storage within Jones Avenue, Trinity Gardens; and
- Stage IV – overland flow interception and detention storage within St Morris Reserve, St Morris.

As part of the Council's deliberations, the Council resolved to construct an underground storage tank for the detention storage referred to as part of Stage IV within St Morris Reserve. This resolution was contrary to the Consultant's recommendation of an open basin.

The report also highlighted that due to the nature of the work and benefits of Stage I, II, III & IV, the construction sequence of the stages of the Project does not have to be undertaken sequentially, as surface stormwater is being detained so as to not increase the flow rate and therefore does not increase risk. Each stage of the Project provides a flood risk reduction benefit as a standalone project, with maximum benefit to flood risk reduction achieved following the completion of all four (4) stages.

At its meeting held on 4 April 2022, the Council considered a report regarding the design progress of the Project.

As part of that report, the Council was advised that Stage I (through Stepney and Maylands), would be reviewed with the assistance of the University of Adelaide's Smart Stormwater Project, in an attempt to identify alternative upgrade options which do not require the removal of the street trees along Henry Street, Stepney.

The Council was also provided with additional information in relation to detention tank options for St Morris Reserve, which were compared to an open basin option. As part of these investigations, it was identified that the only suitable detention tank options were either an in-situ or precast concrete tank, based on maintenance requirements, detention capacity and asset life criteria.

In comparison to the open basin option, detention tanks incurred an additional \$5m for construction and maintenance of the underground tank, they had a finite asset life and landscaping above the tank structure would not be possible. Following consideration of these additional matters, the Council endorsed an open basin at St Morris Reserve.

At that meeting the Council was also advised that an application had been made to the Federal Government's *Preparing Australian Communities Local Stream Program* for 50% of the total construction and project management costs estimated for the delivery of all four (4) stages of the Project, which equates to approximately \$9.9m.

In April, 2022, the Council was advised that it was successful in its application to the *Preparing Australian Communities Local Stream Program* and has been awarded a Grant of approximately \$9.9m. The Grant incorporates funding for both the construction works and contract project management. Further details regarding the Project resourcing requirements are discussed in the Resource Issues section of this report.

In line with the Grant funding criteria, construction of the Project is now required to be scheduled between the 2022-2023 and 2024-2025 financial years.

As the delivery of the Project does not have to occur in a sequential manner, the delivery of the four (4) construction stages of the Project are now based on the complexity of each stage, with the more complicated stages being scheduled later in the program. As a result, Stages II & III are scheduled for construction first in the 2022-2023 financial year, followed by Stage IV in the 2023-2024 financial year. Stage I will be constructed at the end of the program in 2024-2025.

Given the construction schedule, the Council's Consultant has finalised the detailed design and tender drawings for Stages II & III, which are now ready to issue as a tender to the market.

The detailed design of Stage IV has commenced and will refine the technical aspects of the detention basin in St Morris Reserve and connecting pipe infrastructure. In addition to the technical aspects of the detention basin, there are opportunities for the Council to renew and upgrade the recreational aspects of St Morris Reserve.

The purpose of this report is to provide an update to the Council regarding the design for the St Morris Reserve and to present a Communication Strategy for the Project to the Council for endorsement.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Strategic Outcomes and Objectives as set out in the Council's *City Plan 2030 – Shaping Our Future* are as follows;

Outcome 4: Environmental Sustainability

Objective 4.1: Sustainable and efficient management of resources.

4.1.1 Make better use of water resources including the harvesting and re-use of stormwater.

4.1.5 Improve the water quality in our City's watercourses.

4.1.6 Manage stormwater to reduce the risks of flooding.

FINANCIAL AND BUDGET IMPLICATIONS

A successful application was made to the Federal Government's *Preparing Australian Communities Local Stream Program* for 50% of the construction and project management costs associated with the Project. The estimated costs for all four (4) stages of the Project are approximately \$19.8m of which the Council has received \$9.9m in grant funding. The cost estimate used for the grant submission was undertaken by RLB (cost consultants) in December 2021.

The *Preparing Australian Communities Local Stream Program* is one component of the Preparing Australia Program aimed at supporting locally identified and locally led projects that will improve the resilience of communities against natural hazards. Round 1 focuses on projects that will improve the resilience of communities against bushfires, flood and tropical cyclones. While projects are eligible across Australia, the program will prioritise selected Local Government Areas (LGAs) based on impact risk level informed by the Australian Climate Service and State and Territory Governments, of which the City of Norwood Payneham & St Peters has been identified for flood risk. The intended outcomes of the grant program are to support communities to undertake disaster risk reduction initiatives that provide public benefit through reducing:

- the impact of future natural hazards on Australian communities: and
- the burden (cost and time) of recovery in communities following future disasters.

The Grant funding will be provided to the Council over four (4) financial years from 2021-2022 to 2024-2025. The schedule of Grant payments is set out in Table 1 below.

TABLE 1: SCHEDULE OF GRANT PAYMENTS

	2021-2022	2022-2023	2023-2024	2024-2025
Grant payment (\$)	3,000,000	3,651,827	2,239,081	1,022,266

The Council's funding for the construction and management of the Project from 2022-2023 to 2024-2025 is set out in Table 2 below.

TABLE 2: COUNCIL FUNDING

Stage	2022-2023 (\$)	2023-2024 (\$)	2024-2025 (\$)
I			4,140,809
II	2,562,250		
III	1,709,397		
IV		1,500,718	
Total	4,271,647	1,500,718	4,140,809

The funding details set out in Table 2 have been calculated by subtracting the Grant payment for the prior financial year from the construction cost estimates for the Stages being constructed. Grant payments from both the financial year of construction and the previous financial year will be allocated to Stage I of the Project.

EXTERNAL ECONOMIC IMPLICATIONS

There are a number of external economic factors which have the ability to impact on the delivery outcomes of the Project. The first pertains to the requirements of the Grant funding set out in the Commonwealth Standard Grant Agreement between the Council and the Department of Industry, Science, Energy and Resources, with the second relating to the current macro-economic climate.

Grant Funding

The key requirements of the Grant funding are as follows:

- the Grant funding has a fixed end date of 28 May 2025, with no extensions possible (all four (4) stages of the Project are required to be completed by this date);
- should any part of the Project be removed or changed, such that the Project outcomes are varied then a formal variation application is required to be submitted:
 - the variation application would then be reviewed to ensure the intended outcomes of the Grant Program are maintained;
 - if the variation does meet the Grant requirements, then the Project milestones will be adjusted, together with the payment schedule and overall Grant amount (maximum 50% of project expenditure); and
 - if the variation does not meet the Grant requirements, then the Grant is no longer valid; and
- should expenditure milestones not be met as per the milestones set out in the Grant, the Grant progress payment schedule may be adjusted to match expenditure.

The reporting milestones for the Project are set out in Table 3 below.

TABLE 3: PROJECT REPORTING MILESTONES

Report type	Period start date	Period end date	Agreed evidence	Due date
Progress report	02/06/2022	28/02/2023	Evidence to demonstrate progress as outlined in the portal, including evidence of expenditure.	30/03/2023
Progress report	01/03/2023	01/09/2023	Evidence to demonstrate progress as outlined in the portal, including evidence of expenditure.	02/10/2023
Progress report	02/09/2023	01/03/2024	Evidence to demonstrate progress as outlined in the portal, including evidence of expenditure.	01/04/2024
Progress report	02/03/2024	02/09/2024	Evidence to demonstrate progress as outlined in the portal, including evidence of expenditure.	02/10/2024
End of project report	02/06/2022	28/03/2025	Evidence to demonstrate completion of the project, including evidence of all expenditure, independent audit report.	28/05/2025

Macro-economic Climate

In the current economic climate, the capacity of capable contractors to undertake the work with respect to adequate resources (ie staffing) and current project commitments is unknown for Stages I & IV of the Project. Stage II & III have undergone an Expressions of Interest process and capable contractors have been identified to tender for these components of the Project.

In addition, current global uncertainties are causing supply chain issues, which may result in delays or price increases due to inflation, etc. These issues will need to be managed as they arise throughout the Project.

SOCIAL ISSUES

There is no question that flooding of properties is of concern and inconvenience to the respective property owners and the community in general. The flood risk of the Trinity Valley is forecast to increase in time due to the impacts of climate change, namely increasing rainfall intensity. The implementation of this Project will improve the long-term resilience of the local community by reducing the risk of flood within the Trinity Valley and reduce the cost and time of recovery in the community following future flooding events.

CULTURAL ISSUES

Not Applicable.

ENVIRONMENTAL ISSUES

Flooding can result in a multitude of environmental issues including the following:

- pollution of rivers and coastlines due to contaminated flood water;
- silt and sediment deposition; and
- damage to home and contents resulting in increased pressure on landfill and increasing consumption for replacement items.

Stormwater management utilising detention storage aims to remove surface flood waters and reduce the peak flow rate during flood events. This in turn can reduce environmental impacts of flooding on home and contents and the environment. Detention storage is susceptible to capturing silt and sediment following engagement and will require maintenance to remove build up of silts and sediments, should it be required.

RESOURCE ISSUES

The Council's Capital Works Program is extensive and therefore, to assist in the delivery of the Project, it is proposed that a Consultant Project Manager and Public Relations expert be engaged to ensure the Project is completed within the required timeframes and the associated communication activities are completed for each stage, as required.

RISK MANAGEMENT

A Project Team consisting of the Council's Manager, WHS & Risk, Manager, City Assets, Communications Officer, Project Manager, Urban Design & Special Projects, Project Manager, Assets and Project Manager, Civil has been established to oversee the Project, given the complexities of the Project and timeframe for the delivery of the Project.

The Project Team has undertaken a series of workshops with the aim of producing a Risk Management Plan for the Project. At the initial workshop, numerous high-level risks were identified and discussed. The potential community reaction to the construction of a detention basin at St Morris Reserve was identified as a potential risk to the Project.

Whilst the construction of the detention basin at St Morris Reserve was endorsed by the Council at its meeting held on 4 April 2022, the Council, at that time, did not consider a communication strategy for either the Project in its entirety or the St Morris Reserve Stage of the Project.

COVID-19 IMPLICATIONS

The recent increase of COVID-19 cases in South Australia has impacted the delivery of the Project, with key staff from both the Council and the Consultant team being unavailable for periods of time. In addition, field investigation staff and service authority staff have also been unavailable, which has delayed the Project in terms of identifying exact locations and depths of third party key infrastructure.

With the continued uncertainty regarding the progression and future impacts of COVID-19, it is likely that further impacts will occur despite ongoing mitigation measures.

CONSULTATION

- **Elected Members**

Elected Members have previously considered this matter at Council meetings held on 3 February 2020, 7 September 2020 and 4 April 2022.

An Information Session was also held with Elected Members on 10 August 2020.

- **Community**

To date community consultation or engagement with the community in respect to this Project has not been undertaken. Community consultation is planned to be undertaken in accordance with the Council's *Community Consultation Policy*.

However, there are some factors that need to be taken into consideration in terms of the timing of a consultation process and these are discussed further in the Discussion section of this report.

- **Staff**

General Manager, Urban Services
General Manager, Corporate Services
Manager, WHS & Risk
Communications Officer
Project Manager, Urban Design & Special Projects
Project Manager, Civil

- **Other Agencies**

Department of Industry Science Energy & Resources (Preparing Australian Communities Local Stream Program)
Department for Environment & Water (Green Adelaide and Stormwater Management Authority)
University of Adelaide

DISCUSSION

The Trinity Valley Stormwater Upgrade Project is a significant investment for the Council, which has a broad geographical footprint across the Council area and will directly impact a significant number of residents through the construction works, recreational outcomes and flood risk reduction.

Given the significance of this Project, the need to engage with the community regarding the details and outcomes of the Project is vital, particularly for those residents in close proximity to the works and any resident impacted by the works (i.e. residents that will benefit in terms of the reduced flood mitigation works).

Given the extent of the Project and the various stakeholder groups who are impacted by the works (either directly or indirectly), a communication strategy needs to be formalised for each of the relevant stages of the Project.

In addition to the drainage works, the upgrade of St Morris Reserve, following the completion of the detention basin, is an important component of this Project.

St Morris Reserve – Detention Basin Works

The St Morris Reserve detention basin is designed to ensure that stormwater is captured and overland flow is diverted from entering the Council from Glynburn Road (up to the 1% AEP storm event).

Stormwater will be transferred to the open detention basin by the installation of a new 900mm pipe running along Glynburn Road and Third Avenue between the existing open drainage channel on the eastern side of Glynburn Road and Williams Avenue, St Morris and a new 750mm pipe along Green Street, St Morris between Third Avenue, St Morris and the detention basin. A new 450mm pipe will discharge stormwater from the detention storage to the existing drainage along Gage Street, St Morris.

The grassed area of the reserve will be fenced off during the construction of the detention basin, which is expected to take approximately three (3) months.

The playground area will however remain open and accessible during the construction period.

As the construction work needs to be undertaken in the drier months of the year and the timing restrictions associated with the proposed communication strategy as set out in this report, it is planned to commence the construction of the detention basin in 2023-2024.

St Morris Reserve – Upgrade of Facilities

At its meeting held on 4 April 2022, the Council was advised that one of the benefits of an open detention basin was that reserve elements such as playground, landscaping and water sensitive urban design can be incorporated into the design.

The current playground is nearing its end of life and therefore this project presents an ideal time for the Council to consider the replacement of the equipment as part of the Project.

The funding for the Project, including the Grant Funding which has been received, incorporates the upgrade of the facilities at St Morris Reserve as part of the Project.

The initial concept design for the proposed detention basin within St Morris Reserve is contained in **Attachment A**.

The features currently included in the concept plan include the following:

- playground to be kept out of the detention zone to ensure accessibility immediately following a flood event;
- inlet and outlet close together so that limited portions of the Reserve are impacted during frequent storm events;
- design of turf subgrade to limit risk of the Reserve becoming boggy following detention engagement;
- proposed new path around the Reserve and all abilities access ramp into the open space in the basin;
- renewed playground equipment in accordance with the Council's *Infrastructure and Asset Management Plan* schedule; and
- opportunities for new recreational elements to integrate with the form of the detention basin (ie nature play area).

It is a long-standing practise of this Council that consultation is undertaken with the community in respect to any project regarding the upgrade of reserves and playground equipment. The outcome of the community consultation is then taken into consideration by the Council as part of the final design stage of the project.

Any upgrades therefore of the St Morris Reserve facilities, (ie playground equipment, etc), should be subject to community consultation following the endorsement of a proposed concept plan by the Council.

A more detailed concept plan for the Reserve is currently being prepared which will be presented to the Council once completed, for endorsement by the Council. This concept plan will form the basis of community consultation.

Communication Strategy

The *Local Government Act 1999* (the Act), requires Councils to consult with the community in respect to a range of matters and stipulates that the Council is required to develop and have regard to its *Community Consultation Policy* when consulting with the community.

In addition to the matters which are set out in the Act, the Council may choose to follow its *Community Consultation Policy* in respect to other matters, which may include infrastructure works such as the Trinity Valley Stormwater Upgrade Project and the various components of the Project.

Any decision to undertake consultation in this regard, is at the discretion of the Council.

Having said that, Section 7 of the Act also sets out the functions of a Council which includes the following:

- (c) *to provide for the welfare, well-being and interests of individuals and groups within its community;*
- (d) *to take measures to protect its area from natural and other hazards and to mitigate the effects of such hazards;*
- (e) *to manage, develop, protect, restore, enhance and conserve the environment in an ecologically sustainable manner, and to improve amenity;*
- (f) *to provide infrastructure for its community and for development within its area (including infrastructure that helps to protect any part of the local or broader community from any hazard or other event, or that assists in the management of any area);*

In accordance with the functions of the Council as set out above, the Council has endorsed the Trinity Valley Stormwater Upgrade Project and the installation of the open detention basin at St Morris Reserve.

Community consultation in respect to this project is not a legislative requirement.

Therefore, community consultation in respect to the Project is recommended to be undertaken on an inform and educate basis only.

This will include forwarding letters advising of the Project (in terms of the detail, extent and impact of the work and the benefits of the Project to the community) to residents who reside in close proximity to the works and any resident impacted by the works, articles on the Council website and in Council publications, and signage at relevant locations (ie St Morris Reserve), as required.

In terms of the proposed upgrade to the facilities at St Morris Reserve, consultation with the community is proposed to be undertaken to seek their comments on what is proposed. This would include letters to residents and property owners who live adjacent to the reserve, notices promoting the consultation through signage located at the reserve and via the Council's website, etc.

Local Government Election Caretaker Period

As Elected Members will recall, at its meeting held on 1 August 2022, the Council adopted the *Local Government Elections Caretaker Policy* (the Policy) which applies to the 2022 Local Government Election.

The Policy reflects the legislative requirements as set out in the *Local Government (Elections) Act 1999*, and stipulates that the Council's Local Government Election Caretaker period will commence at the close of nominations on Tuesday, 6 September 2022.

The Policy also sets out the following in respect to consultation during the Election Period:

- *Public Consultation during an Election Period*

Public consultation must be undertaken during an Election Period if the consultation is mandated by legislation.

Where public consultation is discretionary then the consultation can occur during the Election Period, however, consideration should be given prior to the consultation being scheduled as to whether or not the consultation will influence the outcome of the election.

If the matter subject to the consultation is likely to be closely associated in the minds of voters with a particular candidate or group of candidates then it may be prudent to delay the consultation process until after the Election Period.

Whilst the Policy is clear in respect to undertaking public consultation during an Election Period for matters which are subject to legislative requirements in terms of consultation, consultation for other matters is at the discretion of Council, subject to the potential impacts of the consultation.

Applying the provisions of the Policy to this Project, community consultation is not a legislative requirement.

However, whilst the Council could determine to undertake community consultation during the Caretaker Period, from a governance perspective, this is not the recommended approach.

As set out previously within this report, the works associated with the construction of the detention basin at St Morris Reserve can be scheduled to be undertaken in 2023-2024.

A detailed concept plan for the St Morris Reserve is being prepared for the Council's consideration which would then form the basis of the community consultation in respect to the upgrade of the facilities at St Morris Reserve.

Taking the above into consideration the community consultation can be undertaken in early 2023 and the outcome of the consultation can be considered by the Council outside the Local Government Caretaker Period.

OPTIONS

Essentially the Council has two (2) options in respect to this matter. The Council can choose to endorse the Communication Strategy for the Trinity Valley Stormwater Upgrade Project as set out in the report or not.

Consultation with respect to the recreational outcomes for the St Morris Reserve will provide an opportunity to educate the community on the benefits of the Project in its entirety which may include clarification in terms of the following:

- a commitment to ensure the playground is located outside the detention basin zone;
- the Council has other reserves that also act as a detention basin in storm events, namely the new reserve constructed by Renewal SA in Felixstow;
- inlet and outlet close together so that limited portions of the Reserve are impacted during frequent storm events;
- design of turf subgrade to limit risk of the Reserve becoming boggy following detention engagement; and
- inform on the frequency of engagement and depth of engagement for different storm events.

In addition, the community will have input into the decision-making process associated with the upgrade of the facilities at the reserve.

For these reasons, this is the recommended option.

CONCLUSION

The Council has a responsibility to provide for the welfare of its community and to protect the community from any hazard. The Council has therefore made a significant commitment to ensure the ongoing risks to the community in terms of flooding are managed through the adoption of the Trinity Valley Stormwater Upgrade Project.

The Communication Strategy set out in this report ensures that the community is informed (by providing balanced and objective information to assist the community to understand the issue, solutions and benefits) and consulted (by providing the opportunity to provide comments on what is proposed) where appropriate and in accordance with the Council's *Community Consultation Policy*.

COMMENTS

Nil

RECOMMENDATION

1. That the Council notes that a detailed concept plan for the St Morris Reserve will be presented to the Council for consideration at the conclusion of the 2022 Local Government Election Caretaker period.
 2. That the Communication Strategy for the Trinity Valley Stormwater Upgrade Project, as set out in this report, be endorsed by the Council.
-

Cr Callisto left the meeting at 7.41pm.
Cr Callisto returned to the meeting at 7.44pm.

Cr Granozio moved:

- 1. That the Council notes that a detailed concept plan for the St Morris Reserve will be presented to the Council for consideration at the conclusion of the 2022 Local Government Election Caretaker period.*
- 2. That the Communication Strategy for the Trinity Valley Stormwater Upgrade Project, as set out in this report, be endorsed by the Council.*

Seconded by Cr Sims and carried unanimously.

2.4 MAJOR PROJECTS UPDATE

REPORT AUTHOR: Manager, Economic Development & Strategic Projects
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 83664509
FILE REFERENCE: qA92671 qA1544 qA91025 qA76253 qA100866 qA75100 qA70369
ATTACHMENTS: A - F

PURPOSE OF REPORT

The purpose of this report is to provide the Council with an update on the status of the Council's major projects and to seek the Council's authorisation to appoint the Chief Executive Officer as its delegate for the purpose of appointing a number of tenders associated with Projects during the 2022 Local Government Election Caretaker Period.

BACKGROUND

This report provides the Council with an update in respect to the following major projects:

- Burchell Reserve Upgrade;
- Cruickshank Reserve Multi-Purpose Building and Unisex Facilities;
- Dunstan Adventure Playground Upgrade;
- Payneham Memorial Swimming Centre Redevelopment;
- River Torrens Linear Park Shared Path Enhancement – Stage 2; and
- St Peters Street Upgrade.

Due to the complex nature of the *Trinity Valley Stormwater Upgrade Project* and *The Parade Redevelopment and George Street Upgrade Projects*, updates for these major projects will be provided as separate reports. The *Trinity Valley Stormwater Upgrade Project* report is included in this Agenda, whereas *The Parade Redevelopment and George Street Upgrade* projects will be presented to the Council for its consideration at the Council meeting to be held on 5 September 2022 meeting.

This report also highlights those projects which are nearing the stage where approved tenderers can be appointed. However, as the Council is about to commence the Local Government Election Caretaker Period, the Council will not be in a position to award the tenders during this period. The implications of the Local Government Election Caretaker Period on the projects set out in this report is discussed further in the Discussion section of this report.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

CityPlan 2030: Shaping Our Future

The Outcomes, Objectives and Strategies of the Council's *CityPlan2030: Shaping Our Future – Mid Term Review 2020* that are relevant to this Project are provided below:

Outcome 1: Social Equity – An inclusive, connected, accessible and friendly community.

- **Objective 1.1: Convenient and accessible services, information and facilities.**
Strategy 1.1.3: Design and provide safe, high-quality facilities and spaces for all people.
- **Objective 1.4: A strong, healthy, resilient and inclusive community.**
Strategy 1.4.1: Encourage physical activity and support mental health to achieve healthier lifestyles and well-being.

Outcome 2: Cultural Vitality – A culturally rich and diverse City, with a strong identity, history and sense of place.

- **Objective 2.4: Pleasant, well designed and sustainable urban environments.**
Strategy 2.4.2: Encourage sustainable and quality urban design outcomes.

Outcome 4: Environmental Sustainability – A leader in environmental sustainability.

- **Objective 4.1: Sustainable and efficient management of resources.**
- **Objective 4.2: Sustainable streets and open spaces.**
 - Strategy 4.2.1: *Improve the amenity and safety of streets for all users including reducing the impact of urban heat island effect.*
 - Strategy 4.2.2: *Protect, enhance and expand public open space.*

Open Space Strategy

The objective of the Council's *Open Space Strategy* is to enable the Council to pro-actively plan for open space and to ensure that there is equity in respect to access to useful open space and recreational facilities throughout the City. It also ensures that the Council's open space assets are maximised in respect to environmental management, public health and wellbeing, tourism and community capacity building.

Swimming Centres Long Term Strategy

The Council's *Swimming Centres Long Term Strategy*, which was adopted by the Council in December 2017, sets the future direction for both the *Norwood Swimming Centre* and the *Payneham Memorial Swimming Centre*.

The *Swimming Centres Long Term Strategy*, was developed following extensive consultation and engagement with the community to identify the future direction for both swimming facilities.

The Council's *Swimming Centres Long Term Strategy* recognises the unique character of both of the Council's Swimming Centres, the community which they serve and builds on the strengths of each facility. The Strategy also acknowledges the history and "sense of place" associated with both swimming centres, in particular recognising the cultural heritage of the *Norwood Swimming Centre* and the dynamic, vibrant public space opportunities at the *Payneham Memorial Swimming Centre*, *Patterson Reserve* and the other community and recreational uses within the Precinct.

Playgrounds Strategy

The Council's *Playgrounds Strategy* provides the long-term strategic direction for the provision and management of playgrounds within the City. More specifically, the *Playgrounds Strategy* identifies the key issues associated with each of the playgrounds throughout the City and outlines an integrated and strategic framework for the enhancement of these important community assets.

The *Playgrounds Strategy* establishes a hierarchy of playgrounds, which aims to achieve different levels of provision and the best use of resources. The hierarchy ranges from Regional and District level playgrounds, which cater to users from a wide geographic area and generally provide innovative, unique or higher standard play equipment and spaces, through to Neighbourhood and Local play opportunities, which generally cater for the surrounding local area and a smaller number of users. A playground's designated level in the hierarchy will ultimately determine the level of development and the quality of the playground.

Public Health Plan

The *Public Health Plan* for the Eastern Region sets out the strategic directions to work towards delivering better living and better health. The implementation of these projects should assist in achieving the directions of the *Public Health Plan*, particularly those under the theme of 'Environments for better health', by creating attractive, more useable and stimulating reserves and recreational facilities. The general objective of these Projects is to maximise the opportunities for active recreation and encourage greater physical activity, social interaction and social cohesion.

Eastern Region Climate Change Adaptation Plan

The *Eastern Region Climate Change Adaptation Plan* establishes a number of priorities for action, including increasing the areas of open space in key locations and increasing plantings in urban areas to create a greener, cooler space. These projects include provision to assist in reducing and mitigating the impacts of climate change through the planting of additional trees and the provision of more landscaping, where possible.

FINANCIAL AND BUDGET IMPLICATIONS

The 2022-2023 Budget which was adopted by the Council at its meeting held on 4 July 2022, outlines the allocated budget for each of the projects discussed in this report. The projects which are predicted to exceed the allocated budget are highlighted in the Discussion section of this report, noting that the final cost will not be known until the formal tenders are received for each Project.

EXTERNAL ECONOMIC IMPLICATIONS

Recent State and Federal Government stimulus funding for infrastructure projects has created a large demand for professional services, consultants and contractors to undertake projects. The high demand has resulted in a shortage of labour and materials in some industries, with some companies turning down work or advising of significant delays to complete work or supply materials. COVID-19 and the War in the Ukraine are also having an impact on the availability of services, goods and inflation.

Market Conditions, Escalations & Volatility

Unfortunately, the trend of cost escalation, caused by a number of factors including the degree of saturation of subcontractor capacity and the availability of local and imported materials, is predicted to continue despite the recent increase in interest rates. During 2021, the significant volume of Government stimulus works in the market, labour shortages and the rising cost of materials have significantly increased construction costs.

Some of the key factors that are likely to impact on the cost of some of these projects, and in particular, the *Payneham Memorial Swimming Centre Redevelopment Project* include:

- the increased price globally of base metals due to supply cost increases;
- timber and steel reinforcement supply shortages, primarily due to the substantial amount of work in the residential sector as well as material shortages;
- commercial construction tenders in the second half of 2021, showing an escalation close to 15% for the year; and
- tender returns in 2022, maintaining the inflated 2021 cost levels with no sign of decreasing at this stage.

In addition, the construction industry is experiencing significant supply chain delays, due to increases in shipping costs. The closed borders due to COVID 19, have also resulted in labour shortages, which is predicted to continue to be a significant variance within the trade contractor market. In addition, the fuel crisis and the war in the Ukraine, is now also contributing to an over inflated market.

Economic Benefits

It is anticipated that all of these projects will have a direct contribution to the economy and will deliver flow-on supply-chain benefits in terms of the local purchase of goods and services. It is predicted that these indirect impacts would result in a further increase to output, through the employment of full-time staff to deliver these projects and the overall value-added through the delivery of these projects.

The increase in direct and indirect output and the corresponding impact to the economy through the employment of workers, is expected to result in an increase in the wages and salaries paid to employees. A proportion of these wages and salaries are typically spent on consumption and a proportion of this expenditure is captured in the local economy.

SOCIAL ISSUES

The community values the City's reserves, playgrounds and recreational assets. Open space, recreational assets and playgrounds are considered to be more than just play equipment and physical space. Reserves and recreational assets are very much centres of community activity not just for those participating in particular activities, but for the community generally.

There are also numerous health benefits associated with access to public open space playgrounds and recreational facilities. It is believed that well planned open spaces and recreational spaces have a key role to play in combatting the growing levels of obesity and helping to prevent lifestyle-related diseases through facilitating physical activity and positive mental health. It is therefore important that the Council gives detailed consideration to the role and design of its open space, streetscapes, playgrounds and recreational assets to ensure that the community can participate in both active and passive recreation and interact with their community.

CULTURAL ISSUES

The Council's reserves and facilities have been key features in the cultural and historic fabric of this City for many years. Improving the standard of these facilities will ensure that they continue to function as important cultural and historic elements well into the future.

ENVIRONMENTAL ISSUES

The Council is working actively towards being a leader in environmental sustainability and through all of its major projects the Council is identifying opportunities to support sustainable initiatives, whether it is through enhanced flood protection, water quality improvements and reuse, or through the installation of solar panels, increased planting of trees and landscaping and specifications of local and/or recycled material, where available.

RESOURCE ISSUES

Council staff will continue to manage and oversee the consultants and contractors relevant to each of the projects. Given the extent of the projects and the complexity surrounding some of these projects, this will continue to consume a significant amount of resource allocation from within the organisation.

RISK MANAGEMENT

The specific risks associated with each of the projects are outlined in the summary sheets contained in **Attachments A – F**.

COVID-19 IMPLICATIONS

The COVID-19 pandemic has created changed external economic and social conditions. All of these projects will support the State's economic growth and jobs in design, engineering and construction related industries. Good quality facilities and open spaces is important for the recreation and mental health needs of the local community.

At this stage, unless further restrictions are imposed by the State and/or Federal Governments, there are no known COVID-19 implications that would restrict the detail design and construction documentation from progressing, or for the proposed construction for each of the projects to be undertaken.

CONSULTATION

- **Elected Members**
Elected Members have been informed and consulted on each of the projects at various stages through a range of Information Sessions and Council Agenda Items.
- **Community**
Where required and endorsed by the Council, the community has been consulted and their views have been adopted, where appropriate.
- **Staff**
General Manager, Corporate Services
General Manager, Governance & Civic Affairs
Manager, City Assets
Project Manager
Project Manager, City Projects
Project Manager, Urban Design & Special Projects
Project Manager, Assets
Manager, Swimming Centres
Projects Officer
- **Other Agencies**
Not Applicable.

DISCUSSION

At its meeting held on 1 August 2022, the Council adopted the *Local Government Elections Caretaker Policy* (the Policy), which applies to the Local Government Election, which will be held in November 2022. The Policy stipulates that the Caretaker Period will commence at the close of nominations on Tuesday, 6 September 2022 and will expire at the conclusion of the election, when the results have been officially declared by the Electoral Commissioner.

The Policy aims to ensure that the Council conducts its business throughout the Election Period in a responsible and transparent manner and in accordance with the relevant statutory requirements and that the Council avoids actions and decisions which could be perceived as intended to affect the results of an election or have a significant impact on the incoming Council.

During the Caretaker Period the Council is prohibited from making a Designated Decision, which includes entering into a contract, the total value of which exceeds \$100,000 or 1% of the Council's revenue from rates in the preceding financial year, except where it is:

- in response to an emergency or disaster;
- for the purposes of road construction, road maintenance or drainage works (i.e. Prescribed Contracts); or
- an expenditure or other decision required to be taken in association with grant funding, which the Council has received from either the State or Commonwealth Governments.

Prescribed Contracts are expressly excluded from the types of contracts which are able to be the subject of a Designated Decision. A 'Prescribed Contract' is defined in Section 91A of the *Local Government (Elections) Act 1999* to mean a Contract entered into by a Council for the purpose of undertaking road construction, road maintenance or drainage works. Prescribed Contracts are designed to allow the Council to continue with its core road and drainage infrastructure work unaffected by the Caretaker Period.

In accordance with the Council's *Local Government Elections Caretaker Policy*, only contracts for projects which are the subject of Commonwealth or State Grant Funding can be awarded during the Caretaker Period and only if they are on or under the allocated budget approved by the Council. Any tenders that come in over budget will need to be deferred and presented to the new Council for its consideration.

The Projects that fall within this Category and are scheduled to be released and awarded for Tender during the Caretaker Period are the *Dunstan Adventure Playground Upgrade*, the *Payneham Memorial Swimming Centre Redevelopment* and the *River Torrens Linear Park Shared Path Enhancement – Stage 2* projects.

Due to the timing of some other projects, there will be a requirement in some cases to commence the tender process during the Caretaker Period, however in accordance with the Policy, the awarding of the tenders for these projects will not occur until the new Council is appointed.

As the timing of some of these projects is critical and could have implications for the grant funding agreements, it is proposed that the Chief Executive Officer, as the Council's delegate be provided with the authority to award the tenders for the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project*, the *Dunstan Adventure Playground Upgrade Project* and the *Payneham Memorial Swimming Centre Redevelopment Project*, should the tenders come in within the allocated budget approved by the Council. Any variations to a Project Budget will require the Tender to be presented to the new Council for its consideration.

Burchell Reserve Upgrade

At its meeting held on 7 June 2021, the Council endorsed the *Burchell Reserve Master Plan* as being suitable to progress to detail design and construction documentation.

In 2019, the Council completed a *Flood Mapping and Stormwater Management Strategy* for the stormwater catchments contained within the City. As part of the flood mapping exercise, it was identified that a large residential area centred along Seventh Avenue between St Peters Street and Stephen Terrace and extending from Seventh Lane to Eighth Avenue, would be inundated during both 1 in 100 year and 1 in 20 year flood events, and to a lesser extent in a 1 in 5 year flood event. Burchell Reserve was subsequently identified as a potential location for community flood mitigation infrastructure.

In 2021, the Council received a *Green Adelaide Grant* to undertake preliminary and detail design for water sustainability within Burchell Reserve. The intent of the Grant was to maximise Water Sensitive Urban Design (WSUD) and stormwater detention opportunities to reduce pollution and the risk and impacts of flooding associated with urban infill and climate change. As a result of this work, the endorsed *Burchell Reserve Master Plan* includes stormwater detention tanks below the tennis courts, a flood levee wall on the Seventh Lane boundary and a rain garden.

In November 2021, Outerspace (Landscape Architects) was appointed as the lead consultant to undertake the detail design and construction documentation for the *Burchell Reserve Upgrade Project*.

Due to the complexities of this Project resulting from the inclusion of the stormwater detention tanks below the tennis courts and the impacts of COVID-19 on consultant resources, the Project is running approximately two (2) to three (3) months behind schedule. It is anticipated that the construction documentation will be completed in mid-September 2022, that the construction tender will be undertaken in October 2022 and that the recommendation to award the construction contract will be presented to the Council for consideration and endorsement in December 2022. In accordance with this timeframe, it is expected that construction will commence in late January or early February 2023 and take approximately eight (8) months to complete.

A summary sheet providing further details in relation to this Project is contained in **Attachment A**.

Cruickshank Reserve Multi-Purpose Building and Unisex Facilities Project

At its meeting held on 7 March 2022, the Council resolved to allocate grant funding from the Federal Government's *Local Roads and Community Infrastructure Program Phase 3* to the *Cruickshank Reserve Multi-Purpose Building and Unisex Facilities Project*.

Following the Council's resolution, Flightpath Architects was engaged to deliver the Design Development, Detail Design and Construction Documentation. A preliminary program was established to determine how the Project could be delivered within the available timeframe, recognising that there are a number of steps required before the Council is in a position to release the tender for construction.

As a result of investigations required for flood mitigation in order to finalise the finished floor levels, the Project program has fallen behind schedule, which will require staff to seek an extension of time to complete the Project from the Federal Government.

Based on the estimated value of the Project, the procurement process for the building contractor will be undertaken as a two (2) stage process, namely Registration of Expression of Interest (REOI) and Select Tender. Registration of Expression of Interest will be called in early September, with the Select Tender expected to commence in early November 2022.

Based on this timeframe, it is anticipated that a report to award the tender will be presented to the Council at its January 2023 meeting. Construction is anticipated to commence in early February and take approximately seven (7) months to complete.

A summary sheet providing further details in relation to this Project is contained in **Attachment B**.

Dunstan Adventure Playground Upgrade

As part of the 2021-2022 Budget, the Council allocated \$100,000 to prepare a concept design, detail design and construction documentation for the *Dunstan Adventure Playground Upgrade*. In June 2021, the Council was awarded \$450,000 for the delivery of the Project through the State Government's *Open Space Grant Funding Program*. The Council's 2022-2023 Budget includes \$450,000 in matching funding. An additional \$385,000 from the Council's asset renewal budget for playground equipment, raises the Project's total construction budget to \$1,285,000. It is anticipated that the budget allocated by the Council together with the grant funding received will be sufficient to deliver this Project.

Clover Green Space was appointed in November 2021, as the consultant to undertake the concept design, detail design and construction documentation for the Project. The tender documents were originally due to be completed by the end of July 2022. Like many of the Council's other projects, the COVID-19 pandemic has affected consultants and sub-consultants and has unfortunately resulted in an extension of project schedules. This, together with the need to investigate, undertake and resolve a number of matters including soil contamination and Kaurua Stakeholder Consultation, will delay the completion of tender documents until the end of August 2022.

It is anticipated that the construction tender will be released in September 2022 for a period of six (6) weeks and that the contract can be awarded in November to allow the successful contractor to place orders for products (e.g. playground equipment, lights) and materials (e.g. timber) with extended lead times. Construction will likely commence in late January (or early February 2023) and take six (6) months to complete.

A summary sheet providing further details in relation to the *Dunstan Adventure Playground Upgrade* is contained in **Attachment C**.

Due to the timing of this Project, it is recommended that the Chief Executive Officer be delegated the authority to award the tender up to the value of \$1.285 million, in accordance with the Council's allocated Budget for the Project. In the event that the tender exceeds the allocated budget, the decision regarding the awarding of the tender will be deferred and options presented to the new Council for its consideration in December 2022.

Payneham Memorial Swimming Centre

On 21 April 2021, the *Patterson Reserve Community & Recreation Precinct Masterplan* was presented to the Council's Regional Capital Projects Committee. At that meeting the Committee resolved to endorse the Masterplan and recommended to the Council that the Masterplan be adopted. The *Patterson Reserve Community & Recreation Precinct Masterplan* was subsequently endorsed by the Council at its meeting held on 3 May 2021.

At its meeting held on 26 October 2021, the Council resolved to award the contract for the design consultancy (detail design and construction documentation) for the redevelopment of the *Payneham Memorial Swimming Centre* to DWP-Hardy Milazzo.

At its meeting held on 2 May 2022, the Council endorsed the Schematic Design for the Payneham Memorial Swimming Centre, which included a new 10 Lane 50 metre pool. At the time of writing this report, the construction documentation was 60% complete. The construction documentation is expected to be completed by early September.

Six (6) Registrations of Expressions of Interests (REOIs) from building contractors have been received for this Project and are currently being assessed. It is envisaged that the assessment of the REOIs will be completed by mid-August, at which time the short list of building contractors will be invited to submit a tender through a Select Tender process. Select Tenders are scheduled to open in September for a period of four (4) weeks, followed by the tender assessment by the end of October 2022. Theoretically the Council could be in a position to award the tender in early November 2022 to enable construction to commence in late November 2022 with construction scheduled to be completed by January 2024.

In March 2021, the Council was advised that it was successful in securing a grant of \$5.6 million for the *Payneham Memorial Swimming Centre Redevelopment Project* under the State Government's *Local Government Infrastructure Partnership Program*. Pursuant to the terms of the grant funding, the Council is required, as a minimum, to match the grant funding amount. To this end, as part of the Council's 2021-2022 Budget, the Council allocated a total project budget of \$24 million (comprising of \$5.6 million grant funding and \$18.4 million as the Council's allocation).

In order to establish the budget, the project was benchmarked against other similar proposed aquatic centre upgrade projects. Based upon the assessment at that time, a budget of \$24 million was considered to be sufficient to cover the estimated costs for the development of the detail design and construction documentation, as well as the refurbishment of the main 50 metre main pool and associated infrastructure, the 25 metre pool, aquatic play equipment (including the slides), plant room, the sports and leisure centre/administration building, as well as all ancillary features such as fencing, outdoor furniture and landscaping.

Since the budget was established, there have been significant movements in the market and in the rate of escalation that is currently being applied by the construction industry. This suggests that the current budget may be insufficient or at the very least, be put under pressure particularly when it is compared to similar projects such as the Salisbury Aquatic Centre Project, which has a similar footprint to the Payneham Memorial Swimming Centre. Similar to the Payneham Memorial Swimming Centre Redevelopment Project, the Salisbury Aquatic Centre Project, was originally estimated at \$24-\$25 million, however, the successful tender was at approximately \$28 million. Further discussion on the market conditions, escalations and volatility are outlined separately in this report.

Based on the current market conditions, it is anticipated that the construction costs for the aquatic facility will exceed the allocated budget. The current cost estimates anticipate a total cost in the vicinity of \$28 million, however the actual cost will not be known until the tenders have been received.

Through the design process a number of stages of value management have been undertaken and will continue to be undertaken as the Project progresses in order to deliver the Project as close to the allocated budget as possible. However, the decision to replace the refurbishment of the eight (8) lane 50 metre main pool with a new ten (10) lane 50 metre pool will incur an additional project cost, which was not factored into the original budget estimate.

When a 15% escalation from January 2021 to April 2022 is applied to the original budget of \$24 million, tenders in the vicinity of \$28 million are not considered unreasonable at this point in time.

A summary sheet providing further details in relation to the *Payneham Memorial Swimming Centre Redevelopment Project* is contained in **Attachment D**.

Given that this is a State funded project, under the provisions of the Council's *Local Government Elections Caretaker Policy & Guidelines*, the Council or the Council's Delegate (should the Council resolve to appoint the Chief Executive Officer) has the authority to award the contract for this Project during the Caretake Period, provided that it is within the budget allocated by the Council.

It is therefore recommended that the Chief Executive Officer be delegated the authority to award the tender up to the value of \$24 million, as approved by the Council. In the event that the tender exceeds the allocated budget, then the decision regarding the awarding of the tender will be deferred and presented to the new Council for its consideration.

River Torrens Linear Park Shared Path Enhancement – Stage 2

The *River Torrens Linear Park Shared Path Enhancement – Stage 2* Project involves the reconstruction of the shared path along the River Torrens Linear Park between Twelftree Reserve, College Park and the intersection of Battams Road / Ninth Avenue, Royston Park. Once completed, the Project will deliver an upgraded shared path with LED lighting that is fully compliant with Austroads and Australian Standards, and will increase pedestrian and cyclist capacity whilst also improving safety and accessibility for all ages and abilities.

On 10 June 2021, a Grant Deed was signed after the Council secured a grant of \$1,350,000 (GST exclusive) for the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project* under the State Government's *Open Space Grant Funding Program*.

At its meeting held on 5 July 2021, the Council endorsed the 2021-2022 Budget, which included the *River Torrens Linear Park Shared Path Enhancement – Stage 2* Project. At the time, the estimated project cost was \$3.0 million, which included endorsed civil infrastructure renewal works to the value of \$798,000 (GST exclusive).

Shared path works have been completed between the St Peters River Park and Harrow Road. Works adjacent to Twelftree Reserve are currently under construction.

The construction works tender process for the remaining shared path works between Battams Road and St Peters River Park will be undertaken in September 2022, with construction works scheduled to commence in November 2022. Work is expected to take six (6) to seven (7) months to complete.

It is estimated that there will be approximately \$2,505,000 (GST exclusive) remaining in the project budget for the construction of the remaining shared path works. However, it is noted that since the budget was approved by the Council, there have been significant movements in the market and in the rate of escalation that is currently being applied by the construction industry. This suggests that the current remaining budget may be insufficient.

Following a review by a cost consultancy firm, it is anticipated that the construction costs may exceed the allocated budget, with the current total cost estimates being in the vicinity of \$3,055,000 (GST exclusive). However, similar to the other Council Projects, the final cost will not be known until the tenders are received.

Should the budget turn out to be insufficient, the awarding of the construction works contract will require endorsement from the Council at its meeting to be held on 5 December 2022 (following the completion of the Local Government Elections Caretaker Period). Consequently, the construction works will need to be delayed, most likely commencing in mid-January 2023. A delay in the start of construction will increase the likelihood of inclement weather, which will subsequently increase the risk of further delays to the final completion.

A summary sheet providing further details in relation to the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project* is contained in **Attachment E**.

Due to the timing of this Project, it is recommended that the Chief Executive Officer be delegated the authority to award the tender up to the value of \$2,505,000 (GST exclusive) million, which is within the budget allocated by the Council. In the event that the tender exceeds the allocated budget, then the decision regarding the awarding of the tender will be deferred and presented to the new Council for its consideration.

St Peters Street Upgrade

In 2019, the Council developed and consulted with the community on the draft *St Peters Street Concept Plan*. The Concept Plan was endorsed by the Council at its meeting held on 2 December 2019. Subsequently, in February 2021, the Council engaged a multi-disciplinary consultant team to undertake the preparation of the detail design and construction documentation for the Project.

The *St Peters Street Upgrade* comprises of civil and landscape works and upgraded street lighting within the road reserve between First and Eighth Avenues, in accordance with the endorsed *St Peters Street Concept Plan*. The civil works include the installation of a new stormwater pipe from Seventh Lane to Eighth Avenue, which will alleviate flooding along Seventh Avenue.

The Project also provides a unique opportunity to deliver measurable environmental benefits. This is achieved through the use of native plants in the verges and median islands, Water Sensitive Urban Design (WSUD) elements to provide passive irrigation to the landscaping and water quality improvements and new street tree planting. Additionally, the existing Linde Reserve ASR (Aquifer Storage and Recovery) recycled water pipeline, is being extended from the St Peters Town Hall Complex to Eighth Avenue, which will provide reclaimed water for irrigation to the street as well as the potential opportunity to extend branches of the recycled water pipeline for irrigation to local reserves.

The Council has allocated \$4.45 million to undertake the *St Peters Street Upgrade Project*. The funding consists of \$1.27 million from the Federal Government's *Local Road and Community Infrastructure Extension Program*, \$200,000 from the State Government under the *2021-2022 Greener Neighbourhoods Grants Program*, and the balance of \$2.98 million from the Council's capital and asset renewal budgets.

At its meeting held on 7 February 2022, the Council appointed Plotworks to undertake the construction of the *St Peters Street Upgrade Project*. The Project is being delivered in a single contract over the course of two (2) financial years.

The construction works commenced in March 2022 and are currently programmed to be completed by December 2022, which is the deadline regarding the conditions of the Federal Government's funding. Due to staff shortages and supply chain delays related to COVID-19, construction initially fell behind schedule. However, as the Project has progressed, the contractor has been able to work through these issues for future stages and increase onsite resources, to ensure the construction works align with the adopted construction program. Works are scheduled to be completed in December 2022.

A summary sheet providing further details in relation to the *St Peters Street Upgrade Project* is contained in **Attachment F**.

OPTIONS

The Council can choose to adopt the recommendations set out in this report and delegate the awarding of the tenders associated with the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project*, the *Dunstan Adventure Playground Upgrade Project* and the *Payneham Memorial Swimming Centre Redevelopment Project*, to the Chief Executive Officer.

Alternatively, the Council can resolve to delay the tenders and wait for the new Council to be appointed. This option is not recommended on the basis that the Council has entered into grant funding agreements and any delays to these projects could have additional financial implications, including the risk of loss of grant funding.

It is therefore recommended that the Council authorises the Chief Executive Officer to award the relevant tenders to ensure the projects can be undertaken in accordance with the terms and conditions of the grant funding agreements.

CONCLUSION

The primary objective for the Council is to continue to deliver the projects which the Council has endorsed in a timely manner and ensure that grant funding agreements with the Federal and State Governments are not compromised as a result of project delays.

COMMENTS

Nil.

RECOMMENDATION

1. That the Council notes the status of the major projects as set in this report and in the attachments to this report contained in Attachments A - F.
 2. That the Council notes that, in accordance with the terms of the Funding Deeds for the *Payneham Memorial Swimming Centre Redevelopment Project*, the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project* and the *Dunstan Adventure Playground Upgrade Project*, these projects are required to proceed in order to meet the Performance Milestones and Expiry Dates as set out in the relevant Funding Deeds to ensure the funding is not revoked.
 3. That the Council delegates to the Chief Executive Officer the authority to award the tenders for the *Payneham Memorial Swimming Centre Redevelopment Project*, the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project* and the *Dunstan Adventure Playground Upgrade Project* during the Council's Caretaker Period, on the condition that the tenders which are received are within the Council's allocated budget for these projects.
 4. That the Mayor and Chief Executive Officer be authorised to sign and seal the documents associated with awarding of the contracts for construction for the *Payneham Memorial Swimming Centre Redevelopment Project*, the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project* and the *Dunstan Adventure Playground Upgrade*, during the Council's Caretaker Period.
 5. That the Council notes that should any tender which is received for the *Payneham Memorial Swimming Centre Redevelopment Project*, the *River Torrens Linear Park Shared Path Enhancement – Stage 2 Project* and the *Dunstan Adventure Playground Upgrade Project* exceed the Council's allocated budget, the matter will be deferred for consideration by the Council following the conclusion of the 2022 Local Government Election.
-

Cr Sims moved:

1. *That the Council notes the status of the major projects as set in this report and in the attachments to this report contained in Attachments A - F.*
2. *That the Council notes that, in accordance with the terms of the Funding Deeds for the Payneham Memorial Swimming Centre Redevelopment Project, the River Torrens Linear Park Shared Path Enhancement – Stage 2 Project and the Dunstan Adventure Playground Upgrade Project, these projects are required to proceed in order to meet the Performance Milestones and Expiry Dates as set out in the relevant Funding Deeds to ensure the funding is not revoked.*
3. *That the Council delegates to the Chief Executive Officer the authority to award the tenders for the Payneham Memorial Swimming Centre Redevelopment Project, the River Torrens Linear Park Shared Path Enhancement – Stage 2 Project and the Dunstan Adventure Playground Upgrade Project during the Council's Caretaker Period, on the condition that the tenders which are received are within the Council's allocated budget for these projects.*
4. *That the Mayor and Chief Executive Officer be authorised to sign and seal the documents associated with awarding of the contracts for construction for the Payneham Memorial Swimming Centre Redevelopment Project, the River Torrens Linear Park Shared Path Enhancement – Stage 2 Project and the Dunstan Adventure Playground Upgrade, during the Council's Caretaker Period.*
5. *That the Council notes that should any tender which is received for the Payneham Memorial Swimming Centre Redevelopment Project, the River Torrens Linear Park Shared Path Enhancement – Stage 2 Project and the Dunstan Adventure Playground Upgrade Project exceed the Council's allocated budget, the matter will be deferred for consideration by the Council following the conclusion of the 2022 Local Government Election.*

Seconded by Cr Duke and carried unanimously.

2.5 PROVISION OF LEGAL ADVICE – CR SCOTT SIMS

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA1055
ATTACHMENTS: A - C

PURPOSE OF REPORT

The purpose of the report is to provide an update to the Council regarding the Council's request of Cr Sims to provide a copy of legal advice which he received from KelledyJones Lawyers to the Council.

BACKGROUND

At its meeting held on 1 August 2022, in response to a Question Without Notice, the Council was advised that in late July/early August 2019, Cr Sims obtained legal advice from KelledyJones Lawyers and that to date, Cr Sims had not provided a copy of the legal advice to the Council Administration.

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

1. *That Cr Sims be requested to provide a copy of the legal advice that he sought from KelledyJones Lawyers at the end of July/ early August 2019 and the response he received, to the General Manager, Governance and Civic Affairs, within seven (7) days for distribution to all Elected Members.*
2. *That in the event Cr Sims does not provide the legal advice referred to in Part 1 of the motion to the General Manager, Governance and Civic Affairs, within the seven (7) days requested by the Council, all Elected Members be informed.*

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Not Applicable.

DISCUSSION

On 31 July 2019, Cr Sims contacted the General Manager, Governance & Civic Affairs via email advising that he was seeking to obtain confidential legal advice and requesting advice as to who was the most appropriate person to provide the advice.

On 1 August 2019, the General Manager, Governance & Civic Affairs forwarded an email to Cr Sims seeking clarification in respect to the nature of the matter to determine the most appropriate course of action to deal with Cr Sims' request.

Cr Sims advised the General Manager, Governance & Civic Affairs, that he was seeking advice regarding the Chief Executive Officer's Performance Review and that "*I understand my role but would like some further advice outside the Council.*"

Subsequently, the matter was referred to Ms Tracy Riddle, KelledyJones Lawyers to provide legal advice in accordance with Cr Sims's request.

A copy of the emails as set out above is contained in **Attachment A**.

On 2 August 2022, Ms Riddle confirmed that she had provided legal advice to Cr Sims.

On 19 August 2019, Cr Sims attended a meeting with Mayor Bria and the General Manager, Governance & Civic Affairs. At the meeting Cr Sims advised the Mayor and the General Manager, Governance & Civic Affairs that he would provide a copy of the legal advice which he had received from Ms Riddle to the General Manager, Governance & Civic Affairs.

On 16 September 2019, Cr Sims forwarded a letter to the General Manager, Governance & Civic Affairs in response to the matters raised with him at the meeting held on 19 August 2019. In the letter Cr Sims advised that, “*It is not currently my intention to provide you with a copy of the confidential legal advice that I received*”.

At its meeting held on 1 August 2022, the Council was advised that to date, Cr Sims had not provided a copy of the legal advice to the General Manager, Governance & Civic Affairs.

As set out above, the Council at its meeting held on 1 August 2022, resolved that Cr Sims be requested to provide a copy of the legal advice he received to the General Manager, Governance & Civic Affairs.

In accordance with the Council’s resolution, a letter was forwarded to Cr Sims on 2 August 2022, to advise Cr Sims of the Council’s decision and request that he provide a copy of the legal advice which he received to the General Manager, Governance & Civic Affairs.

Cr Sims was advised in the letter that he was required to provide a copy of the legal advice by **5.00pm on Tuesday, 9 August 2022**.

A copy of the letter dated 2 August 2022, to Cr Sims is contained within **Attachment B**.

On 17 August 2022, Cr Sims forwarded a letter dated 12 August 2022, to the General Manager, Governance & Civic Affairs, in response to the request to provide a copy of the legal advice.

In the letter dated 12 August 2022, Cr Sims has advised that he does not intend to provide a copy of the legal advice as requested by the Council on the basis that:

- Elected Members are entitled to receive legal advice;
- the request to obtain legal advice was approved by the General Manager, Governance & Civic Affairs;
- the advice relates to the Chief Executive Officer’s Performance Review; and
- the *Elected Member Access to Legal Advice* policy was amended and that the amendments are not retrospective.

A copy of the letter dated 12 August 2022, to Cr Sims is contained within **Attachment C**.

Notwithstanding the above, the Council **is entitled** to receive a copy of the legal advice on the basis of the following:

- the legal advice relates to the Chief Executive Officer’s Performance Review – a matter which is the responsibility of the Council and not individual Elected Members;
- the legal advice does not relate to a personal matter pertaining to Cr Sims (ie conflict of interest, Code of Conduct matter, etc);
- the Council did not have a policy in place regarding the provision of legal advice for Elected Members at the time of Cr Sims’ request. At that time, legal advice was provided in accordance with the *Local Government Act 1999*. It has been a long-standing protocol and practice of this Council that a copy of any legal advice obtained by Elected Members with the approval of relevant staff (ie the Chief Executive Officer or the General Manager, Governance & Civic Affairs), is provided to the General Manager, Governance & Civic Affairs; and
- the legal advice obtained by Cr Sims was paid for by the Council.

RECOMMENDATION

That the Council notes that Cr Sims has not provided a copy of the legal advice which he obtained from KelledyJones Lawyers on 2 August 2019, to the General Manager, Governance & Civic Affairs, as requested by the Council.

Cr Sims declared an actual material conflict of interest in this item, as he is the subject of the matter being discussed and left the meeting at 7.51pm.

Cr Callisto moved:

- 1. That the Council notes that Cr Sims has not provided a copy of the legal advice which he obtained from KelledyJones Lawyers on 2 August 2019, to the General Manager, Governance & Civic Affairs, as requested by the Council.*
- 2. That the Council instructs the General Manager, Governance & Civic Affairs to contact Ms Tracy Riddle, from KelledyJones Lawyers and request a copy of the legal advice received by Cr Sims on 1st or 2nd August 2019.*
- 3. That a copy of the legal advice received by Cr Sims from Ms Tracy Riddle be presented with a covering staff report at the Ordinary Council meeting to be held on Monday, 5 September 2022.*

Seconded by Cr Minney and carried.

Cr Sims returned to the meeting at 8.03pm.

3. CONFIDENTIAL REPORTS

3.1 TENDER SELECTION REPORT - BATTAMS ROAD LINEAR PARK BANK EROSION REMEDIATION PROJECT

RECOMMENDATION 1

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

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

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

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

RECOMMENDATION 2

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

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

Cr Minney moved:

That pursuant to Section 90(2) and (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Council staff present [General Manager, Governance & Civic Affairs, General Manager, Urban Planning & Environment, General Manager, Corporate & Community Services, General Manager, Urban Services, Manager, Communications & Community Relations, Manager, City Assets, Project Manager, Assets, Project Manager, Civil and Executive Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

(k) tenders for the supply of goods, the provision of services or the carrying out of works;

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

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

Seconded by Cr Stock and carried unanimously.

Cr Minney moved:

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

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

Seconded by Cr Dottore and carried unanimously.

4. CLOSURE

There being no further business, the Mayor declared the meeting closed at 8.13pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)