

Council Meeting Minutes

16 January 2023

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
& St Peters

1.	KAURNA ACKNOWLEDGEMENT	1
2.	OPENING PRAYER	1
3.	CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON 5 DECEMBER 2022.....	1
4.	MAYOR'S COMMUNICATION.....	1
5.	DELEGATES COMMUNICATION	3
6.	QUESTIONS WITHOUT NOTICE.....	3
7.	QUESTIONS WITH NOTICE	3
8.	DEPUTATIONS	3
	8.1 DEPUTATION – REQUEST TO CEASE DEVELOPMENT APPROVAL OF TWO-STOREY ADDITIONS FOR PROPERTIES LOCATED IN ESTABLISHED NEIGHBOURHOOD ZONES	4
9.	PETITIONS.....	5
	9.1 PETITION – REQUEST TO CEASE DEVELOPMENT APPROVAL OF TWO-STOREY ADDITIONS FOR PROPERTIES LOCATED IN ESTABLISHED NEIGHBOURHOOD ZONES	6
10.	WRITTEN NOTICES OF MOTION	9
11.	STAFF REPORTS	9
	Section 1 – Strategy & Policy.....	10
	11.1 SUBMISSION ON THE REVIEW OF THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016.....	11
	Section 2 – Corporate & Finance.....	17
	11.2 MONTHLY FINANCIAL REPORT – NOVEMBER 2022	18
	11.3 2023-2024 ANNUAL BUSINESS PLAN AND BUDGET OBJECTIVES & PARAMETERS	20
	Section 3 – Governance & General.....	28
	11.4 LOCAL GOVERNMENT ASSOCIATION (LGA) 2023 ORDINARY GENERAL MEETING – APPOINTMENT OF COUNCIL DELEGATE	29
	11.5 LOCAL GOVERNMENT ASSOCIATION (LGA) 2023 ORDINARY GENERAL MEETING – ITEMS OF BUSINESS.....	30
	11.6 APPOINTMENT TO THE BOARD OF THE EASTERN HEALTH AUTHORITY INCORPORATED.....	35
	11.7 APPOINTMENT TO THE EASTERN WASTE MANAGEMENT AUTHORITY INCORPORATED BOARD (EAST WASTE)	37
	11.8 APPOINTMENT TO THE BOARD OF ERA WATER.....	39
	11.9 APPOINTMENT TO THE HIGHBURY LANDFILL AUTHORITY BOARD OF MANAGEMENT	41
	11.10 NOMINATIONS TO EXTERNAL BODIES – SOUTH AUSTRALIAN PUBLIC HEALTH COUNCIL & PREMIER'S CLIMATE CHANGE COUNCIL	43
	11.11 ERA WATER – DRAFT WATER SUPPLY DURING PERIODS OF CONSTRAINED SUPPLY POLICY ...	45
12.	ADOPTION OF COMMITTEE MINUTES.....	48
13.	OTHER BUSINESS	48
14.	CONFIDENTIAL REPORTS	48
	14.1 COUNCIL RELATED MATTER	49
	14.2 COUNCIL RELATED MATTER	50
	14.3 COUNCIL RELATED MATTER	51
15.	CLOSURE.....	52

VENUE Council Chambers, Norwood Town Hall

HOUR 7.00pm

PRESENT

Council Members Mayor Robert Bria
Cr Kester Moorhouse
Cr Claire Clutterham
Cr Garry Knoblauch
Cr Hugh Holfeld
Cr Josh Robinson
Cr Kevin Duke
Cr Connie Granozio
Cr Victoria McFarlane
Cr Scott Sims
Cr Grant Piggott
Cr Sue Whittington
Cr John Callisto

Staff Mario Barone (Chief Executive Officer)
Carlos Buzzetti (General Manager, Urban Planning & Environment)
Lisa Mara (General Manager, Governance & Civic Affairs)
Sharon Francis (Acting Manager, Finance)
Simonne Whitlock (Manager, Communications & Community Relations)
Geoff Parsons (Manager, Development Assessment)
Kieran Fairbrother (Senior Urban Planner)
Nighmat Hasanoff (Information Services Administrator)
Wei Mun Lew (Business Analyst)
Tina Zullo (Administration Assistant, Governance & Civic Affairs)

APOLOGIES Cr Christel Mex

ABSENT Nil

1. KAURNA ACKNOWLEDGEMENT

2. OPENING PRAYER

The Opening Prayer was read by Cr Kevin Duke.

3. CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON 5 DECEMBER 2022

Cr Knoblauch moved that the minutes of the Council meeting held on 5 December 2022 be taken as read and confirmed. Seconded by Cr Sims and carried unanimously.

4. MAYOR'S COMMUNICATION

Monday, 5 December	<ul style="list-style-type: none">• Presided over a Council meeting, Council Chamber, Norwood Town Hall.
Tuesday, 6 December	<ul style="list-style-type: none">• Attended a meeting at Norwood Oval with the Chief Executive Officer and officials from the Norwood Football Club, SANFL and AFL, Norwood Oval.
Tuesday, 6 December	<ul style="list-style-type: none">• Attended the City of Norwood Payneham & St Peters' End-of-Year Business Networking Event, Transforma, Norwood.

Wednesday, 7 December	<ul style="list-style-type: none"> Filmed a Christmas video for the Council website, Norwood Oval.
Wednesday, 7 December	<ul style="list-style-type: none"> Filmed a video for National Volunteers Day for the Council website, Norwood Oval.
Wednesday, 7 December	<ul style="list-style-type: none"> Presided over a Citizenship Ceremony, St Peters Banquet Hall, St Peters Town Hall Complex.
Thursday, 8 December	<ul style="list-style-type: none"> Attended a meeting with a resident, Norwood Town Hall.
Friday, 9 December	<ul style="list-style-type: none"> Attended the Council Staff Christmas function, Trinity Gardens Bowling Club, Trinity Gardens.
Friday, 9 December	<ul style="list-style-type: none"> Attended the St Joseph's Memorial School Carols event, St Ignatius Church.
Saturday, 10 December	<ul style="list-style-type: none"> Radio interview with Graham Cornes and Ken Cunningham, 5aa.
Saturday, 10 December	<ul style="list-style-type: none"> Attended the 'Christmas Movie on the Oval', Adey Reserve, Firle.
Monday, 12 December	<ul style="list-style-type: none"> Attended the Trinity Gardens School Year 6 Graduation, Regal Theatre, Kensington Park.
Tuesday, 13 October	<ul style="list-style-type: none"> Filmed a video for the 2023 AFL 'Gather Round' for the Council website, Norwood Oval.
Tuesday, 13 December	<ul style="list-style-type: none"> Attended the St Joseph's Memorial School Year 6 Graduation, Altavilla Ipirna Sports and Social Club, Beulah Park.
Thursday, 15 December	<ul style="list-style-type: none"> On-site meeting with a resident, Trinity Gardens.
Friday, 16 December	<ul style="list-style-type: none"> Attended the 'Retirement' event for the General Manager, Urban Services, Mayor's Parlour, Norwood Town Hall
Tuesday, 3 January	<ul style="list-style-type: none"> Attended an on-site meeting with resident, Trinity Gardens.
Tuesday, 3 January	<ul style="list-style-type: none"> Attended an on-site meeting with a resident, Payneham.
Monday, 9 January	<ul style="list-style-type: none"> Meeting with Mr Roger Bryson, President, Kensington Residents Association, Mayor's Office, Norwood Town Hall.
Monday, 9 January	<ul style="list-style-type: none"> Attended I-pad training, Mayor's Parlour, Norwood Town Hall.
Friday, 13 January	<ul style="list-style-type: none"> Filmed a video for the Council website, Norwood.
Friday, 13 January	<ul style="list-style-type: none"> Attended the 'Movies by the Pool' event, Norwood Swimming Centre, Kensington.
Sunday, 15 January	<ul style="list-style-type: none"> Participated in the procession and attended Holy Mass to celebrate the San Pellegrino Martire Festa (Feast Day), Church of the Annunciation, Hectorville.
Monday, 16 January	<ul style="list-style-type: none"> Attended a meeting with Cr Clutterham, Cr Holfeld, Cr McFarlane, Cr Piggott and Cr Robinson, Mayor's Office, Norwood Town Hall.

Mayor Bria welcomed the Council to its first meeting of the year.

5. DELEGATES COMMUNICATION
Nil

6. QUESTIONS WITHOUT NOTICE
Nil

7. QUESTIONS WITH NOTICE
Nil

8. DEPUTATIONS

8.1 DEPUTATION – REQUEST TO CEASE DEVELOPMENT APPROVAL OF TWO-STOREY ADDITIONS FOR PROPERTIES LOCATED IN ESTABLISHED NEIGHBOURHOOD ZONES

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Not Applicable
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA1041 qA110841
ATTACHMENTS: Nil

SPEAKER/S

Dr John Hatch.

ORGANISATION/GROUP REPRESENTED BY SPEAKER/S

Not Applicable.

COMMENTS

Dr Hatch has written to the Council requesting that he be permitted to address the Council in relation to development approvals for two-storey additions to properties located in Established Neighbourhood zones that are also subject to an Historic Area Overlay.

In accordance with the *Local Government (Procedures at Meetings) Regulations 2013*, Dr Hatch has been given approval to address the Council.

Dr John Hatch addressed the Council in relation to this matter.

9. PETITIONS

9.1 PETITION – REQUEST TO CEASE DEVELOPMENT APPROVAL OF TWO-STOREY ADDITIONS FOR PROPERTIES LOCATED IN ESTABLISHED NEIGHBOURHOOD ZONES

REPORT AUTHOR: General Manager, Urban Planning & Environment
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4501
FILE REFERENCE: qA110841
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to table a petition which has been received requesting that the Council cease issuing Development approvals for two-storey additions to properties located in Established Neighbourhood zones that are also subject to an Historic Area Overlay.

BACKGROUND

The petitioners are requesting that the Council cease approving development applications for two-storey extensions in “Established Neighbourhood” zones that are also subject to an “Historic Area Overlay”.

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

The petition has been signed by a total of 117 property owners in Joslin and part of St Peters.

In accordance with the Council’s *Privacy Policy*, the personal information of the petitioners, (ie property numbers, telephone numbers and email addresses) have been redacted from the petition. The names of the signatories which are included on the petition have not been redacted from the petition.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The relevant Goals contained in *CityPlan 2030* are:

Outcome 2: Cultural Vitality

Objective 2.4: Pleasant, well designed, and sustainable urban environments.

Strategy:

2.4.1 Encourage development that complements our City’s build heritage and character areas.

2.4.2 Encourage sustainable and quality urban design outcomes.

DISCUSSION

The Council’s Assessment Panel (the Panel) and Development Assessment staff, are responsible for assessing Development Applications against the relevant provisions of the *Planning and Design Code* (the Code). In many cases, procedural tables contained within the Code prescribe the relevant policies, which means that the assessment cannot take into account any other policies which are not prescribed, even if the Planner undertaking the assessment is of the view that other policies could be relevant to the assessment.

Development Applications which were lodged prior to March 2021 were assessed by the Council’s Development Assessment staff or the Panel against the relevant provisions of the Council’s former Development Plan. Therefore, some developments currently under construction may have been assessed under the former planning system.

Development Assessment staff and the Panel discharge their duties in accordance with the relevant planning legislation and instruments of delegation. Assessments by junior staff are considered by the Council's Assessment Manager before authorisation is granted and design guidance is provided by the Council's Heritage Advisor (David Brown) for most developments proposed in the Historic Area Overlay, Local Heritage Place Overlay or the Heritage Adjacency Overlay areas. This provides a robust "check and balance" to ensure that Development Applications are determined appropriately. In addition, the assessing Planner must also consider the context of the development site, including the prevailing built form and streetscape character. Streetscape fit is especially important for development in the Historic and Character Area Overlays, which generally involves maintaining a single storey streetscape appearance.

However, in order for historic and character homes to be adapted to modern day dwelling functionality, the building footprint and mass of dwelling additions behind the main front façade of the building can be relatively large and sometimes two-storey. Some neighbours may consider this problematic, as is highlighted in the petition.

The current planning policy provisions contained in the Planning and Design Code do allow consideration of two-storey developments in Established Neighbourhood Zones, even where there is an Historic Area Overlay in place. It should be noted that the Code provisions are guiding in nature, rather than mandatory requirements. As such, it is not open to the Council's Assessment Panel and Development Assessment staff to simply cease approving two-storey dwelling extensions in the Established Neighbourhood Zones as each application has to be carefully considered and all relevant provisions of the Code must be considered and applied in a prudent and practical manner.

In addition, as the Council's Assessment Manager and Assessment Panel operate as Planning Authorities in their right in accordance with the planning legislation operating in South Australia, the Council **cannot** instruct its planning staff to cease approving any particular type of development nor instruct staff to process Development Applications in any particular manner.

That said, if there is sufficient community concern with the policies contained in the Planning and Design Code, then there is certainly merit in the Council considering the extent to which it may be possible to amend the Code to include more specific provisions that would essentially give the Council's Development Assessment staff stronger provisions to rely on to limit the extent to which two- storey extensions in Established Neighbourhood Zones could be favourably considered.

As Members are aware, in response to concerns similar to those expressed in the Petition, the Council considered a Notice of Motion which was submitted by Cr Moorhouse, at the Council meeting held on 5 December 2022 and following consideration of the matter, resolved the following:

- 1. That staff write a letter to the State Planning Commissioner, Craig Holden, requesting him to clarify the process of how Councils can change aspects of the Planning and Design Code that have broader implications than one council area and to clarify the role and terms of reference of the State Government's Code Control Group.*
- 2. That staff prepare a report on Council's ability to have a more nuanced and detailed policy regarding large scale two-storey residential additions in areas affected by the Historic Area Overlay.*

It is anticipated that a report as requested in the motion, will be presented to the Council at its meeting to be held on 6 March 2023, for the Council's consideration.

It is therefore recommended that the petitioners be advised that the Council is in the process of investigating whether it is possible for the Council to have a more nuanced and detailed policy to restrict large scale two-storey residential additions in Established Neighbourhood Zones and areas affected by the Historic Area Overlay and that the petitioners will be advised of the outcome of the matter once finalised.

RECOMMENDATION

That the convenor of the petition be advised that the Council is in the process of investigating whether it is possible for the Council to have a more nuanced and detailed policy to restrict large scale two-storey residential additions in Established Neighbourhood Zones and areas affected by the Historic Area Overlay and that the petitioners will be advised of the outcome when the Council has considered.

Cr Piggott moved:

That the Convenor of the petition be thanked and advised of the following:

- 1. As of March 2021, planning applications are now subject to the State controlled Planning & Design Code and Council is not legally able to direct the disallowance of applications acceptable under this Code, such as two-storey developments within Established Neighbourhood Zones, even where there is an Historic Area Overlay in place.*
- 2. Council, at its December 2022 meeting, requested a report (due March 2023) regarding its ability to change the policy through the State Government to achieve a more nuanced and detailed policy in respect to large scale two-storey additions in areas affected by Historic Area Overlays.*
- 3. The convenor and all petitioners will be advised of the outcome of the above Report when it is finalised.*

Seconded by Cr Granozio and carried unanimously.

10. WRITTEN NOTICES OF MOTION
Nil

11. STAFF REPORTS

Section 1 – Strategy & Policy

Reports

11.1 SUBMISSION ON THE REVIEW OF THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016

REPORT AUTHOR: Senior Urban Planner
GENERAL MANAGER: General Manager, Urban Planning & Environment
CONTACT NUMBER: 8366 4560
FILE REFERENCE: qA74113
ATTACHMENTS: A - E

PURPOSE OF REPORT

The purpose of this report is to advise the Council of the review of the *Local Nuisance and Litter Control Act 2016*, which is currently being undertaken by the Environment Protection Agency (EPA) and to seek the Council's endorsement of a draft submission.

BACKGROUND

The *Local Nuisance and Litter Control Act 2016* (LNLC Act) has been in operation in its entirety since 1 July 2017, providing Local Government with over five (5) years' experience in administering and enforcing the Act. In August 2018, the EPA commenced a review of the legislation and a subsequent discussion paper was released for public consultation in July 2019, in response to which a total of 47 submissions were submitted.

Following further collaboration between the EPA, the Local Government Association of South Australia (LGA) and a Working Group comprising of representatives from various Councils, the EPA has now compiled a draft Bill that seeks to amend the LNLC Act in a variety of ways and which is currently released for public consultation.

The current consolidated draft Bill, its accompanying Explanatory Report and the earlier discussion paper (2019) and consultation report (2021), are all available for viewing via the following link: https://www.epa.sa.gov.au/community/have_your_say, under the heading 'Local Nuisance and Litter Control Act 2021 – proposed reforms'. They are also contained in **Attachments B - E**.

A draft submission to the EPA has been prepared for the Council's consideration and is contained in **Attachment A**.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

Outcome 4: Environmental Sustainability

A leader in environmental sustainability

Objectives:

- 4.1 *Sustainable and efficient management of resources*
- 4.2 *Sustainable streets and open spaces*

Strategy:

- 4.1.2 *Investigate and implement innovative waste reduction and education initiatives*
- 4.2.1 *Improve the amenity and safety of streets for all users*

FINANCIAL AND BUDGET IMPLICATIONS

The introduction of the LNLC Act in 2017, required Local Government to commit additional resourcing to handle issues that formally fell within the EPA's jurisdiction. Consequently, Local Government has incurred costs in doing so. These costs are not easily recoverable through the current enforcement provisions of the Act.

The proposed amendments to the LNLC Act have the potential to increase the resourcing required of Local Government to address complaints raised, which will have financial implications as a result of additional out-of-hours inspections and the like. Additionally, the proposed amendments may increase reliance on external expert/technical advice which will increase costs. On the other hand, the amendments do seek to introduce additional cost recovery mechanisms for Local Government which may help to assist in offsetting some of these costs, where utilised.

If the Bill is assented to in Parliament, the additional cost implications to this Council that are likely to result from additional out-of-hours inspections and greater reliance on external expert/technical advice are difficult to quantify. However, it is considered that the additional workload can be managed within existing resources. That said, this will need to be carefully monitored.

EXTERNAL ECONOMIC IMPLICATIONS

The only real economic implication of the proposed changes to external parties will be the increased expiation fines set for bodies corporate, which in most cases has doubled. That being said, the Council's approach with respect to offences committed under the LNLC Act has always been, and will continue to be, an 'education before regulation' approach, unless otherwise instructed by the Council. Since the introduction of the Act, the Council has issued very few expiation fines and instead has successfully resolved matters through negotiation and education. Several nuisance abatement notices have been issued to individuals for continuing or particularly egregious breaches and they have proved to be a useful formal enforcement tool for Council staff, without the need for expiations or court intervention. To date, no nuisance or littering matters have resulted in court proceedings.

SOCIAL ISSUES

The introduction of the LNLC Act in 2017, improved community access to a service that can deal with issues surrounding local nuisances and littering. This will continue to be the case as a result of the proposed reforms. These reforms do not seek to remove any agents of nuisance, or ways by which a person may litter, and to this end the reforms seek to introduce additional means by which a person or business may create a nuisance or cause littering to occur, as well as imposing additional proactive responsibilities on persons to avoid future littering or nuisance offences from occurring.

CULTURAL ISSUES

Through the administration of the LNLC Act, the Council has and will continue to ensure that the amenity of residential areas is maintained and that incompatible land uses remain separated. Public spaces will maintain vibrancy and interest for citizens by ensuring compliance with the littering provisions of the Act remains a focus.

ENVIRONMENTAL ISSUES

One of the objectives of the LNLC Act is '*to promote the creation and maintenance of a clean and healthy environment*'. The proposed amendments do not derogate from this objective and Council staff will continue to play an increased role in the detection and management of environmental harm caused by way of local nuisance and/or littering.

RESOURCE ISSUES

The draft submission has been prepared on the assumption that there will be no additional staff resources required. (Refer to the Financial and Budget Implications section of this Report for resourcing issues as a result of the proposed changes).

RISK MANAGEMENT

The proposed introduction of 'light' as an agent of nuisance increases the likelihood of out-of-hours inspections being conducted by Council staff. As a result, those staff responsible for responding to these complaints may have to undertake work during hours of minimal or no daylight, potentially presenting additional risks to staff undertaking these inspections. The draft submission contains recommendations for improvements to the proposed amendments to mitigate this risk to staff (see **Attachment A**, under the heading '*6.1: Light as an agent of nuisance*')

CONSULTATION

- **Elected Members**
Nil
- **Community**
Nil
- **Staff**
General Manager, Urban Planning & Environment
Manager, Development Assessment
Compliance Officer, Planning Services
Team Leader, Regulatory Services
Senior Compliance Officer, Planning Services
- **Other Agencies**
Nil

DISCUSSION

Local Nuisance Amendments

The current LNLC Act prescribes a number of agents of local nuisance over which Local Government has jurisdiction to investigate and enforce, subject to several exclusions. These are: noise, dust, smoke, fumes, aerosols, vibration, unsightly conditions, insanitary conditions and animals.

In the original draft Bill that was released for consultation in 2015, light and heat were included as agents of local nuisance but were removed prior to the Bill being introduced to Parliament because of a lack of specificity in its definition and application. Similarly, when the EPA undertook their review of the Act in 2019 and sought feedback on introducing light as an agent of nuisance, it was the general consensus amongst Local Government and other parties, that it would be useful for Local Government to deal with nuisances arising from light but any proposed legislative framework would need to be concise and unambiguous in its terms and application.

As a result of feedback from Local Government and the public, light is again proposed to be introduced as an agent of local nuisance. The intent of the inclusion is to allow Local Government to deal only with issues of light nuisance that may be reasonably avoided and to exclude all others, such that Local Government resources are not unnecessarily stretched. The proposed definition includes an extensive list of exclusions, which are considered to be appropriate and adequate.

The LNLC Act defines light as causing a nuisance where the light travels from one place to another, and an Authorised Officer determines that '*the nature, intensity, colour, location, direction or extent of light is such as to constitute an unreasonable interference with the enjoyment of neighbouring premises by persons occupying those premises*'. This inclusion will result in an increased expectation on Council staff to respond to and resolve complaints involving light. However, given the extensive list of exclusions it is anticipated that the extra resourcing required to handle these complaints should not be problematic. Notwithstanding this, the proposed submission includes a recommendation that the evidentiary provisions contained within the *Local Nuisance and Litter Control Regulations 2017* (LNLC Regulations), be extended to allow Authorised Officers to make an assessment of light nuisance based on photographic or video material provided by a complainant, as a means of reducing the resourcing burden this addition will impose on Councils.

The draft Bill also seeks to introduce a new offence – the installation of a designated device on premises such that the operation of the device results in a local nuisance. A designated device is defined as an air conditioning unit or an external light. This provision will place more responsibility on installers to ensure these devices are installed in appropriate locations, and in turn provides an option for recourse against an installer rather than a subsequent owner or occupier. The draft submission from this Council supports this inclusion.

Clause 5 of Schedule 1 of the LNLC Act, sets out a list of activities that are declared to not be local nuisance. One of those is '*behaviour... an activity on, or noise emanating from, licensed premises*'; for which a complaint should be lodged with the Liquor Licensing Commissioner. This exclusion encompasses any kind of nuisance that may arise from licensed premises, be it a faulty air conditioning unit or live music. Section 106 of the *Liquor Licensing Act 1997* (LL Act) requires at least 10 complainants for a complaint to be considered 'valid'. The challenging requirement for 10 complainants, combined with the exclusion within the LNLC Act has created frustration throughout the community which experience has shown can sometimes leave complaints unresolved. Responsively, the draft Bill proposes to amend the LNLC Act and LL Act in alike terms, such that only nuisances that are related to the service of alcohol or live music sit within the jurisdiction of the Liquor Licensing Commissioner, giving Councils power to deal with other nuisances such as noisy air conditioning units. The draft submission supports this inclusion subject to both the LNLC Act and the LL Act being amended in no uncertain terms.

Similarly, the LNLC Act currently does not apply to 'noise or other nuisance that may be the subject of proceedings under the *Residential Tenancies Act 1995*. Pursuant to Section 71 of that Act, it is a default term of any residential tenancy that the tenant must not cause or permit a nuisance. By consequence, any nuisance caused by a lessee cannot be enforced by the provisions of the LNLC Act. This appears to have been an oversight by the original drafters of the LNLC Act and the draft Bill proposes to remove this exclusion, and the draft submission from this Council supports this amendment.

The draft Bill also seeks to introduce noise from refrigerated vehicles as a type of nuisance able to be addressed by the LNLC Act, by modifying the exclusion that applies to vehicles generally to no longer apply to refrigerated vehicles. The draft submission from this Council supports this inclusion.

With respect to 'things are not a local nuisance' in Clause 5 of Schedule 1, the draft Bill proposes to include vibration and light associated with public infrastructure works (the current exemption only applies to noise) and dust from unsealed roads as exclusions, which the draft submission from this Council supports.

Section 19 of the LNLC Act, provides Local Government with the ability to issue a local nuisance exemption to allow, for example, a concrete pour to take place prior to 07:00am. The current provisions prescribe specific documentation that must accompany an application and place a maximum time limit on the validity of an exemption to three (3) months. The draft Bill proposes to give Local Government discretion in respect of both the required documentation and the time period for which the exemption will apply. The draft submission from this Council supports this inclusion.

Littering Amendments

Pursuant to Section 23 of the LNLC Act, it is an offence to post a bill (a flyer, brochure or poster containing promotional material) on property without the consent of the owner or occupier of the property – which is most often seen in the context of flyers being posted on vehicles in car parks. Currently, however, there is no definition of 'property' and so the general interpretation has been that property is limited to that upon which a bill is posted (e.g., the vehicle). This has left little recourse for car park owners or Local Government who are often left with the inevitable litter. The draft Bill proposes to introduce a definition of 'property' that includes any land on which a vehicle is located, if the bill posting occurs on a vehicle. The draft submission from this Council supports this inclusion.

In an effort to combat the ever-continuing problem many Councils face with trolleys being dumped, the draft Bill proposes a suite of new provisions that relate specifically to trolleys. These involve:

- including trolleys within the definition of 'general litter' in the LNLC Act;
- requiring businesses to provide identification information on every trolley they provide for their customers; and
- specific provisions that may be included in a nuisance abatement notice that is issued as a result of the littering of trolleys.

While the City of Norwood Payneham & St Peters does not experience the same extent of trolley littering as some other Councils with regional centres do, Council staff do have experience dealing with this issue, especially along The Parade, Norwood. Accordingly, the draft submission supports these amendments.

The draft Bill also seeks to introduce a general duty to prevent or minimise litter by persons carrying on a business. As well as applying to litter generally, it also requires a person to take all reasonable and practicable measures to prevent or minimise litter that escapes from a stormwater management system. A feature which is overlooked in the current LNLC Act, stormwater management systems are often not required to be cleaned and maintained following installation, and so these amendments aim to bridge that gap and place the onus on business operators to ensure this is no longer the case.

Finally, in respect to litter, the draft Bill seeks to improve cost-recovery mechanisms for Local Government that are required to undertake an urgent clean up of litter because of hazards it may pose. Currently, in such circumstances, Local Government may only recover costs which are incidental to the clean up through a successful prosecution of the offender. The proposed amendment to the LNLC Act is the inclusion of a new section that allows Local Government to recover costs from an offender by notice in writing, with the costs to be recoverable as a debt if unpaid. The draft submission supports this inclusion as it provides a simpler means by which the Council may recover costs incurred as a result of another person's offence.

Administrative and Technical Amendments

Abatement notices provide a useful enforcement tool which Local Government can use to address ongoing local nuisance issues, such as limiting the hours of operation of noisy fixed devices such as air conditioning units. Unfortunately, the current LNLC Act provisions only allow an abatement notice to be issued to a person and so when a property is sold or otherwise occupied by a different person the Council has to issue a fresh abatement notice to the new occupier if the local nuisance has not otherwise been resolved. A new section is proposed to be implemented by the draft Bill that allows Local Government to register an abatement notice against land, so that the obligation to comply with its term automatically carries over to any new owner or occupier of the land. The draft submission supports this inclusion, but in so doing has requested that the EPA consider extending the ability to link abatement notices to land to litter abatement notices also.

The draft Bill proposes to increase the expiation fees applicable to bodies corporate (i.e. a legal entity other than a natural person, such as a company or incorporated association) for most offences, in most cases doubling the fees from \$500 to \$1000. Local Government comments during the consultation demonstrates that some businesses appear to consider a \$500 expiation fee as a small cost in comparison to the advantage they might gain from breaching the Act and so that fee was not acting as the deterrent it should to some. Despite Council staff preferring to resolve matters without the need for expiation fees, the draft submission supports this inclusion as it has the potential to succeed as a deterrent and reduce workload for Council staff.

Finally, the draft Bill also proposes to amend various provisions of the LNLC Act to clear up confusion in the current wording, all of which the draft submission is supportive.

OPTIONS

The Council may choose to support or oppose the draft Bill, to support or oppose specific aspects of the Bill, or suggest alternative provisions.

For the reasons set out in the body of this Report, it is recommended that the draft submission, contained in **Attachment A**, be endorsed by the Council as its submission on the draft Bill.

CONCLUSION

The majority of the proposed amendments will not alter the way in which this Council's staff currently approach and deal with complaints about litter and nuisance. Council staff have typically tried to resolve complaints without the need for enforcement action and that will continue despite the new provisions. Nonetheless, the addition of proactive obligations on different parties is welcomed and the inclusion of additional enforcement tools and increased expiation fees for bodies corporate will be useful if and when the need arises.

The introduction of light as an agent of nuisance will inevitably result in increased complaints being made to the Council, especially while any new legislation is in its infancy and the exclusions are not properly understood by the community. Nonetheless, the additional resourcing expected to be needed as a consequence is not considered to be excessive and unreasonable. On balance, the advantages gained by the community through this inclusion outweighs any additional resourcing that may be required by some councils to address these complaints.

Overall, the draft Bill seeks to make positive changes to the LNLC Act and LNLC Regulations without diminishing Local Government's ability to meet the needs of their citizens. For this reason, the draft submission is supportive of the proposed Bill subject to a few minor changes/suggestions as aforementioned.

COMMENTS

Nil

RECOMMENDATION

1. That the draft submission contained in **Attachment A**, be endorsed as the Council's submission on the draft *Local Nuisance and Litter Control Act (Miscellaneous) Amendment Bill 2022*.
 2. That the Chief Executive Officer be authorised to make minor editorial changes to the draft submission, prior to its submission.
 3. That a copy of the Council's submission be provided to the Local Government Association of South Australia.
-

Cr Sims left the meeting at 7.26pm.
Cr Sims returned to the meeting at 7.31pm.

Cr Knoblauch moved:

1. *That the draft submission contained in Attachment A, as amended, to include that consideration be given to including excessive wind and heat associated with external air conditioners within the definition of "nuisance", be endorsed as the Council's submission on the draft Local Nuisance and Litter Control Act (Miscellaneous) Amendment Bill 2022.*
2. *That the Chief Executive Officer be authorised to make minor editorial changes to the draft submission, prior to its submission.*
3. *That a copy of the Council's submission be provided to the Local Government Association of South Australia.*

Seconded by Cr Clutterham and carried unanimously.

Cr Granozio left the meeting at 7.39pm.

Section 2 – Corporate & Finance
Reports

11.2 MONTHLY FINANCIAL REPORT – NOVEMBER 2022

REPORT AUTHOR: Manager, Finance
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4585
FILE REFERENCE: qA101554
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to provide the Council with information regarding its financial performance for the year ended November 2022.

BACKGROUND

Section 59 of the *Local Government Act 1999* (the Act), requires the Council to keep its resource allocation, expenditure and activities and the efficiency and effectiveness of its service delivery, under review. To assist the Council in complying with these legislative requirements and the principles of good corporate financial governance, the Council is provided with monthly financial reports detailing its financial performance compared to its Budget.

RELEVANT STRATEGIC DIRECTIONS AND POLICIES

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

Financial sustainability is as an ongoing high priority for the Council. The Council adopted a Budget which forecasts an Operating Surplus of \$861,695 for the 2022-2023 Financial Year. The First Budget update presented has reduced the Operating Surplus by \$141,731 to \$719,964 for the 2022-2023 Financial Year.

For the period ended November 2022, the Council's Operating Surplus is \$3,138,000 against a budgeted Operating Surplus of \$2,559,000, resulting in a favourable variance of \$579,000.

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.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
Responsible Officers and General Managers.
- **Other Agencies**
Not Applicable.

DISCUSSION

For the period ended November 2022, the Council's Operating Surplus is \$3,138,000 against a budgeted Operating Surplus of \$2,559,000, resulting in a favourable variance of \$579,000.

Employee expenses are \$758,000 (11%) favourable to the Revised Budget. The driving factors behind this variance are as follows:

- Budgeted staff positions that were vacant at the commencement of the financial year. Some of these positions are now filled and others are currently undergoing recruitment. Where required, activities and functions have been back filled by utilisation of temporary staff or consultants.

Contracted Services are \$409,000 (10%) unfavourable to the Revised Budget. These variances will be reviewed more closely during the second budget review that will be completed in January.

The Monthly Financial report is contained in **Attachment A**.

OPTIONS

Not Applicable.

CONCLUSION

Not Applicable.

COMMENTS

Not Applicable.

RECOMMENDATION

That the November 2022 Monthly Financial Report be received and noted.

Cr Granozio returned to the meeting at 7.41pm.

Cr Piggott moved:

That the November 2022 Monthly Financial Report be received and noted.

Seconded by Cr Sims and carried unanimously.

11.3 2023-2024 ANNUAL BUSINESS PLAN AND BUDGET OBJECTIVES & PARAMETERS

REPORT AUTHOR: Acting Manager, Finance
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 8366 4548
FILE REFERENCE: A538520
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of this report is to seek the Council's endorsement of the objectives and parameters which will apply in the development of the draft 2023-2024 Annual Business Plan and Annual Budget.

BACKGROUND

Legislative Requirements

Pursuant to Section 123 of the *Local Government Act 1999* (the Act), each financial year the Council is required to prepare an Annual Business Plan and Annual Budget. The Annual Business Plan and Annual Budget are to be adopted by the Council after 31 May for the ensuing financial year and except in a case involving extraordinary administrative difficulty, before 31 August for the financial year.

Pursuant to Section 123(2) of the Act and in Regulation 6 of the *Local Government (Financial Management) Regulations 2011* (the Regulations), each Annual Business Plan of a Council must-

- (a) *include a summary of the Council's long-term objectives (as set out in its strategic management plans); and*
- (b) *include an outline of—*
 - (i) *the Council's objectives for the financial year; and*
 - (ii) *the activities that the Council intends to undertake to achieve those objectives; and*
 - (iii) *the measures (financial and non-financial) that the Council intends to use to assess the performance of the Council against its objectives over the financial year; and*
- (c) *assess the financial requirements of the Council for the financial year and, taking those requirements into account, set out a summary of its proposed operating expenditure, capital expenditure and sources of revenue; and*
- (d) *set out the rates structure and policies for the financial year; and*
- (e) *assess the impact of the rates structure and policies on the community based on modelling that has been undertaken or obtained by the Council; and*
- (f) *take into account the Council's Long-Term Financial Plan and relevant issues relating to the management and development of infrastructure and major assets by the Council; and*
- (g) *address or include any other matter prescribed by the Regulations.*

Pursuant to Section 123 (3) of the Act, prior to the adoption of the Annual Business Plan, the Council must undertake public consultation for a minimum period of twenty-one (21) days. At the conclusion of the public consultation period, a public meeting is to be held where members of the community can ask questions and make submissions regarding the draft Annual Business Plan. During the public consultation period, the Council must make available copies of the draft Annual Business Plan at its Principle place of business.

RELEVANT STRATEGIC DIRECTIONS & POLICIES

The Council's Strategic Management Plan, *CityPlan 2030: Shaping Our Future*, the Long-term Financial Plan and Whole-of-Life Asset and Infrastructure Management Plans, provide the basis and framework upon which the Council's Annual Business Plan and Budget is based.

FINANCIAL AND BUDGET IMPLICATIONS

The Council's Long-Term Financial Plan, sets out the Council's financial goal as, "A City which delivers on our Strategic Outcomes by managing our financial resources in a sustainable and equitable manner", in short to be financially sustainable.

The Local Government Association of South Australia defines financial sustainability as:

- "A Council's long-term financial performance and position is sustainable where planned long-term service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services."
- The key elements to the definition are
 - ensuring the maintenance of a Council's high priority expenditure programs, both operating and capital;
 - ensuring a reasonable degree of stability and predictability in the overall rate burden; and,
 - promoting a fair sharing in the distribution of Council resources and the attendant taxation between current and future ratepayers.

In simple terms, financial sustainability means positioning the Council so that it can continue to provide quality services, programs and facilities and maintain the Council's infrastructure to a defined service standard, with stable rate increases (removal of sudden increases) and ensuring inter-generational equity.

The Council will need to ensure that its Annual Business Plan and Budget, contains objectives and financial parameters which will deliver a responsible budget and meet the reasonable needs of the community on an equitable and "value for money" basis. For the 2023-2024 Financial year, the Council's 2021-2031 Long-Term Financial Plan, projects an Operating Surplus of \$1,355,000 based on a Rate Revenue increase of 4.55%.

It should be noted that the target Operating Surplus includes Grant Income of \$362,000 which is expected to be received in the 2023-2024 Financial Year under the Roads-to-Recovery Program and is included in the Capital Projects budget to be spent on a Capital Road Project(s).

EXTERNAL ECONOMIC IMPLICATIONS

The Annual Business Plan and Budget will have an economic impact on property owners and suppliers of goods and services to the Council, the level of which will be dependent on the final decisions taken in respect to the level of income, and subsequently the Rate increase required to meet proposed expenditure.

SOCIAL ISSUES

Nil.

CULTURAL ISSUES

Nil.

ENVIRONMENTAL ISSUES

Nil.

RESOURCE ISSUES

Nil.

RISK MANAGEMENT

Financial Management and Annual Business Plan preparation processes are governed by the *Local Government Act 1999* and Regulation 6 of the *Local Government (Financial Management) Regulations 2011*. All budget documentation will need to be prepared in accordance with the relevant statutory requirements.

CONSULTATION

- **Elected Members**
Not Applicable.
- **Community**
Not Applicable.
- **Staff**
Not Applicable.
- **Other Agencies**
Not Applicable.

DISCUSSION

2023-2024 Annual Business Plan

The Annual Business Plan is the Council's statement of the intended services, programs, facilities and objectives set by the Council for a given financial year. It is based upon the objectives and strategies set out in the Council's Strategic Plan *CityPlan 2030: Shaping Our Future*, the Long-term Financial Plan and the Whole-of-Life Infrastructure and Asset Management Plans.

The Council's Strategic Plan, *CityPlan 2030: Shaping Our Future*, sets out the Council's Outcomes in respect to Social Equity, Cultural Vitality, Economic Prosperity and Environmental Sustainability, together with objectives and strategies for each Outcome.

Pursuant to Section 123(2) (b) (i), the Annual Business Plan must contain a series of objectives for the financial year. To be effective the annual objectives should be in line with the outcomes contained in the *City Plan 2030: Shaping Our Future* and assist the Council in delivering on the financial outcomes set out in the Long-Term Financial Plan.

The following objectives are proposed to be incorporated into the 2023-2024 Annual Business Plan.

Social Equity

An inclusive, connected, accessible and friendly community

- Our cost-effective services are welcoming, inclusive, and socially connected all ages and abilities.
- Our infrastructure assets are maintained and renewed in line with Councils Whole of Life Infrastructure framework.
- Deliver programs and activities which result in an engaged and participating community.
- Engage disabled, aged, youth and varied cultures in the life of the City through a variety of events and programs.
- Rates are fair and equitable for our residents and ratepayers.

Cultural Vitality

A culturally rich and diverse City, with a strong identity, history and 'sense of place'

- Promote a healthy cultural life and creative expression through the use of public art and events that complement the City's cultural heritage.
- Provide opportunities for the community to contribute to the social and creative life of the City through events, activities, arts and cultural initiatives.

Economic Prosperity

A dynamic and thriving centre for business and services

- Support the development of a prosperous local economy.

Environmental Sustainability

A leader in environmental sustainability

- Ensure urban development undertaken enhances the environmental, social and cultural character of our City.
- Maximise the use of the City's open space by providing a range of active and passive open space recreation opportunities.
- Promote recycling and environmentally sustainable practices throughout the City.
- Consider innovative infrastructure solutions which minimise the impact on the environment.

Organisational Excellence

- Ensure best use of Council resources by innovative, efficient and effective service provision.
- Demonstrate Business Excellence Principles.
- Financially sound organisation.

The assessment of new projects, services, programs and activities will be assessed against both the Annual Business Plan objectives and *City Plan 2030* objectives and strategies.

The 2023-2024 Annual Budget

To ensure that the Council delivers its financial objectives and in accordance with the Council's standard practice, the draft 2023-2024 Annual Budget should be developed with reference to and within the framework of the Long-Term Financial Plan, which, based on the components of the rate revenue increase set out in the Budget and Financial Implications above, sets out a target Operating Surplus of \$1,355,000.

To ensure the Council's financial targets are achieved, the Annual Budget must be set with reference to similar key influences and assumptions. The influences and assumptions relating to external economic conditions and internal policy decisions are set out below.

Key Influences

- maintenance and renewal program for existing infrastructure assets, including roads, footpaths, Council owned properties and open spaces, are consistent with the *Whole-of Life Infrastructure and Asset Management Plans*;
- commitment to major projects which span more than one (1) financial year;
- initiatives and major projects which are undertaken need to contribute to the Vision, strategic direction and the wellbeing of our City as set out in the *CityPlan 2030: Shaping Our Future*;
- previously recognised ongoing operational savings are to be maintained;
- to continue to implement the principles and practices of the Business Excellence Framework (i.e. Continuous Improvement of the organisations procedures and process to ensure the "best value" is achieved);
- prudent financial management to ensure ongoing financial sustainability; and
- decisions will be informed and based on the best available evidence and information at the time.

Key Assumptions

The Annual Budget incorporates three (3) components of the Council Operations, these being:

- Recurrent Income and Expenditure (Recurrent Budget)
- Operating Projects (Operating Projects Budget); and
- Capital Projects (Capital Budget).

As in previous years, the preparation of the Annual Budget will be undertaken in two (2) stages. The first stage will be the preparation on the Recurrent Budget, which incorporates the revenues and expenditure required to provide the "Business as Usual" services. The second stage will focus on the Capital and Operating Project budget.

Rate Revenue Increases

As in previous years, for the initial review of the draft Recurrent Budget, no increase in rate revenue will be taken into account in the analysis. Notwithstanding this, it should be noted, that the financial projections set out in the Council's Long-Term Financial Plan is based on a Rate Revenue increase of 4.55%.

Maintaining Existing Services at Current Service Standards

The draft Recurrent Budget is proposed to be based on a "business as usual" assumption, which means that the Council will continue to provide the existing services, programs and facilities at the current service levels, unless otherwise determined by the Council. This is not to say that the existing services, programs and facilities will be continued to be delivered in the same way. It should be noted that service levels, and the associated budget will be adjusted to reflect ongoing operating cost adjustments resulting from projects completed during the 2022-2023 Financial year.

The "business as usual" assumption does not take into account any change in direction or service levels in response to community expectations, legislative requirements, changing economic conditions or any changes which the Council may wish to make. Such changes will be accounted for in the Council's Operating & Capital Projects Budget.

Cost Escalation

Materials, Contracts and Other Expenses

The Adelaide CPI for the June 2022 Quarter and September 2022 Quarter was 6.4% and 8.4% respectively. An alternative measure for cost escalation is the Local Government Price Index (LGPI). As the nature of the price movement associated with goods and services consumed by Local Government is different to the goods and services consumed by the 'average household', the LGPI is a reliable and independent measure of the inflationary effect on price changes in the South Australian Local Government sector. The LGPI is similar in nature to the CPI, however it represents the movements of prices associated with the goods and services used by Local Government in South Australia (to deliver services to its community) as opposed to the goods and services consumed by the 'average metropolitan household'. The LGPI considers both recurrent and capital expenditure. The change in the recurrent component from the previous year of the LGPI for South Australia to June 2022 is 3.8% and as at September 2022 is 4.5%.

The State Government recently released the 2022-2023 Mid-year Budget Review, which forecasts the Adelaide CPI at 7.25% for the remainder of 2022-2023, reducing to 4.0% for the 2023-2024 financial year. The Federal Government expects inflation to peak at 7.75% by December 2022, before easing gradually to 3.50% by June 2024.

After consideration of both the LGPI and the community's expectation that increases should only move by the CPI forecast, it is recommended that the **maximum** expenditure increase for 2023-2024 across the Materials, Contracts and Other Expenses component of the Budget, be set at 8.0%, which has been determined with reference to the current movements in the Adelaide CPI and the LGPI Index for recurrent expenditure. It should be noted that this may change as the Budget process progresses.

It should also be noted that in some circumstances, there may be cost increases in excess of the 8% target (i.e. Solid Waste Levy, fuel charges and materials costs) and in other circumstances, there will be no or minimal cost increases.

Wages and Salaries

Wages and Salaries and other associated employee on-costs will be indexed in line with the current Enterprise Agreements, which is currently set at 5.0% (from 1 November 2022 then 3% from 1 November 2023) for the *Municipal Officers Enterprise Agreement* (indoor staff) and 2% for *The Local Government Workers Enterprise Agreement* (outdoor staff). It should be noted that *The Local Government Workers Enterprise Agreement* (outdoor staff) expires in November 2023. As negotiations will not commence until after the adoption of the 2023-2024 Budget, for the purpose of developing the Wages and Salaries budget, it is proposed that the indexation factor be increased to 5.0% in line with the *Municipal Officers Enterprise Agreement*. It should be noted that in-line with the *Superannuation Guarantee (Administration) Act 1992*, superannuation guarantee payments will increase to 11% of eligible earnings.

Fees and Charges

Fees and Charges which are not set by legislation, are proposed to be increased by 5.0% or market levels as determined by the review of the Fees and Charges, which will be considered at the Council meeting scheduled for 6 March 2023. The proposed increase is the weighted average of the recommended increase in Material & Contracts and the Wages and Salaries Indexation.

Capital Expenditure

Capital Expenditure relates to the purchasing, building, upgrading and renewing of the Council's assets. Capital Expenditure is funded from depreciation, borrowings and grant funding (where available). For asset renewals the main funding source is depreciation. For new assets and upgrades, the main funding source is borrowings and grant funding. The draft Annual Budget will assume that the Council will borrow to fund new assets and the upgrading of existing assets, with the renewal of assets being funded through depreciation.

Assuming that the Reserve Bank of Australia maintains cash rates at the current level of 3.10%, the interest rates on new borrowings are forecast to be between 4.5% per annum and 6.0% per annum, depending on the term of the borrowings. The interest rate on investment income is forecast at 3.30% per annum.

New Operating and Capital Projects

The assessment of new projects, both Operating and Capital, which are put forward for consideration, will be based on the objectives contained in *CityPlan 2030: Shaping Our Future*, the Council's Long Term Financial Plan and the Infrastructure and Asset Management Plans and the annual objectives set out above.

All new proposed Projects are to be considered and approved within the constraints of the Long-Term Financial Plan. New services and "one-off" Operating Projects are funded through Rate Revenue increases, grant funding or by expenditure savings. New Capital Projects will be funded via Grant Funding (if secured), borrowings or cash reserves.

Carry Forward Projects

Where Operating Projects are not completed within budgeted scheduled timeframes, future deficits can eventuate, as the Rate Revenue is raised in the year the project is initially approved. As part of the draft 2023-2024 Budget, the cost to complete the Operating Projects from prior financial years will be carried forward to the 2023-2024 Financial Year, however the estimate of Carried Forward Projects will be excluded for rate modelling purposes. In this respect, estimates will be based on the 2022-2023 Third Quarter Budget Update, with the associated operational impacts being built into the determination of the 2023-2024 Operating Result.

The draft Recurrent Budget (prior to any increase in Rate Revenue being determined by the Council together with the Operating and Capital Projects) will be presented to Elected Members at a Workshop which is scheduled for 14 March 2023. The draft Recurrent Budget and the Capital and Operating Projects are proposed to be considered by the Council at a Special Council Meeting which is scheduled for 11 April 2023.

Budget Management Principles

As in previous years, the Council needs to exercise "budget discipline" if it is to achieve its financial outcomes that are set out in the Annual Business Plan and Budget and continue to achieve and maintain financial sustainability. To date, the approach which has been taken by this Council once the Annual Business Plan and Budget has been adopted, includes:

- no new recurrent operating expenditure or projects approved without being matched by an increase in operating revenue (i.e., Grants/Fee for Service) or a reduction in expenditure, elsewhere within the Council's operations;
- expenditure over-runs are offset by deferral of discretionary expenditure or expenditure savings elsewhere within the Council's operations;
- income shortfalls to be matched by operating expenditure savings; and
- no new capital expenditure that requires additional borrowings.

Noting that there may be some urgent issues that require urgent attention however once the Budget is adopted, these should be the exception rather than the rule.

Budget Timetable

Pursuant to Section 123 of the Act and Regulation 6 of the Regulations, the Council is required to adopt the Annual Business Plan and Annual Budget after 31 May for the ensuing financial year and except in a case involving extraordinary administrative difficulty, before 31 August for the financial year.

As set out in Table 1 below, a proposed budget timetable has been developed to ensure that the Council is in a position to adopt the 2023-2024 Annual Business Plan and Annual Budget at the Council meeting to be held on 3 July 2023.

TABLE 1: KEY BUDGET PROCESS ACTIVITIES 2022-2023

Key Steps	Dates
Budget process, parameters and objectives adopted	Monday 16 January 2023 (Council Meeting)
Fees and charges adopted in principle by the Council	Monday 6 March 2023 (Council Meeting)
Budget Workshop with Elected Members	Tuesday 14 March 2023
Budget Council Meeting	Tuesday 11 April 2023
<ul style="list-style-type: none"> • <i>Recurrent Budget considered</i> • <i>Operating and Capital Projects considered</i> 	(Special Meeting)
Draft Annual Business Plan, rating model and projects carried forward and Infrastructure Whole of Life endorsed	Monday 1 May 2023 (Council Meeting)
Draft Annual Business Plan available for viewing by the public	Friday 5 May 2023
Meeting to receive public submissions on the Annual Business Plan	Monday 29 May 2023
Consideration of public submissions	Tuesday 13 June 2023 (Special Council Meeting)
Adoption of Annual Business Plan and Budget	Monday 3 July 2023 (Council Meeting)

In respect to the community consultation on the Annual Business Plan, a Public Meeting is proposed to be held on Monday 29 May 2023 to allow members of the community to present their comments and feedback to the Council on the content of the Annual Business Plan and Budget.

OPTIONS

The Council has the following options in respect to this issue:

1. adopt the Annual Business Plan objectives, Annual Budget parameters and assumptions as recommended; or
2. amend any or all of the recommended Annual Business Plan objectives, Annual Budget parameters and assumptions.

The Annual Business Plan objectives, Annual Budget parameters and assumptions set out in this report, are consistent with the approach which the Council has set in previous years to the development of the Annual Business Plan and Budget. In addition, the proposed approach and timetable as presented, will ensure that the Council meets its legislative requirements as set out in the *Local Government Act 1999* and Regulation 6 of the *Local Government (Financial Management) Regulations 2011* therefore Option 1 is recommended.

CONCLUSION

The development of the 2023-2024 Annual Business Plan and Budget should form the platform to position the Council to achieve ongoing Financial Sustainability. Financial Sustainability is not a number on the Income Statement, it is a strategy. Therefore, strategies need to be developed that integrate into the Council's planning and are supported by longer term planning, with any future decisions made being consistent with and supporting the strategy.

COMMENTS

If Elected Members have any questions or require clarification in relation to specific budget items, and/or any issues raised in this report, do not hesitate to contact the Manager, Finance, Sharon Francis on 8366 4548 or email sfrancis@npsp.sa.gov.au prior to the meeting.

RECOMMENDATION

1. That the Annual Business Plan objectives be adopted “in principle” for the purposes of preparing the draft 2023-2024 Annual Business Plan and Budget.
 2. That the following budget parameters and assumptions be adopted ‘in principle’ for the purposes of preparing the draft 2023-2024 Annual Business Plan and Budget:
 - the Recurrent Operating Budget be prepared on a “business as usual” basis;
 - the continuation of previously recognised ongoing operational savings;
 - maximum Material, Contracts and Other Expenses cost escalation be set at 8%;
 - wages and salaries increases be set in line with the Council’s Enterprise Bargaining Agreements;
 - fees and charges not set by Legislation be increased by a minimum of 5.0%;
 - new Capital Projects to be considered and approved within the context of the Annual Business Plan objectives, *CityPlan 2030: Shaping Our Future*, The Infrastructure and Asset Management Plan and the Council’s Long Term Financial Plan;
 - new services and one-off projects to be considered and approved within the context of the Annual Business Plan objectives, *CityPlan 2030: Shaping Our Future*, The Infrastructure and Asset Management Plan and the Council’s Long Term Financial Plan be funded through Rate Revenue increases or by expenditure savings; and
 - new capital projects are funded through grant funding and or long-term borrowings.
-

Cr Robinson left the meeting at 7.48pm.

Cr Duke moved:

1. *That the Annual Business Plan objectives be adopted “in principle” for the purposes of preparing the draft 2023-2024 Annual Business Plan and Budget.*
2. *That the following budget parameters and assumptions be adopted ‘in principle’ for the purposes of preparing the draft 2023-2024 Annual Business Plan and Budget:*
 - *the Recurrent Operating Budget be prepared on a “business as usual” basis;*
 - *the continuation of previously recognised ongoing operational savings;*
 - *maximum Material, Contracts and Other Expenses cost escalation be set at 8%;*
 - *wages and salaries increases be set in line with the Council’s Enterprise Bargaining Agreements;*
 - *fees and charges not set by Legislation be increased by a minimum of 5.0%;*
 - *new Capital Projects to be considered and approved within the context of the Annual Business Plan objectives, CityPlan 2030: Shaping Our Future, The Infrastructure and Asset Management Plan and the Council’s Long Term Financial Plan;*
 - *new services and one-off projects to be considered and approved within the context of the Annual Business Plan objectives, CityPlan 2030: Shaping Our Future, The Infrastructure and Asset Management Plan and the Council’s Long Term Financial Plan be funded through Rate Revenue increases or by expenditure savings; and*
 - *new capital projects are funded through grant funding and or long-term borrowings.*

Seconded by Cr Sims and carried unanimously.

Section 3 – Governance & General Reports

11.4 LOCAL GOVERNMENT ASSOCIATION (LGA) 2023 ORDINARY GENERAL MEETING – APPOINTMENT OF COUNCIL DELEGATE

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2219
ATTACHMENTS: Nil

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the Local Government Association of South Australia's (LGA) 2023 Ordinary General Meeting and the requirement, in accordance with the LGA Constitution, to appoint a Council Delegate to represent the Council and vote at the General Meeting.

BACKGROUND

The Local Government Association (LGA) 2023 Ordinary General Meeting, will be held on Friday 14 April 2023. The agenda will be issued to all Councils in the near future.

Pursuant to the LGA Constitution, Councils are required to appoint a Council Delegate to represent the Council and vote at the LGA General Meeting, if the Council wishes to be represented and have voting rights at the Local Government Association 2023 Ordinary General Meeting. The Council may also appoint a Proxy Delegate in the event the Delegate is unable to attend the Ordinary General Meeting.

A Council Officer cannot be a Delegate, however, they can attend the LGA Ordinary General Meeting.

Traditionally, the Mayor has been appointed as the Delegate for the LGA Ordinary General Meeting.

It is considered appropriate that the Council also appoints a Deputy Council Delegate in the event that the appointed Delegate is unable to attend the Ordinary General Meeting.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

RECOMMENDATION

1. That Mayor Robert Bria be appointed as the Council Delegate for the Local Government Association 2023 Ordinary General Meeting.
2. That Councillor _____ be appointed as the Deputy Council Delegate for the Local Government Association 2023 Ordinary General Meeting.

Cr Sims moved:

That Mayor Robert Bria be appointed as the Council Delegate for the Local Government Association 2023 Ordinary General Meeting.

Seconded by Cr Knoblauch and carried unanimously.

Cr Robinson returned to the meeting at 7.50pm.

Cr Whittington moved:

That Councillor Grant Piggott be appointed as the Deputy Council Delegate for the Local Government Association 2023 Ordinary General Meeting.

Seconded by Cr Knoblauch and carried unanimously.

11.5 LOCAL GOVERNMENT ASSOCIATION (LGA) 2023 ORDINARY GENERAL MEETING – ITEMS OF BUSINESS

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2219
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the Local Government Association of South Australia's (LGA) 2023 Ordinary General Meeting and the invitation from the LGA to submit *Items of Business* for consideration at the Ordinary General Meeting.

BACKGROUND

The Local Government Association (LGA) 2023 Ordinary General Meeting, will be held on Friday, 14 April 2023.

The purpose of the OGM is to consider items of strategic importance to Local Government and the LGA, as recommended by the Board of Directors, the South Australian Region Organisation of Councils (SAROC) or the Greater Adelaide Region of Councils (GAROC).

Items of Business must be submitted to either the LGA Board of Directors, or in the case of this Council, GAROC, for consideration prior to being referred to the OGM (or AGM), for consideration. It is however at the discretion of the Council to determine if the item is to be submitted to either the Board of Directors or GAROC.

The role of the Board of Directors is to oversee the corporate governance of the LGA and provide strategic direction and leadership.

The role of GAROC is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the region(s).

Whilst not strictly specified, the logical approach is to refer the *Item of Business* to the relevant body in accordance with its role.

Pursuant to the LGA Constitution, Councils are invited to submit Items of Business for consideration at the Ordinary General Meeting. Items of Business must be received by Friday, 5 February 2023, if they are to be considered at the 2023 Ordinary General Meeting.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

DISCUSSION

A requirement of the LGA in respect to Items of Business, is that Items of Business submitted by Councils, should highlight a relevant reference to the LGA Strategic Plan.

A copy of the LGA 2021-2025 Strategic Plan is contained within **Attachment A**.

Proposed Item of Business – Timing of Local Government Elections

Mayor Bria has advised that he wishes to submit the following Item of Business for consideration as an Item of Business at the OGM and is therefore seeking the Council's endorsement of the Motion:

That, having regard to the recommendations made by the Electoral Commission of South Australia (ECSA) contained within its 2010, 2014 and 2018 Local Government Election Reports, the Local Government Association of South Australia (LGA) write to The Hon Geoff Brock MP, Minister for Local Government requesting that the State Government change the timing of periodic Local Government Elections to ensure that Local Government Elections are not held in the same year as State Government Elections, and ideally two (2) years apart.

Mayor Bria has provided the following in support of the proposed Notice of Motion for the Council's consideration:

In 2010 and 2022 South Australians voted in three (3) general/periodic elections:

- 2010 – State (March), Federal (August) and Local (November); and
- 2022 - State (March), Federal (May), and Local (November).

In 2022, Voters who live in the State electorate of Bragg voted in a fourth election (bi-election). The impact of these elections with constant campaign ads, corflutes, letters, door knocking and other campaign materials – with minimal respite between campaigns - was exhausting for Voters and raised the issues of the timing of Local Government elections, being the last elections held in these years.

At its September 2018 meeting, the Council supported the following Notice of Motion which I submitted regarding the timing of the Local Government elections:

“That the Annual General Meeting requests that the Local Government Association of South Australia lobby the State Government to investigate the merits of State Government and Local Government elections being held two (2) years apart from each other, as opposed to the current arrangement of being held in the same year.”

The Motion was subsequently debated and not supported by the LGA's Annual General Meeting held that year.

However, having three (3) elections in the same year requires a re-think about the timing of periodic Local Government Elections.

There are several reasons why the State Government should consider changing the timing of periodic Local Government Elections, including:

- Voter (elector) fatigue;
- relieves pressure on ECSA regarding:
 - workload issues for staff
 - timing of representation reviews
 - implementing and ratifying changes to the Electoral Roll; and
- increased focus on Local Government to potentially increase Voter participation.

With regards to the last dot point, the statewide level of Voter/Elector participation in Local Government Elections since the introduction of postal voting in 2000 has not varied significantly. Although there was a large spike in Voter participation in 2000, since 2003, Voter participation has hovered around a third of all eligible Voters.

While it could be argued low Voter participation rate will continue for as long as there is voluntary voting in Local Government Elections, a change in the timing of the elections so they do not coincide with State and/or Federal elections in the same year may generate greater community interest and therefore, increase Voter participation.

The table below shows the level of Voter participation in Local Government Elections since 2000:

Year of Election	Voter Participation (statewide)
2022	34.54%
2018	32.94%
2014	31.99%
2010	32.88%
2006	31.62%
2003	33%
2000	40% (plus)

ECSA has long argued that a change in the timing of periodic Local Government Elections should be considered and has repeatedly made recommendations to that effect. Excerpts from ECSA's Local Government Election Reports are included below.

ECSA Local Government Election Report (2010) page 45

With four-year terms for both State and local government periodic elections conducted within an eight-month period in the same year, elector fatigue and apathy are of concern, particularly when also aligned with a federal election in the same period.

As local government election activities commence in early August with the close of rolls and opening of nominations, the current gap of five months from polling day for the State election continues to challenge the capacity to plan and execute the periodic elections for 67 councils across South Australia.

The Commission retains the previously reported opinion that the close alignment of two major electoral events in such a short timeframe significantly increases operational difficulties due to the high workload associated with the preparation and conduct of 250 simultaneous council elections.

It is recommended that further consideration be given to the scheduling of local government periodic elections, so they fall due during the four-year period between State Parliamentary elections similar to legislative arrangements in both New South Wales and Victoria.

ECSA Local Government Election Report (2014) page 51

The risk of elector fatigue and apathy continues to raise concern for the level of Voter participation at local government periodic elections conducted within eight months of State Parliamentary elections scheduled in March of the same calendar year.

The extremely short period from polling day for the State election in March to the close of rolls for local government elections in early August and opening of nominations in early September continues to challenge the capacity to plan and execute periodic elections for all 67 councils across the State.

As previously reported, it is the opinion of the Commission that to retain the close alignment of two major electoral events significantly increases operational difficulties with the preparation and conduct of more than 230 possible simultaneous council elections.

It is recommended that the scheduling of local government periodic elections in the same year as a State general election be given further consideration.

Local Government Election Reports (2018) page 11

The overlap with the state election period also poses problems with implementing the outcomes of representation reviews. Under the current scheduling arrangements gazetted by the Minister for Local Government, representation reviews are required to be undertaken by approximately half of all councils within the two years prior to a periodic election. In order for any changes proposed by council to be implemented at the next periodic elections, they must be certified by the Electoral Commissioner and gazetted prior to 1 January of the year of the periodic elections. For example, the 2016-17 reviews had to be certified and gazetted prior to 1 January 2018 in order to be implemented at the 2018 Council Elections.

ECSA's involvement in certifying the reviews can be resource intensive, which is not ideal when the end of a review period overlaps with the state election planning period. In addition, in 2017 a number of councils submitted late reviews, and this included several complex multi-ward councils requiring confirmation of ward boundaries and consequent elector movements. It is not only the certification which causes difficulties – during the year immediately following certification, but the redistribution of electors must also be implemented on the electoral roll. However, due to high enrolment activity and the close of roll for the state election, representation review changes can only be implemented after the state election.

The changes must be implemented by July in the year of a periodic election in order for council rolls to be created based on the new structures (as close of rolls takes place in August). This provides a very narrow time period to implement the changes. To further compound this issue, it is probable that a federal election roll close may also occur during the period close to the next state election in 2022.

Elector fatigue, confusion and the impact on elector participation should also be a factor in considering the timing of the local government periodic elections. Some council Chief Executive Officers have expressed concerns about the periodic elections being overshadowed by the state election and the effects of elector fatigue. Ideally, the two election events should be, to the nearest extent possible, two years apart.

Recommendation 1:

Change the timing of local government periodic elections. The date should be shifted so that the periodic elections do not occur within the same year as a state election.

If the current timing of local government periodic elections remains, ECSA will need to consider alternative solutions for effective delivery of the two election events, such as a two-tiered workforce – one workforce focussed on the state election, while another workforce concurrently works on the early planning and execution of the local government periodic elections which will require additional resourcing.

In conclusion, the case for changing the timing of the periodic elections for Local Government is compelling and should be given strong consideration by the LGA and the State Government. Victoria has successfully used the model of alternating State and Local Government elections every two (2) years for many years, and it is time South Australia followed suit. While the State Government has no control over the timing of a Federal Election, it does have control of the timing of Local Government Elections. By doing so, South Australian Voters will never have more than two (2) general/periodic elections for different spheres of government in the same year again.

OPTIONS

The Council can choose to submit the proposed Item of Business to the LGA for consideration as an Item of Business at the Local Government Association of South Australia's 2023 Ordinary General Meeting or decline the invitation to submit an Item of Business.

CONCLUSION

Items of Business must be submitted to the Local Government Association of South Australia by Friday, 3 February 2023, if they are to be considered at the 2023 LGA Ordinary General Meeting.

COMMENTS

Nil.

RECOMMENDATION

That the Council submits the following Item of Business to the Local Government Association of South Australia for consideration as an Item of Business at the Ordinary General Meeting:

- That, having regard to the recommendations made by the Electoral Commission of South Australia (ECSA) contained within its 2010, 2014 and 2018 Local Government Election Reports, the Local Government Association of South Australia (LGA) write to The Hon Geoff Brock MP, Minister for Local Government requesting that the State Government change the timing of periodic Local Government Elections to ensure that Local Government Elections are not held in the same year as State Government Elections, and ideally two (2) years apart.

Cr Moorhouse moved:

That the Council submits the following Item of Business to the Local Government Association of South Australia for consideration as an Item of Business at the Ordinary General Meeting:

- *That, having regard to the recommendations made by the Electoral Commission of South Australia (ECSA) contained within its 2010, 2014 and 2018 Local Government Election Reports, the Local Government Association of South Australia (LGA) write to The Hon Geoff Brock MP, Minister for Local Government requesting that the State Government change the timing of periodic Local Government Elections to ensure that Local Government Elections are not held in the same year as State Government Elections, and ideally two (2) years apart.*

Seconded by Cr Duke and carried unanimously.

11.6 APPOINTMENT TO THE BOARD OF THE EASTERN HEALTH AUTHORITY INCORPORATED

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA88432
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to seek the Council's appointment of members to the Board of the Eastern Health Authority (EHA).

BACKGROUND

The Eastern Health Authority (EHA), provides public and environmental health services on behalf of its Constituent Councils namely, the City of Norwood Payneham & St Peters, City of Burnside, Campbelltown City Council, the City of Prospect and the Corporation of the Town of Walkerville.

EHA ensures that its Constituent Councils are meeting their legislative responsibilities, which relate to Environmental Health and are mandated in a number of pieces of legislation, the most relevant of these being the *SA Public Health Act 2011*, the *Food Act 2001* and the *Supported Residential Facilities Act 1992*.

The EHA Board of Management is responsible for oversight of the Authorities' activities and ensuring that EHA acts in accordance with its Charter.

A copy of the Eastern Health Authority Charter is contained within **Attachment A**.

Clause 2.2 of the Eastern Health Authority Charter, sets out that each Constituent Council must appoint:

(a) one elected member; and

(b) one other person who may be an officer, employee or elected member of that Constituent Council or an independent person, to be Board members and may at any time revoke these appointments and appoint other persons on behalf of that Constituent Council.

At its meeting held in December 2018, the Council appointed Councillors Sue Whittington and Garry Knoblauch as the Council's Members of the EHA Board for the previous term of the Council.

The EHA Charter does not require the appointment of Deputies to act in place of the Board Members of the EHA Board of Management.

The Board meets a minimum of six (6) times a year and all meetings are held at EHA which is located at 101 Payneham Road, St Peters, with meetings usually commencing at 6.30pm.

Board Meetings have been scheduled for 2023 as follows:

- 22 February 2023;
- 8 March 2023;
- 3 May 2023;
- 28 June 2023;
- 30 August 2023; and
- 1 November 2023.

In accordance with the Eastern Health Authority's Charter, the term of appointment to the Eastern Health Authority Board of Management is for a period of two (2) years.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

As no sitting fees are payable to Board Members there are no financial implications associated with this matter.

RECOMMENDATION

That Councillor _____ and Councillor _____ be appointed to the Board of the Eastern Health Authority Board for a term of two (2) years.

Cr Granozio moved:

That Councillor Kester Moorhouse and Councillor Sue Whittington be appointed to the Board of the Eastern Health Authority Board for a term of two (2) years.

Seconded by Cr McFarlane and carried unanimously.

11.7 APPOINTMENT TO THE EASTERN WASTE MANAGEMENT AUTHORITY INCORPORATED BOARD (EAST WASTE)

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA111240
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to seek the Council's appointment of a Board Member to the Eastern Waste Management Authority (East Waste) Board of Management.

BACKGROUND

The Eastern Waste Management Authority Incorporated (East Waste) is a Regional Subsidiary, established under Section 43 of the *Local Government Act 1999*, to provide at-cost kerbside waste collection services to its Constituent Councils. The membership base of East Waste comprises the Corporation of the Town of Walkerville, the City of Burnside, the City of Norwood Payneham & St Peters, the Campbelltown City Council, the City of Mitcham, the City of Prospect, the Adelaide Hills Council and the City of Unley.

East Waste is governed by a Board of Management which comprises Members appointed by each of the Constituent Councils.

A copy of the Eastern Waste Management Authority Incorporated Charter is contained within **Attachment A**.

Clause 21 of the Eastern Waste Management Authority Inc Charter (the Charter), sets out that the Board shall consist of nine (9) Directors appointed as follows:

21.1.1 one person appointed by each Constituent Council which person may be an officer, employee, elected member of a Constituent Council or an independent person who will be appointed for a three-year term; and

21.1.2 one independent person (who shall be the Chair) appointed jointly by Absolute Majority of the Constituent Councils for a three-year term (and at the expiration of the term is eligible for re-appointment) who is not an officer, employee or elected member of a Constituent Council, but who has expertise in:

- (a) corporate financial management and/or*
- (b) general management and/or*
- (c) waste management and/or*
- (d) transport fleet management and/or (e) public sector governance and/or*
- (f) marketing and/or*
- (g) economics and/or*
- (h) environmental management.*

In addition, the Charter requires each Constituent Council to appoint a Deputy Board Member.

In accordance with the East Waste's Charter, the term of appointment to the East Waste Board of Management is for a period of three (3) years.

There are five (5) ordinary Board Meetings scheduled each year. In 2022, Board Meetings were held at the Norwood Townhall on a Thursday, commencing at 5.30pm.

However, the Board will, at its first meeting to be held in February 2023, determine the location for meetings which are scheduled to be held in 2023.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

As no sitting fees are payable to Board Members (other than the Independent Chairperson of the Board), there are no financial implications associated with this matter.

RECOMMENDATION

1. That _____ be appointed as the Board Member of the Eastern Waste Management Authority Inc Board of Management for a term of three (3) years.
 2. That _____ be appointed as the Deputy Board Member of the Eastern Waste Management Authority Inc Board of Management for a term of three (3) years.
-

Cr Moorhouse moved:

That Cr Claire Clutterham be appointed as the Board Member of the Eastern Waste Management Authority Inc Board of Management for a term of three (3) years.

Seconded by Cr Granozio and carried unanimously.

Cr Robinson moved:

That Cr Victoria McFarlane be appointed as the Deputy Board Member of the Eastern Waste Management Authority Inc Board of Management for a term of three (3) years.

Seconded by Cr Duke and carried.

11.8 APPOINTMENT TO THE BOARD OF ERA WATER

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Not Applicable
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA59949
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to enable the Council to appoint Board Members to the Board of ERA Water.

BACKGROUND

ERA Water is a Regional Subsidiary which has been established pursuant to the provisions of Section 43 of the *Local Government Act 1999*. ERA Water is responsible for the operation of a stormwater reuse scheme on behalf of the Constituent Councils, which involves the harvesting and distribution of recycled stormwater to irrigate Council parks and reserves, ovals and other areas of privately controlled open spaces in the eastern suburbs.

The Constituent Councils of ERA Water are the Cities of Burnside, Norwood Payneham & St Peters and the Town of Walkerville.

A copy of the Eastern Regional Alliance Water Charter is contained within **Attachment A**.

Clause 3.4 of the Eastern Regional Alliance (ERA) Water Charter, sets out that the Board shall comprise of four (4) Members appointed as follows:

3.4.1.1 Constituent Council Board Members

Each Constituent Council must appoint for a maximum period of two (2) years and on such other conditions as the Constituent Council may determine one (1) person (who may be the Chief Executive Officer of that Constituent Council), to be a Board Member and may at any time terminate or revoke that appointment and appoint another person to be a Board Member;

3.4.1.2 Independent Chairperson

(a) Following the receipt of a recommendation from the Chief Executive Officers of the Constituent Councils in accordance with Clause 3.4.3, the Constituent Councils must appoint a person to be a Board Member and Chairperson (not being an elected member or employee of a Constituent Council) for a maximum period of two (2) years and on such other conditions as the Constituent Councils may determine and the Constituent Councils may at any time terminate or revoke that appointment and appoint another person to be a Board Member and Chairperson.

In addition, the Charter requires each Constituent Council to appoint a Deputy Board Member.

In accordance with ERA's Charter, the term of appointment to the ERA Board of Management is for a period of two (2) years.

During the initial establishment stage of ERA Water, the Council appointed the Chief Executive Officer as the Council's Member of the Board, to oversee the operational arrangements required to implement the project and to assist with the governance arrangements of ERA Water.

Once the final commissioning and operations of the system were established and conducted in a stable Board and organisational environment, the Council appointed former Elected Member, Cr John Minney to the ERA Water Board.

ERA Water Board meetings are held bi-monthly, commencing at 8.30am at the Town of Walkerville.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

As no sitting fees are payable to Board Members (other than the Independent Chairperson of the Board), there are no financial implications associated with this matter.

RECOMMENDATION

1. That _____ be appointed as this Council's Board Member to the Board of ERA Water for a term of two (2) years.
 2. That _____ be appointed as this Council's Deputy Board Member to the Board of ERA Water for a term of two (2) years.
-

Cr Duke left the meeting at 8.08pm.
Cr Duke returned to the meeting at 8.09pm.

Call for Nominations

The Mayor called for nominations for appointment as the Council's Board Member to the Board of ERA Water.

The following nominations were received:

- Mr John Minney; and
- Cr Grant Piggott.

Voting by Secret Ballot

A secret ballot was conducted. The General Manager, Governance & Civic Affairs was appointed as Returning Officer for the counting of votes.

Completion of Counting of Votes by Secret Ballot

The votes were counted and the results were declared to the Council as follows:

- Cr Grant Piggott (9 votes)
- Mr John Minney (3 votes).

Cr Sims moved:

That Cr Grant Piggott be appointed as this Council's Board Member to the Board of ERA Water for a term of two (2) years.

Seconded by Cr Whittington and carried unanimously.

Cr Knoblauch moved:

That the Chief Executive Officer be appointed as this Council's Deputy Board Member to the Board of ERA Water for a term of two (2) years.

Seconded by Cr Granozio and carried unanimously.

11.9 APPOINTMENT TO THE Highbury Landfill Authority Board of Management

REPORT AUTHOR: General Manager, Governance & Civic Affairs
GENERAL MANAGER: Chief Executive Officer
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA111242
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of the report is to seek the Council's appointment of a Board Member to the Highbury Landfill Authority Board of Management.

BACKGROUND

The Highbury Landfill Authority Inc (HLA) is a Regional Subsidiary which has been established pursuant to Section 43 of the *Local Government Act 1999*, by the Cities of Burnside and Norwood Payneham & St Peters and the Town of Walkerville.

The purpose of the Authority is to:

- facilitate the closure and post-closure of the Highbury Landfill site;
- manage the joint interests and liability of the Constituent Councils in relation to the closure of the Highbury Landfill site;
- undertake all manner of things relating to and incidental to the management function of the Authority; and
- provide a forum for the discussion and consideration of issues related to the joint obligations and responsibilities of the Constituent Councils in respect of the closure (and post-closure) of the Highbury Landfill site.

A copy of the Highbury Landfill Authority Inc Charter is contained within **Attachment A**.

Clause 2.2 of the HLA Charter sets out the following in respect to the membership arrangements of the Board:

- 2.2.1 *The Board shall consist of three members being one person appointed by each Constituent Council;*
2.2.2 *A Board Member shall be appointed for a term not exceeding three years specified in the instrument of appointment and at the expiration of the term of office will be eligible for re- appointment.*

The Council is also required to appoint a Deputy Member to the Board.

The Board meets quarterly at the Town of Walkerville, with meetings commencing at 10.00am. The first meeting of the Board scheduled for 2023 will be held on 30 March 2023.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

As no sitting fees are payable to Board Members there are no financial implications associated with this matter.

RECOMMENDATION

1. That _____ be appointed to the Board of the Highbury Landfill Authority Inc for a term of three (3) years.
 2. That _____ be appointed as the Deputy Member of the Highbury Landfill Authority for a term of three (3) years.
-

Cr Sims moved:

That Cr Grant Piggott be appointed to the Board of the Highbury Landfill Authority Inc for a term of three (3) years.

Seconded by Cr Callisto and carried unanimously.

Cr Holfeld moved.

That Cr Josh Robinson be appointed as the Deputy Member of the Highbury Landfill Authority for a term of three (3) years.

Seconded by Cr Duke and carried unanimously.

11.10 NOMINATIONS TO EXTERNAL BODIES – SOUTH AUSTRALIAN PUBLIC HEALTH COUNCIL & PREMIER’S CLIMATE CHANGE COUNCIL

REPORT AUTHOR: Executive Assistant, Governance & Civic Affairs
GENERAL MANAGER: General Manager, Governance & Civic Affairs
CONTACT NUMBER: 8366 4549
FILE REFERENCE: qA2219
ATTACHMENTS: A - B

PURPOSE OF REPORT

The purpose of the report is to advise the Council of the call for nominations by the Local Government Association of South Australia (LGA) for appointment to the following bodies:

1. South Australian Public Health Council; and
2. Premier’s Climate Change Council.

Details relating to these appointments are set out below.

South Australian Public Health Council

The South Australian Public Health Council (SAPHC) is established pursuant to the *South Australian Public Health Act 2011*. The role of the SAPHC is to:

- (a) assist and advise the Chief Public Health Officer in relation to:
 - i. the protection and promotion of public health;
 - ii. the development and maintenance of a system of strategic planning for public health at the local, regional and State-wide levels;
 - iii. the development of health plans under this Act;
 - iv. strategies to ensure that a sufficiently trained and skilled workforce is in place for the purposes of this Act;
 - v. programs to promote public health research in the State;
 - vi. the preparation of the biennial report under Division 2; and the setting of standards and qualifications for authorised officers; and
- (b) any other functions assigned to the South Australian Public Health Council (SAPHC) by this or any other Act or by the Minister or the Chief Public Health Officer.

Meetings are held at the offices of SA Public Health which are located in Hindmarsh Square, Adelaide and Members must attend at least four (4) meetings a year. Sitting Fees of \$206 per meeting are applicable.

A copy of the Selection Criteria and Nomination Form is contained within **Attachment A**.

Premier’s Climate Change Council

The Premier’s Climate Change Council (PCCC) is a state-level committee established under the *Climate Change and Greenhouse Emissions Reduction Act 2007*.

The PCCC is made up of representatives from State Government, business, environment and conservation, the scientific community and other sectors, including Local Government.

The primary function of the PCCC’s is to provide independent advice to the Minister for Environment and Water on reducing greenhouse gas emissions and adapting to climate change, including advice on how to achieve energy efficiencies, increasing the use of renewable energy, developing methods to remove greenhouse gases from the atmosphere and establishing and achieving relevant targets.

The LGA is seeking nominations to fill a position on the PCCC for a three (3) year term commencing in July 2023.

There is one LGA nominated position on the PCCC currently held by former Lord Mayor Sandy Verschoor. Following the 2022 Local Government elections Ms Verschoor is not eligible for reappointment.

Nominees must be able to demonstrate an understanding of the issues and impacts associated with climate change. and must attend five (5) meetings per year.

Meetings are held at the Department of Energy and Water, located at 81-95 Waymouth Street, Adelaide with meetings currently proposed to be held on the following dates and times:

- Tuesday 11 July 2023, 2.00pm-5.00pm;
- Tuesday 19 September 2023, 9.00am-12.00pm; and
- Tuesday 5 December 2023, 9.00am-12.00pm.

Sitting fees are applicable (subject to qualifications).

A copy of the Selection Criteria and Nomination Form is contained within **Attachment B**.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

RECOMMENDATION – SOUTH AUSTRALIAN PUBLIC HEALTH COUNCIL

1. The Council notes the report and declines the invitation to submit a nomination to the Local Government Association for the South Australian Public Health Council.

or

2. The Council nominates _____ to the Local Government Association for the South Australian Public Health Council.

RECOMMENDATION – PREMIER’S CLIMATE CHANGE COUNCIL

1. The Council notes the report and declines the invitation to submit a nomination to the Local Government Association for the Premier’s Climate Change Council.

or

2. The Council nominates _____ to the Local Government Association for the Premier’s Climate Change Council.

South Australian Public Health Council

Cr Piggott moved:

The Council notes the report and declines the invitation to submit a nomination to the Local Government Association for the South Australian Public Health Council.

Seconded by Cr Robinson and carried unanimously.

Premier’s Climate Change Council

Cr Duke moved:

The Council notes the report and declines the invitation to submit a nomination to the Local Government Association for the Premier’s Climate Change Council.

Seconded by Cr Callisto and carried unanimously.

11.11 ERA WATER – DRAFT WATER SUPPLY DURING PERIODS OF CONSTRAINED SUPPLY POLICY

REPORT AUTHOR: Chief Executive Officer
GENERAL MANAGER: Not Applicable
CONTACT NUMBER: 8366 4539
FILE REFERENCE: qA111245
ATTACHMENTS: A

PURPOSE OF REPORT

The purpose of this report is to advise and seek the Council's approval of a draft Policy which has been prepared by ERA Water regarding the supply of water during periods of constrained supply.

BACKGROUND

ERA Water is a Regional Subsidiary which has been established pursuant to the provisions of Section 43 of the *Local Government Act 1999*. ERA Water is responsible for the operation of a stormwater reuse scheme on behalf of the Constituent Councils, which involves the harvesting and distribution of recycled stormwater to irrigate Council parks and reserves, ovals and other areas of privately controlled open spaces in the eastern suburbs.

The Constituent Councils of ERA Water are the Cities of Burnside, Norwood Payneham & St Peters and the Town of Walkerville.

ERA Water has advised that at its meeting held on 3 November 2022, the ERA Water Board considered a draft Policy titled "*Water Supply During Periods of Constrained Supply*" and resolved to circulate the draft to its Constituent Councils and the ERA Water Audit Committee for consultation prior to formally adopting the draft Policy.

The need for this Policy has arisen from discussions which the Board has held regarding the supply of water to Constituent Councils and third-party customers, when the supply of water may be constrained (for example, as a result of an extended period of drought which limits the harvesting of stormwater and injection into the aquifer and as a consequence a reduced "water balance" held in storage in the aquifer).

The draft Policy reflects the provisions of the ERA Water Charter, the supply agreements which have been entered into with Constituent Councils and the supply contracts with third-party customers.

A copy of the draft Policy is contained in **Attachment A**.

DISCUSSION

The Objects and Purposes contained in the ERA Water Charter contain the following provisions:

- *Clause 1.8.2 – To develop, implement, oversee and manage practical solutions to provide water supply diversity within and outside the Region;*
- *Clause 1.8.3 – To supply water to the Constituent Councils and other persons for irrigation purposes within and outside the Region except that priority shall be given to the supply of water for irrigation within the Region.*

As such, the Objects and Purposes contained in the Charter, prioritise the supply of water within the Region of the three (3) Constituent Council areas, however, the Board has advised that these provisions do not specify that the Constituent Councils are prioritised as users. To this end, priority is given to all users that are located within the "region" – namely the Constituent Council areas. However, the Charter is silent in respect to the allocation of water and the respective prioritisation of third-party customers.

The Sales Agreement with each of the Constituent Councils includes the following provisions:

“The ERA Water Board additionally resolved that if ERA Water offers, in aggregate to all Constituent Councils, 204.7ML of water or more for sale in a financial year and there are sufficient operational connections to enable such quantities of water to be delivered to the Constituent Councils, then the Constituent Councils take or pay obligation for their share of 204.7ML of water comes into force. If ERA Water is able to offer less than 204.7ML of water in the irrigation season, no take or pay obligation arises for the financial year, but each Constituent Council is entitled to its proportionate share of the water that is available in that financial year.”

As such, in accordance with this Agreement, if ERA Water is unable to supply 204.7ML of water in a given year, allocations to the Constituent Councils are proportionally reduced in line with each Constituent Councils’ proportion of the total volume of water which is allocated to each Constituent Council. In this respect, by way of background, each Constituent Council has agreed to purchase a minimum volume of water and this is charged and paid for by each Constituent Council on a “take or pay” basis. That is whether a Constituent Council uses the allocated volume of water, it is required to pay for the volume of water which has been allocated to the respective Council.

The Board has advised that notwithstanding the above, there is no provision in the Agreement which deals with a situation where total Constituent Council demand (in excess of the agreed “take or pay” volumes) exceeds the volume able to be supplied by ERA Water.

In respect to third-party customers, in addition to the provisions of the Charter, there is a policy overlay which is reflected in contracts which have been entered into with third-parties that prioritise the supply of water to the three (3) Constituent Councils, consistent with the intent of the Charter.

To this end, Clause 4.4 of the Contract which is entered into with Third-party customers provides that:

Clause 4.4 – Notwithstanding any other provision of this contract, it is acknowledged and agreed that:

4.4.1 ERA Water make no commitments, guarantees or representations that ERA Water will supply you with the contracted volume in any particular calendar year;

4.4.2 ERA Water will supply you with as much recycled water up to the contracted volume as may be available to us for such supply from time-to-time, first taking into account volumes of water (ERA Water) have harvested and are available for supply, the supply requirements of our Constituent Councils and the supply requirements of other contracted parties.

The contracts with Third-party customers also include a clause with a formula setting out how reduced water supply will be applied to third-party customers.

In short, the Third-party contracts, prioritise the supply of water to Constituent Councils. As such, the Board has advised that it could be interpreted that the third-party contracts infer no restriction on the supply of water to Constituent Councils, however, this is counter-balanced by the Agreements with Constituent Councils providing for the eventuality of restriction of supply to Constituent Councils.

To address this complicated issue, the Board has prepared a draft policy which seeks to reflect the intent of the Charter, the Agreements with Constituent Councils and third-party contracts, to reinforce the principle of prioritisation of water supply to Constituent Councils, whilst acknowledging the financial benefits of supply to third-party customers. The draft Policy also seeks to provide guidance on the retention and use of water “reserves” in such circumstances.

The water balance available to ERA Water at the end of the 2021-2022 financial year was 525ML.

ERA Water have advised that the draft Policy should be considered as an interim policy which will be reviewed within 12 months of its adoption by the Board as this will enable the outcomes of the current ERA Water Scheme Enhancement Options Project to be taken into consideration when the Policy is reviewed.

The draft Policy has been reviewed by Council staff and it is considered that the draft Policy addresses the concerns/issues which have been raised by ERA Water.

In particular, the draft Policy provides clear guidance to the Board in respect to “water balance” and seeks to provide certainty to both Constituent Councils and third-party customers without compromising the volume of water which is retained in the aquifer.

The draft Policy also clarifies the issue of prioritisation and to this end prioritises the supply of water to Constituent Councils (ie. 204.7ML).

It is therefore recommended that ERA Water be advised, that the Council has considered and approves the draft Water Supply During Periods of Constrained Supply Policy.

RELEVANT POLICIES & STRATEGIC DIRECTIONS

Not Applicable.

FINANCIAL AND BUDGET IMPLICATIONS

Not Applicable.

RECOMMENDATION

That ERA Water be advised that the Council has considered the draft Water Supply During Periods of Constrained Supply Policy and approves the draft Policy.

Cr Duke moved:

That ERA Water be advised that the Council has considered the draft Water Supply During Periods of Constrained Supply Policy and approves the draft Policy.

Seconded by Cr Callisto and carried unanimously.

12. ADOPTION OF COMMITTEE MINUTES
Nil

13. OTHER BUSINESS
Nil

Cr Holfeld left the meeting at 8.19pm.
Cr Holfeld returned to the meeting at 8.21pm.
Cr Sims left the meeting at 8.36pm.
Cr Sims returned to the meeting at 8.37pm.

14. CONFIDENTIAL REPORTS

14.1 COUNCIL RELATED MATTER

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:

- (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

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 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, minutes and discussion to be kept confidential until such time that the matter is finalised.

Cr Knoblauch 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 [Chief Executive Officer, General Manager, Governance & Civic Affairs, General Manager, Urban Planning & Environment, Manager, Communications & Community Relations, Manager, Finance and Administration Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

- (a) Information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

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 consideration of the information confidential.

Seconded by Cr Whittington and carried unanimously.

Cr Duke moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, minutes and discussion to be kept confidential until such time that the matter is finalised.

Seconded by Cr Knoblauch and carried unanimously.

14.2 COUNCIL RELATED MATTER

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:

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

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 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, minutes and discussion to be kept confidential until such time that the Council has commenced the process under Section 210 of the *Local Government Act 1999*.

Cr Holfeld 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 [Chief Executive Officer, General Manager, Governance & Civic Affairs, General Manager, Urban Planning & Environment, Manager, Communications & Community Relations, Manager, Finance and Administration Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

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

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 consideration of the information confidential.

Seconded by Cr Whittington and carried unanimously.

Cr Granozio moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, minutes and discussion to be kept confidential until such time that the Council has commenced the process under Section 210 of the Local Government Act 1999.

Seconded by Cr Callisto and carried unanimously.

14.3 COUNCIL RELATED MATTER

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:

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

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 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, minutes and discussion to be kept confidential until the matter is finalised.

Cr Duke 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 [Chief Executive Officer, General Manager, Governance & Civic Affairs, General Manager, Urban Planning & Environment, Manager, Communications & Community Relations, Manager, Finance and Administration Assistant, Governance & Civic Affairs], be excluded from the meeting on the basis that the Council will receive, discuss and consider:

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

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 consideration of the information confidential.

Seconded by Cr Callisto and carried unanimously.

Cr McFarlane left the meeting at 9.15pm.
Cr McFarlane returned to the meeting at 9.17pm.

Cr Knoblauch moved:

Under Section 91(7) and (9) of the Local Government Act 1999 the Council orders that the report, minutes and discussion to be kept confidential until the matter is finalised.

Seconded by Cr McFarlane and carried unanimously.

15. CLOSURE

There being no further business, the Mayor declared the meeting closed at 9.25pm.

Mayor Robert Bria

Minutes Confirmed on _____
(date)